

A parts, known by
different names—
states in the



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A new State is, thus, created to which the hitherto sovereign States surrender their sovereignty and agree to become its component parts, known by different names—States in the United States, Australia and India, Provinces in Canada and Pakistan, Cantons in Switzerland, Union Republics in the erstwhile Soviet Union, and the Lands (Länder) in the former German Federal Republic—in different federal States. The central or national government, which comes into existence, as a result of such a union, and the resultant new State is entrusted with powers of general character, which concern the nation as a whole. Other subjects, which are of local interest, or in which variety of practice can be permitted, are left within the jurisdiction of the regional government, States, Provinces or Cantons whatever be their name. The powers so distributed between the two sets of government, central and regional, are protected by the Constitution and neither of the two can encroach upon the jurisdiction of the other or destroy its existence by itself. Alterations can be made by amending the Constitution alone. Sovereignty lies neither in the central government nor in the regional governments. Neither can it be divided between the two, as many writers have held.

It resides in the State alone and it is exercised by the authority which has the power to amend the Constitution. In a federation, therefore, separate States disappear, their sovereignty being destroyed; and their citizens having divested themselves of the old allegiance, create, on the basis of a national unity, a federal polity within a new State. A federation may also come into existence when a unitary State with a large area, which needs unity out of its diversity, divides its power into two sets of government and grants

constitutional autonomy to its units. The new apparatus of government comes to be like this: the central government retains only those subjects which are of national importance and transfers the rest to the jurisdiction of the units, each autonomous within the sphere assigned to it. In this case centrifugal forces operate and bring about a federal form of government. For example, the Government of India Act, 1935, envisaged a federation consisting of all the eleven Provinces, which then comprised British India and those Princely States which were to express their desire to accede to the federation after signing the Instrument of Accession. Whatever be the method of its coming into existence and whatever the system of division of powers be, a federal polity is a dual government, in which powers are divided and distributed by the Constitution between a central government and regional governments. Unlike the unitary government, powers of the units in a federation are original and not derived.

They are not the grant of the central government, but the gift of the Constitution and they are constitutionally protected. Both the central and regional governments are coordinate, independent authorities within their allotted spheres of jurisdiction. Neither can encroach upon the powers of the other. If any change is desired to be made in the distribution of powers, it cannot be made by any one of the two sets of government alone. It must be made by amending the Constitution as prescribed by law. This means equality of status and this is the essence of federalism, although equality of status does not necessarily imply absolute equality of powers. This is an impossible task and not within the reach of practical politics. The distribution of powers between the central government and regional governments

depends upon various factors and every country has its own peculiar problems.

Carl Friedrich observes, “ It goes without saying that such divisions of the ‘ competencies’, that is, the sphere within which each may operate, must and will vary according to time and space. Economic and social life, the military and geographical factors, all will play their role in determining the particular arrangement. From a political standpoint, no distinctive generalization or principle can be derived.” The balance of powers is, accordingly, differently tilted in different federations; in some it is in favour of the central government and in others it is in favour of regional governments.

But it does not deprive the government of its federal character so long as the one is not rendered helplessly dependent on the other for its existence or proper functioning. By the federal principle, observes Wheare, “ I mean the method of dividing powers so that the general and regional governments are each within a sphere, coordinate and independent.” The existence of a sphere of activities for either government central and regional where they are coordinate and independent is the essential attribute of federalism.

Dicey defines federation as a “ political contrivance intended to reconcile national unity with the maintenance of State rights”, the desire for national unity and determination of each individual unit to maintain its identity and independence.