

The federalism in the united states research paper example

[Law](#), [Constitution](#)



The history of the formation and development of the American federalism is interesting because, in spite of all its specific features, it largely reflects the general trends that are inherent in any federal state. Such, for example, as a struggle between the center and the subjects of the federation for the rights and powers, as the trend towards centralization of power, and so on. In other words, it indicates the urgency of the problem of the relationship between the central government and form part of any complex public education.

In 1775 the thirteen American colonies of England raised a rebellion against tyranny and exploitation by the colonialists and in 1776 proclaimed their independence. For general protection against an external enemy, they entered into an " everlasting covenant" and to emphasize its independence, the name of " colony" was changed to " states". There is convincing evidence about their zealous attitude to sovereignty, that the United States was formed first as a confederation or union of states. Communication between the states was rather weak. According to their acceptance of the Articles of Confederation, a union branch (Congress) has little authority. It could make important decisions only with the consent of all members of the Union. It did not have own money and had to ask for them to each of the states. A similar appeal was also necessary for the enforcement of decisions of the Union government intended to act in a particular state. During the war of independence such a situation could still be tolerated as the situation required coordination of mainly military effort. But soon after the conclusion of peace in Versailles (1783), in which Britain recognized the independence of the thirteen American states, came a strong economic depression. The government created according to the Articles of Confederation, was

completely unable to cope with the financial and economic chaos, the consequence of the war.

In these circumstances, the Congress decided to convene in May 1787 in Philadelphia founding convention to change the Articles of Confederation.

September 17, 1787 a completely new document was adopted - the Constitution of the United States, according to which the country introduced a federal form of government.

The competence of the central government is listed in article 1 of section 8 of the Constitution. According to the provisions of this section, the US Congress has the right to lay and collect taxes; to pay the debt and take care of the defense of the country; make loans; to regulate commerce with foreign nations and among the states; issue regulations on naturalization and insolvency laws; to coin money and regulate its value; to establish post offices and post roads, as well as courts subordinate to the Supreme Court; to declare war; to recruit and maintain an army and navy; to call the National Guard states to quell uprisings and repel Invasions; to control external relations; to exercise exclusive legislation in the District of Columbia, as well as on the land it had bought in other states; to make all laws for the implementation of the foregoing powers. The 16th amendment to the Constitution gave Congress the power " to lay and collect taxes on incomes from whatever source" whatever enumeration in some states.

The Constitution also lists a number of limitations that are imposed by it on the right of the Congress. In the article 1 of 9th section is pointed out that the Congress can not: suspend the privileges of the order " Habeas corpus" (law on personal freedom), except in cases of rebellion or invasion, when

required by security measures; enact laws and the laws of attainder " ex post facto" (retroactive); impose taxes on items transported from state to state; to prefer one over the other states in the field of trade; confer titles of nobility, etc.

In the article 1 of 10th section is indicated a number of limitations of power of states. States can not: enter into treaties and alliances; coin money; emit bills of credit; enact laws and the laws of attainder " ex post facto", laws that violate contractual obligations; grant titles of nobility; collect fees and charges without the consent of Congress; establish customs duties; keep troops, or ships in peacetime; enter into agreements or conventions with other states or foreign countries; start a war, if not subjected to invasion and are not under its threat. The 10th Amendment notes that powers that have not been transferred to the United States constitution, nor prohibited by it to the States, should remain to the States respectively, or the people. This is the formal balance between the rights of the federal government and individual states in the US, inscribed in the US Constitution.

But we should not forget that this " hand-written" constitution was formulated more than 200 years ago and that since then much has changed, that the real constitution, and it is quite natural, is based not primarily on that is recorded in it, though several amendments was made over the past two centuries, but on numerous acts of Congress, judicial decisions, government regulations, finally, customs, in addition to the existing constitutional text and independently of it. But the main trend of this development has always been unambiguous - the influence and power of the federal government has steadily increased, and the value of the state fell.

The first decades of the new system did not sharply reveal contradictions between the interests of the different parts of the American federation. However, with the development of large-scale industry and banks in the United States these internal contradictions between states (the slaveholding South and industrial North) and between the states and the federal government, identified all with greater force. For example, in 1814 a group of representatives from New England states protested against a policy of center, "usurpation" of power, even hinting at the possibility of rebellion, if this policy would continue.

Similar sentiments are reflected in theories, such as put forward in 1828 by Senator Calhoun, according to which only states has the sovereignty in the federation and the Union is only authorized agent of the states. Therefore, states have the power to declare federal laws null and void, and if 3/4 of the states approve them, discordant state may withdraw from the federation.

Until the middle of the XIX century, the central government was usually headed by a representative of the Democratic Party, which had deep roots in the South. The number of southern states was equal to that of the north ones, where slavery was prohibited, and in the US Senate the balance of votes was kept. However, by 1860 there were new non-slave states and the balance was broken in favor of the North. Than president Abraham Lincoln was elected - a supporter of a strong central government, the enemy of separatist tendencies and slavery. Irreconcilability of interests between the two systems resulted in a bitter civil war.

Northern states have the upper hand in the war and thus strongly defended the principle which prevents unauthorized output states of the Union. So

restoration of the United States was carried out by force. As was stated by President Lincoln, "no state, only by its own decision, can not legally secede from the United States." The Civil War was a central step in the consolidation of the federal government (Farber, 49).

After the war new conditions for strengthening the process of concentration of power in the hands of the federal government were created. It did not longer hesitate to use its armed forces not only to suppress the separatist aspirations of the several States, as was the case in 1869 with Texas, but for the coercion of states to perform union legislation too, as it was with the state of Georgia and Mississippi in 1867-1868, when they were forced to carry the power of the federal law on reconstruction. The armed forces were sent to a number of states in the 20th century for the enforcement of desegregation.

In order to promote the rule of the federal authorities were also used to observe the constitutional duty of the president for enforcement of laws passed by Congress, and the duty of the central government to guarantee to every state a "republican form of government" and to guard against internal unrest.

The administrative activity of the center is very effective in achieving this goal, for example, in the so-called federal aid to states. Targeted subsidies for the activities of management, not only state's, but also cities and counties is today perhaps one of the most important and effective means of allowing the center to intervene in their internal affairs. Typically, grants are awarded on the following four conditions:

Formally, there is no compulsion here, but considering that the states are

chronically deficient in their budgets, they always agree on all conditions and at the control of the center on his part. As examples of the use of this method can serve the " National Defense Act" in 1916, uniting all branches of the armed forces of states into a single national organization with close ties with the US Army, the " Law on federal aid highway construction", in which the center began to cooperate with the states on the construction of roads, even in rural areas, as well as the laws of 1917, 1920 and 1935, which largely brought education under the center's control.

Another form of strengthening the influence of the center in the United States is the so-called " voluntary cooperation" between it and the states. Formally, it is based on contracts or agreements between the parties, which are also accompanied by conditions of the center. Often it is carried out without any formal agreements. For example, state, cities and counties police works under the supervision and control of the FBI, and the latter contains their instructors on a field.

However, depriving states of political independence, the center provides them freedom of action in areas that do not affect its interests. These are agreements on social, economic and environmental issues; on prices, wages, hours of work; taxation, sharing sea bay, on common rules for navigation, and so on. The center usually leaves out those decisions of state laws, which, though are contrary to the US Constitution, for example, like preventing the importation of goods from other states, but hurt little their interests.

And, apparently, it is not by chance that some American researchers have come to the conclusion that these boundaries no longer meet the current economic, political and social divisions of the country (Nathan). Some believe

that it is necessary to redraw the map of the country and lead state lines to existing conditions; others that it is necessary to destroy all the division into states and split the country into administrative units, corresponding to these conditions; third defend the idea of dropping the federal system and giving the center broad powers formally. In practice, even now some central agencies such as the Federal Reserve Bank, the Statistical Office and others, consider with economic regions in their activities more than with the states. Various national organizations such as the Council of State Governments actively function. In these organizations various executive and administrative officials of states, cities and counties - governors, auditors, controllers and treasurers, police chiefs, city stewards, prosecutors, secretaries are united. Nevertheless, the problem of the relationship between the center and the states remains one of the most pressing and urgent in the modern United States, and the slogan of " states' rights" is one of the most widely used on the American political scene for a long time. So, in the presidential election in 1964 L. Johnson called his program " creative federalism", pointing to " a greater and greater power grab by Washington". President Ronald Reagan in 1981 put forward a program of " new federalism". President Bush, speaking at a meeting of the National Governors Association in 1989, said: " We believe in federalism, and yet we are the people, one indivisible nation Sometimes there are frictions, strong frictions between the states and the federal government, and, perhaps we need a friendly rivalry between the federal government and the states ".

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