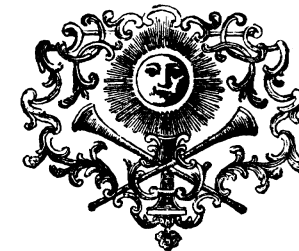


# THE FEDERALIST

a political review

*To look for a continuation of harmony between a number of independent unconnected sovereignties situated in the same neighbourhood, would be to disregard the uniform course of human events and to set at defiance the accumulated experience of ages.*

Hamilton, The Federalist



---

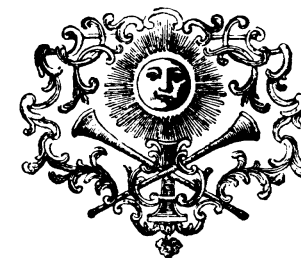
YEAR XLII, 2000, NUMBER 3

# THE FEDERALIST

a political review

*Editor:* Francesco Rossolillo

*The Federalist* was founded in 1959 by Mario Albertini together with a group of members of the Movimento Federalista Europeo and is now published in English and Italian. The review is based on the principles of federalism, on the rejection of any exclusive concept of the nation and on the hypothesis that the supranational era of the history of mankind has begun. The primary value *The Federalist* aims to serve is peace.



*The Federalist* is published under the auspices of the Fondazione Europea Luciano Bolis by Edif, via Porta Pertusi 6, 27100 Pavia, Italy. Three issues a year. Subscription rates: Europe 70000 lire or 35 \$; other countries (by air mail) 100000 Lire or 50 \$. A three-year subscription (200000 lire, 100 \$ or 250000 lire, 125 \$ respectively) is also possible. All payments should be made by cheque or Eurocheque directly to Edif.

## CONTENTS

*American Economic Power and the Division of Europe* p. 151

## ESSAYS

FRANCO SPOLTRE, *The Debate between American Federalists and Antifederalists from 1787 to 1800 and Its Current Situation* » 156

## DISCUSSIONS

*The Crisis of the States as a Criterion in Historical and Political Analysis* (Nicoletta Mosconi) » 185

*The Nature and Site of Sovereignty* (Allan Matthews) » 191

## FEDERALIST ACTION

*A Federal Constitution for Europe* (Publius) » 193

## FEDERALISM IN THE HISTORY OF THOUGHT

*Ortega y Gasset* (Nicoletta Mosconi) » 207

## American Economic Power and the Division of Europe

A lengthy period of expansion of the American economy, and a briefer one characterised by the devaluation of the euro against the dollar, are now giving way to a climate of uncertainty. This should not, however, lead us to lose sight of two structural factors, apparently contradictory, that encapsulate the nature of the current world economic balance and its weaknesses. The first of these involves the greater capacity for expansion of the American, in relation to the European, economy, and the leading role played by the dollar (neither of which are affected by the economic cycle). The second concerns the costs and the basic fragility of America's economic hegemony.

\* \* \*

The reasons for the superiority of the American economy are not economic but political. It is also worth pointing out that they have nothing at all to do with flexibility of the labour market. Claims that the euro's long period of weakness, and the sluggishness of the European economy generally, can be put down to the rigidity of the labour market in Europe is nothing other than a hypocritical cover for what amounts to a politically-motivated propaganda operation. It is sufficient to recall that, in the 1980s, the European economy was more dynamic than America's, and the legislation regulating labour relations in Europe at the time was not substantially different from that which is in place today; furthermore, Japan, which offered the highest level of social protection, was considered a true model of production efficiency. In fact, it was in precisely this period that the sluggishness of the American economy was widely blamed, at least in part, on the instability and uncertainty characterising labour relations in the United States.

The real reason for the superiority of the American economy - within the framework of the industrialised world — lies in the fact that the United

States has a government that is equipped with considerable decision-making capacity and sustained by the democratic consensus of the citizens; it is this which makes it the only power able — albeit subject to a series of limitations — to play a hegemonic role at world level. It follows that the dollar, buoyed up by a stable and solid power, is regarded by economic operators the world over as by far the most reliable currency for international transactions. But this is only a part of the picture. The federal government of the United States, through a coherent economic policy whose aim is to promote the general interests of the American people, also drives the economy on a domestic level. Furthermore, with a continental-size market whose smooth running it appears able to guarantee, it creates the conditions needed to attract a flow of foreign capital, European in particular, into the United States, capital which further enhances the efficiency of the country's production system.

\* \* \*

In contrast, the European Union is an altogether different reality. Unlike the government of the United States, the EU is a political entity that, rather tenuously united and devoid of democratic consensus, has neither the strength nor the capacity to make decisions and to act. The Council of Ministers, which can be seen as an inadequate substitute for a European government, is taken up not with the business of promoting the general interests of the Union but with that of mediating between the member states and, faced by their divergent interests, of seeking compromises; on the international political stage, meanwhile, Europe does not even feature. This absence of a political decision-making centre makes it impossible to exploit the enormous potential for development offered by the European market (which, let it not be forgotten, is considerably larger than the American market), because what is needed for this is the presence of a strong and dynamic government; furthermore, it reduces the bargaining power of European companies, and of the European economic system in general, on the world market. But in order to inject fresh impetus into the European economy, and to close the gap that now separates it from the American one, the Union is not in a position to use the exchange and interest rates as levers because the euro is already relatively weak in relation to the dollar and European interest rates are already lower than those in force in the United States. It might therefore seem reasonable to see the adoption of a budgetary policy of expansion (based on the boosting of public investments in infrastructures, the generous funding of

scientific research and the sustaining of demand - all be this at the expense of a moderate level of inflation) as Europe's only option. But even this solution is rendered impossible by the deflationary constraints placed on the member states of the European Union by the Stability Pact. And these constraints are certainly not justified by any doctrinarian self-imposed duty to comply with the dictates of the dominant economic philosophy. Instead, they are justified merely on the basis of Europe's division, which gives rise, in many governments, to the legitimate concern that, without a sole decision-making centre shouldering the responsibility for putting Europe's interests first, some of the governments of the Union would, if not checked by clear restrictions, succumb to the temptation to adopt beggar-my-neighbour policies, in other words, to manage their national budget thoughtlessly and irresponsibly, leaving their own partners to bear the consequences of their actions. And if this were to happen, doubts over the euro could easily resurface, the single market collapse and Europe find itself firmly on the road towards economic anarchy and national protectionism.

In these circumstances, it is inconceivable that the euro, regardless of its value as determined by the erratic trend of the money markets, might become the world currency, on a par with the dollar, that it once seemed destined to be. A currency's capacity to act as a means of payment in international transactions certainly depends on more than just the parameters used by experts to rate the health of an economy, or the decisions of a technical body like the European Central Bank. It is founded on the confidence of those who use it, and while the momentary state of health of an economy can certainly be regarded as a condition for the generation of this confidence, it is certainly not the only one. Faith in a currency depends also, and above all, on the power of the entity that emits it, and thus on the role played by that entity in the world equilibrium, on its military strength, on its stability, and on its capacity to promote effectively the most technologically advanced production sectors, to create the infrastructures needed for development, and to ensure that its own producers enjoy conditions of fair competition on the international market. The reason why the euro, contrary to the expectations of many, has failed to live up to this task is thus the lack of a European government and of a European economic policy.

\* \* \*

But there is another side to American economic hegemony. The

United States has a huge trade deficit that is funded by capital inflow from the rest of the world, and in particular from Europe. What this means, substantially, is that the growth of the US economy is, in part, funded by European capital, and what this implies in the long term is a net transfer of European wealth from Europe to the United States whose justification is the guarantee of security that the political solidity of the United States confers, at least in the medium term and regardless of the momentary volatility of the markets, on investments made in the US market. It is an anomalous situation that contrasts sharply not only with the situation that prevailed in Euro-American relations in the twenty-five years immediately following the end of the Second World War, but also with that which has characterised all economic hegemonies in the past. Normally, a hegemonic power exports a quantity of goods and services that far exceeds the amount it imports, investing overseas much of the excess capital generated by these exchanges. And since the hegemonic power exports part of the wealth it creates, the countries subjected to its leadership in fact benefit from the role it plays. The fact that current relations between the United States and the rest of the world, and in particular between the United States and Europe, are characterised by the reverse phenomenon — where the United States is importing wealth instead of exporting it — is indicative of a grave weakness in America's economic and political power.

If it is true that the political strength of the United States and of the US government instils in investors a sense of security so great as to explain the vast capital inflow that the American market attracts from the rest of the world, and from Europe in particular, it is also true that the country's continually increasing trade deficit is, objectively, a source of insecurity — indeed, the US trade deficit certainly cannot be expected to exceed a certain limit without prompting reactions of anxiety, or even panic, among investors, and seriously depressing the country's real economy. This interpretation is supported by the fact that the European market can be seen as only a very partial and imperfect alternative to the American market, because the security it can offer is inferior by far to the — already fragile — security that the American market is able to provide. Indeed, Europe's stock markets are driven by Wall Street, whereas, in a reasonably balanced situation, European financial trends should compensate for the trend on the American stock exchange.

The fact is that the isolation in which the United States finds itself, as it struggles to manage its responsibilities at world level, has produced a marked imbalance between, on the one hand, the strength of its economy

and, on the other, the quantity and scale of the burden of responsibility with which it is faced. The disproportion between the two is such as to render it impossible for the American government to manage its influence over the rest of the world in an open and progressive manner, in other words, through the diffusion of its wealth. Instead, it forces the United States to opt for a hegemony of the wait-and-see variety, one which uses prevalently military instruments and seeks to obtain the obedience of the conservative élites in the countries subjected to its domination, rather than looking to build a solid foundation for itself in the consensus of their peoples. In this way, the United States of America not only fails to promote the prosperity of the rest of the world, it also fails — able to offer nothing more than improvised and precarious solutions — to ensure its security. And it follows that a hegemony of this kind, one that attracts the wealth of others instead of exporting its own, will increasingly encounter pockets of resistance and hotbeds of tension, and thus can only be regarded as basically weak and unstable.

\* \* \*

In this framework, Europe's situation appears paradoxical. If only its politicians were able to detach themselves a little from their contradictory domestic and inter-European disputes, they would soon appreciate that it is the division of the continent that is condemning its economy, in a structural sense, to lag behind the American economy and, at the same time, that is preventing the euro from being, alongside the dollar, a currency for international transactions, thus jeopardising the wellbeing of Europe's citizens and negatively conditioning the future of its youth. They would also see that Europe, by shirking its responsibilities at international level on account of its division, favours the more nationalist and conservative forces present within American politics, thereby introducing a serious element of instability into the whole world picture. Submitting to the US in this way, Europe is, in fact, failing to come to America's assistance, failing to offer it a help that would prove crucial to its prosperity in the medium term, to the development of the rest of the world and to the stability of the international equilibrium.

But unfortunately Europe lacks politicians with the vision to realise this.

# The Debate between American Federalists and Antifederalists from 1787 to 1800 and Its Current Situation

FRANCO SPOLTORE

## Introduction

It is difficult to foresee whether and on which text European States will agree to adopt a Federal Constitution. However, we can safely say that, though the European Federation will not be a copy of the American one, the obstacles to be overcome in the early phases will be similar to those present at the time of the establishment of the American Federation. A first confirmation of this hypothesis comes from the debate that arose after declarations made by the heads of certain European governments<sup>1</sup> in favour of the European Constitution. The terms of this debate are analogous to those of the debate between American federalists and antifederalists of more than two centuries ago. A debate in which the American constituents tried to answer questions such as: Should the central government of the Union be stronger than that of individual States? What powers should it have? Who will represent the people? Who will be head of the Union? What rights should be guaranteed to citizens with regards the Government? Can a State be brought before a Court of Law? Who will guarantee peace among the States? Who will have the power to stipulate international agreements? Can single States keep armed militia?

If we think of the European Union and not the United States of America, we can see these questions are still topical today. This modernity also emerges from the arguments of those who today are opposed to the creation of a federal European government. From their arguments it would emerge that the defence of particular interests and sovereignty are, today as in the past, the major obstacles on the road to federation. In fact, contemporary anti-federalism, similarly to that of America, is rooted in

the idea of a State, sovereignty, people and rights that do not permit the democratic growth of the government sphere from one to more States to achieve peace. It is an idea that Nationalism exhausted, but did not invent, and that the American federation dented but didn't beat, as is seen by the difficulty in creating new continental federations outside America. In fact, if historical experience and reason suggest that a federation is the real alternative to international anarchy, anti-federalism still continues to prevail as our choice.

The reason is found in Machiavelli's *Principe* in the chapter on new principates.<sup>2</sup> Inertia and difficulty of innovation mean that men tend to keep the "old order" and ignore the good example of the ancients, which could help them to modernise the States.<sup>3</sup> In Europe the historical, social and political conditions for the establishment of a Federal State have existed for some time past, but after half a century of integration, European Federation is still of "doubtful success," because many — too many — still maintain the impossibility of imitating the American federation.<sup>4</sup> It is up to the federalists to show that such an attitude is based on an "unreal knowledge of history."<sup>5</sup> It is certainly easier to think that the foundation of the American State was inevitable and that a European one is impossible because it still meets with too much opposition. But this is not so: the institutions on which the United States are still founded were very much argued against initially, and were only consolidated after the battle fought mainly by Hamilton and a few federalists.

Thanks to Altiero Spinelli and Mario Albertini, European federalism has regained the historical sense of that battle, and hence the essays in the *Federalist*, written by Hamilton together with Jay and Madison to illustrate the advantages of the federal Constitution over the confederal formula, remain a fundamental witness.<sup>6</sup>

## I. The Origins of the Debate: Plurality of States or Single State?

After the victory of the war of independence, the United States of America had to face a series of serious commercial, economical and military problems, which do not find room for discussion here. It is enough to remember that the will to question the *Articles of Confederation* matured in a climate of deep crisis and uncertainty. As George Washington observed<sup>7</sup>, without a new constitution, the union would soon fall prey to "anarchy, tumult or disorder," as is shown, for example, by the anti-taxation revolt which erupted in 1786 in Massachusetts, quelled by the intervention of the army<sup>8</sup> and the secessionist revendications of

Vermont from the State of New York.<sup>9</sup>

The Convention of Philadelphia met within this difficult situation. The debate was opened with the exposition of the plan for Virginia (May 1787) on the part of the governor Edmund Randolph, which predicted the strengthening of central government, established the basis of a new Constitution, and refused to merely reform the *Articles of Confederation*. After listing the defects of the Confederation, Randolph proposed remedies, drawing up a plan that meant a first Chamber elected by the people and a second with representatives elected by the first and by the parliaments of the States, a single State and a system of Courts nominated by the two chambers. After some days of lively debate, most parts of the proposals for the plan for Virginia had been well accepted by the delegates. But many States, especially the smallest, were worried by the prospect of too much strengthening of the general executive, and insisted on the necessity of maintaining an equal share of power of vote and government among States. At that point the New Jersey delegation put forward a second plan proposing to maintain the form of the league of States provided for by the *Articles of Confederation*. During the course of this debate, Hamilton, a New York delegate, openly declared himself as being “unfriendly to both plans,”<sup>10</sup> because he was convinced that neither would provide institutions energetic enough and with the same republican principles in America, as would enable a government of the Union to survive.<sup>11</sup> In his speech he criticised the New Jersey plan because “leaving the States in possession of their Sovereignty” it remained within the old Confederation. He also contested the Virginia plan as it left the States too many margins to reinforce their own governments to the detriment of the general one. He proposed therefore, the transformation of the Confederation into a single State with an independent executive from that of the States, through the institution of an elective monarchy. In the days following his intervention, the delegates continued to be divided between those for the Virginian plan and those for the New Jersey plan, and Hamilton returned to New York. He again participated in the work of the Convention when the compromise between the advocates of several States and those of a single government had matured, and together with Samuel Johnson, Governor Morris, Madison and King, took part in the Committee which drew up the final wording of the Constitution.

After three months of lively debate, the Convention approved the Constitution to be put forward for ratification by the Convention of single States. But three delegates, Randolph and Mason from Virginia and Gerry

from Massachusetts, refused to answer the call of Franklin the delegate from Pennsylvania, to submit a single motion of approval with the formula “to agree to this Constitution with all its faults” and to refrain from publicising the criticisms expressed during a discussion of the adopted texts.<sup>12</sup> Other delegates for example Hamilton’s two colleagues representing the State of New York, had already left the Convention, as sign of open disapproval. The way in which the Convention closed left therefore the feeling that the result of the ratification was uncertain. A few days after the end of the Convention of Philadelphia, Hamilton admitted that “the causes operating against its adoption are powerful and there will be nothing astonishing in the Contrary.” And so he concluded: “it is probable that the contests about the boundaries of power between the particular governments and the general government and the momentum of the larger States in such contests will produce a dissolution of the Union. This after all seems to be the most likely result.”<sup>13</sup>

These few references to the debate, which took place at the convention give an idea of the clarity with which the problems to be resolved were put on the carpet, and which, in spite of the compromise, would continue to divide supporters of the various solutions for a long time.

## II. The Future of the States and That of the Union (1787-1788)

### *The Legitimacy of the Convention and of the New Constitution.*

The Convention of Philadelphia had not been called to form a new State, but to reform the Confederation. It was called “to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the union.”<sup>14</sup> The procedure of convocation should have embraced the need to guarantee involvement of the States in the reforms of continental institutions.<sup>15</sup> Up until the last minute doubts were expressed on its actual popular legitimacy. Who did the Convention represent? The Americans who manifested in the war of independence or the peoples of the States?<sup>16</sup> The legitimacy of the Convention was rigorously put forward by two of the antifederalist delegates of the New York State at the Convention, Robert Yates and John Lansing, who had left Philadelphia ahead of time.<sup>17</sup> The justification for their behaviour in the letter addressed to the governor George Clinton, testifies the attempt to nullify the results of the Convention. In fact Yates and Lansing insisted that their behaviour was embed-

ded with loyalty towards the people and the State of New York. This attitude excluded any submission to other Constitutions or people, and decidedly opposed the opinion expressed by one eminent federalist exponent, James Wilson, who had highlighted the new element introduced by the Convention: "Let it be remembered then, that the business of the Foederal Convention was not local, but general; not limited to the views and establishment of a single State, but co-extensive with the continent, and comprehending the views and establishments of thirteen independent sovereignties... We were involved in difficulties which pressed on all sides, and no precedent could be discovered to direct our course."<sup>18</sup> Wilson's speech also contained one of the first analyses of the advantages of the Constitution and looked at the anxiety expressed by the antifederalists grouping them together under five points: 1) the absence of a charter of rights; 2) the risks of consolidation of a new government; 3) the danger of a new aristocratic regime out of touch with the people; 4) the risk of creating a taxation system more oppressive than the British one; 5) fears for the birth of a permanent federal army. This speech, widely reproduced and circulated by the press of the time, echoed widely and reactions soon followed.

A few weeks after this speech another delegate at the Convention, Elbridge Gerry,<sup>19</sup> took the opportunity to answer Wilson. Gerry admitted that, "as the welfare of the union requires a better Constitution than the Confederation, I shall think it my duty as a citizen of Massachusetts, to support that which shall be finally adopted, sincerely hoping it will secure the liberty and happiness of America." However, his objections were insidious: Gerry was not attacking the Constitution because it was federalist, but because it was not federalist enough. In so doing he was drawing attention to the ambiguity with which the term "federal" was used as a synonym of "confederal": "The Constitution proposed has few, if any federal features, but is rather a system of national government. ... The question on this plan involves others of the highest importance: 1) Whether there shall be a dissolution of the federal government? 2) Whether the several State Governments shall be so altered as in effect to be dissolved? 3) Whether in lieu of the federal and State Governments the national Constitution now proposed shall be substituted without amendment?"<sup>20</sup> And on the subject of the amendments he added: "Others may suppose, that the Constitution may be safely adopted, because therein provision is made to amend it: but cannot this object be better attained before a ratification, than after it? And should a free people adopt a form of Government, under conviction that it wants amendment?"<sup>21</sup> Gerry's

speech therefore tended to reinforce the party of those who, recognising the limitations of the Confederation, were still not completely satisfied with the Constitution set out in Philadelphia.

Luther Martin, one of the delegates at the Convention who had contributed to the setting down of the New Jersey plan, intervening under the pseudonym of *The Genuine Information*, upheld the same thesis.<sup>22</sup> According to Martin three parties had faced each other at the Convention: there were those who wanted the destruction of existing governments and the establishing of a kind of American monarchy, those who wished to increase the powers of the single States and lastly the republican federalist party which proposed to use "our present federal system as the basis of their proceedings, and as far as experience had shewn us that there were defects, to remedy those defects, as far as experience had shewn that other powers were necessary to the federal government, to give those powers." For Martin federal principles were those upon which the *Articles of Confederation* were based: "Each State, when States enter into a federal government, are entitled to an equal vote, because before they entered into such federal government, each State was equally free and equally independent ... So adequate representation of States in a federal government, consists in each State having an equal voice either in person or by its representative in every thing which relates to the federal government."<sup>23</sup> We can tell from these first quotations how the antifederalist arguments went way beyond the defence of the right of the single States being represented in the new system of government, a right recognised by the new Constitution. They put forward the problem of delimiting federal sovereignty.

#### *Sovereignty.*

At a time when sovereignty generally still referred to a single subject (the monarch), and only recently and in America itself began to refer to the people, it was difficult to even think of referring the term to the system of federal institutions. The antifederalists maintained it was impossible to allow more than one sovereign within the same institutional structure. They were willing to admit to the inadequacies of the *Articles of Confederation* and the need to transfer power at a federal level, but not to the extent of questioning the sovereignty of States. On their part, the federalists observed the fact that the Constitution guaranteed the sharing of federal sovereignty to the States. One of the most cited authors to defend this position was Montesquieu, whose works were widely studied



by both federalists and antifederalists. *Centinel* (Samuel Bryan), *Brutus and Cato* (the governor of New York, Clinton) tried to show the inadequacy of the New Constitution by referring to Montesquieu's authority. But Hamilton referred to the same, first using the pseudonym of *Caesar*<sup>24</sup> and then that of *Publius*,<sup>25</sup> to show the opposite. Madison, speaking of supremacy rather than sovereignty, tackled the problem from another point of view: so as to refute the antifederalist argument of a Constitution of a national (centralising) character, he maintained the thesis that the Constitution was "neither national nor federal."<sup>26</sup>

As opposed to the *Articles*, the new Constitution did not specify who was sovereign of the Union.<sup>27</sup> The future of the Union therefore inevitably depended on the equilibrium between the various levels of government, and no longer on unilateral acts of the States. To this end *Cincinnatus*' (Arthur Lee's) criticisms towards Wilson are indicative of the preoccupation of the antifederalists: "The sovereignty, inasmuch as it prescribes general rules for the conduct of civil life, is called the legislative power — in deciding controversies among its citizens, conformably to those laws it is called judiciary power — in arming its citizens against a foreign enemy, or ordering them to cease hostilities; it has the power of war and peace — the appointment of officers to aid it in the case of the public, is the power of establishing magistrates. Now, Sir, all these attributes of sovereignty, being vested exclusively in your new government, it is not a mockery of common sense to tell us, the State sovereignties are not annihilated? And yet you undertake to prove that upon their existence depends the existence of the federal plan — and when this mighty undertaking is explained, it is because they must meet once in two years to elect part of the federal sovereignty."<sup>28</sup>

As far as propaganda was concerned the antifederalists found themselves in a difficult situation when they had to indicate alternative solutions to the new Constitution. The road they followed was that of asking for a *Bill of Rights* to be introduced into the Constitution which would protect citizens from any abuses of the federal government and proposing a series of amendments limiting federal power. *Federal Farmer*<sup>29</sup> skilfully gave voice to this propaganda. With moderation but strength, articulate arguments and apparently open to debate, it expressed a clear preference for a plan of limited consolidation in which the new government's sphere of influence would be specified. The objective of the *Federal Farmer* was to point out the risk of distancing government from the people and therefore of returning to a tyrannical government. It dealt with worries over "undefined powers" and all those powers whose

execution could be not exercised "on safe and proper ground."<sup>30</sup> The author's doubts were explicit: "Instead of seeing powers cautiously lodged in the hands of numerous legislators, and many magistrates, we see all important powers collecting in one centre, where a few men will possess them almost at discretion."<sup>31</sup> From this came the proposal to amend the Constitution to guarantee the States more power. *Federal Farmer* wished to show the relationship between safeguarding the rights of the individual and the constitutional guarantees of the States. Its conclusion was that only at a level nearer to the people, that of the States, would it be possible to guarantee the rights and freedom of individuals. In this sense *Federal Farmer*, together with other authors, for example *An Old Whig* (George Bryan),<sup>32</sup> shared a faith in the State constitutions to preserve liberty. The constitutionalist party of Pennsylvania, to which *An Old Whig* gave expression, prioritised preserving republican values won and contained within the various constitutions during the war of independence rather than the problem of having an efficient government of the Union. In this light the objective was to formulate "a plan of confederation, which may enable us at once to support our continental union with vigor and efficacy, and to maintain the rights of the separate States and invaluable liberty of the subject."<sup>33</sup> This request expressed the wish to affirm the primacy of State legislation over federal and gives significance to the debate over the effective guarantee offered to the individual freedom of various State legislations. This is shown by some of Pennsylvania's laws, whose Constitution was considered by many antifederalists as the most advanced of the Union (*Centinel* described it as the "great palladium of equal liberty").<sup>34</sup> With the *Test Acts* this State deprived citizens of their full rights of citizenship unless they swore loyalty to the State. Furthermore the *Acts* set out sanctions for certain religious and social minorities. Some federalists accused them of wanting to maintain supremacy of State legislation so as to preserve certain discriminatory laws and to these *Centinel* objected that the new Constitution had been conceived of to destroy the internal harmony of States.<sup>35</sup>

The constitutional tradition of Pennsylvania, together with the fact that the debate on ratification began in that very State, made it a crossroads not only of the debate, but also of tensions. In Pennsylvania the antifederalists, as we shall see, did not give up easily. One of the earliest documents expressing dissent towards the Constitution proposed and which had wide circulation was the *Address and Reasons of Dissent of the Minority*, that is of the antifederalists of Pennsylvania defeated at the convention for ratification. This document was written and circulated

in an attempt to re-launch opposition to the ratification of the other States as well as to show a series of amendments and denounced violation of the articles of the confederation in establishing a minimum number of ratifications necessary for the Constitution to come into force.<sup>36</sup> This clause, according to the authors, undermined the very foundations of the Union as it violated the spirit of the confederal pact of the United States.

As already mentioned the tensions in Pennsylvania were not only verbal. In December 1787, after the State convention had ratified the Constitution, the revolt in the town of Carlisle produced nervous reactions even in the antifederalist camp. The same authors of the *Dissent* declared themselves against similar acts of violence and Gerry denounced the danger of a possible civil war.

The clash over sovereignty touched the raw nerve of the role of judiciary power and its efficacy in settling the conflicts between States, between States and federation and between individuals and States. The relationship between individuals and States was particularly topical at the time and did not only involve the citizens of the United States, but also the British anxious to reclaim their credits from the ex-colonies. *Federal Farmer* intervened again here warning of the danger of the States being humiliated by the Court of Justice.<sup>37</sup> *Brutus* raised exactly this issue of risk in an essay which proposed to answer the question: "Can an individual sue a State?"<sup>38</sup> Now not only did the Constitution of Philadelphia provide individual citizens with the possibility of taking a State to court, but it allowed the wider action of judiciary power through the acts of Congress. *Brutus* analysed this eventuality, highlighted its dangers and accused the authors of the Constitution of wanting unlimited consolidation of the State. His arguments tended to meet with citizens' contempt towards a procedure, which annulled sovereignty of their States. "The proper province of the judicial power, in any government, is, as I conceive, to declare what is the law of the land... But I conceive the clause which extends the power of the judicial to controversies arising between a State and citizens of another State, improper in itself, and will, in its exercise, prove most pernicious and destructive. It is improper, because it subjects a State to answer in a court of law, to the suit of an individual. This is humiliating and degrading to a government, and, what I believe, the supreme authority of no State ever submitted to. The States are now subjects to no such actions. All contracts entered into by individuals with States, were made upon the faith and credit of the States, and the individuals never had in contemplation any compulsory mode of obliging the government to fulfil its engagements."<sup>39</sup>

### *Conditional Ratification or Adoption in toto.*

During the ratification process more than a hundred amendments to the Constitution were proposed. Among these two were particularly significant: one which asked for the explicit reaffirmation of the sovereignty of the States and that which proposed excluding the possibility of going to the Supreme Court to settle conflicts between two or more States. Many of the Convention's delegates, following the example of that of Massachusetts, accepted ratification with the intention of attacking again at the first Congress. Others tried to gain a second Convention straight away.

In the decisive passages of the ratification, arguments became heated as in the case of Virginia and New York. When he announced his vote against the Constitution, the Virginian Richard Henry Lee used terms leaving little hope for the future of the Federation: "It seems probable that the determinations of four States will be materially influenced by what Virginia shall do. This places a strong obligation on our country to be unusually cautious and circumspect in our Conventional conduct. The Mode that I would propose is something like that pursued by the Convention Parliament of England in 1688. In our Ratification insert plainly and strongly such amendments as can be agreed upon, and say; that the people of Virginia do insist upon and mean to retain them as their undoubted rights and liberties which they intend not to part with; and if these are not obtained and secured by the Mode pointed out in the 5<sup>th</sup> article of the Convention plan in two years after the meeting of the new Congress, that Virginia shall be considered as disengaged from this Ratification."<sup>40</sup> This position of blackmail did not end but in the final resolution various proposals of amendment which were "highly objectionable" had to be included, according to Madison.<sup>41</sup> Bearing witness to the bitterness of the debate which took place at the Convention of Virginia, Madison informed Hamilton he was "so uncharitable as to suspect that the ill will to the Constitution will produce every peaceable effort to disgrace and destroy it. Mr [Patrick] Henry declared previous to the final question that although he should submit as a quiet citizen, he should wait with impatience for the favorable moment of regaining in a constitutional way, the lost liberties of his country."<sup>42</sup>

The battle between federalists and antifederalists at the Convention of New York started when it was still unknown whether the minimum number of approvals necessary for the Constitution to enter into force would be reached or not. Ratification was uncertain as Madison again

shows indirectly in a letter to Hamilton: "I am sorry that your situation obliges you to listen to propositions of the nature you describe. My opinion is that a reservation of a right to withdraw if amendments be not decided on under the form of the Constitution within a certain time, is a conditional ratification, that it does not make New York a member of the New Union, and consequently that she could not be received on that plan. Compacts must be reciprocal, this principle would not in such a case be preserved. The Constitution requires an adoption *in toto*, and for ever... This idea of reserving right to withdraw was started at Richmond and considered as a conditional ratification which was itself considered as worse than a rejection."<sup>43</sup>

The New York Convention (July 1788) was the last important occasion for the antifederalists to play the card of convocation of a second general Convention to amend the Constitution. As can be read in Madison's letter quoted from above, the New York antifederalists had proposed conditional ratification. During the debate a famous antifederalist, Melancton Smith, proposed that the Convention invite other States to call for a second Convention and to temporarily suspend federal powers to do with the military, elections and tax, until the question of amendments had been resolved. Smith, representing the proposals of Virginian Lee, tried to push through a ratification, which included recognition of the right to secession in the case of the first elected Congress not having elected a second Convention. But when he received the news of ratification of Virginia and New Hampshire and after having received assurance that the New York Convention would support the request to include the *Bill of Rights* in the Constitution, he accepted to vote for ratification. To get certain antifederalists to back away from their intention not to vote for ratification, it was decided that a *Circular*<sup>44</sup> be sent to the other States. This was drawn up with the contribution of Jay,<sup>45</sup> with which the delegates of the New York Convention invited the organisation of a second general Convention. Pennsylvania was the first and only State to respond with any zeal to the invitation, calling at Harrisburg (September 1788) a Convention open to antifederalists of various tendencies, among which the leader of the Carlisle revolt, William Petrikin, representing the most violent wing and Charles Pettit, a moderate antifederalist. The intervention of the latter was decisive in toning things down and indicating a procedure which in denouncing the method of the armed uprising proposed by Petrikin, recommended following the way already gone down by the other States: that of preparing for battle with Congress and asking to have included in the Constitution a *Bill of Rights* and the

amendments proposed by the various Conventions. At this point the battle between federalists and antifederalists moved over into the new Congress.<sup>46</sup>

### III. The Power of the States and That of the Federation (1789-1800)

#### *The Bill of Rights and the Attempt to Reinstate the Confederation.*

Once it had come in to office, the new Congress had to face problems highlighted by the antifederalists during ratification, and mainly that relating to the insertion of a *Bill of Rights* within the Constitution, which occurred in the form of the first ten amendments of the Constitution. Only the first amendment<sup>47</sup> approved by the Congress actually related directly to the fundamental principles of the protection of rights, as underlined by Madison in his report to the Congress.<sup>48</sup> The introduction to the *Bill of Rights* specifically mentioned the reasons<sup>49</sup> why the Congress had decided to propose that the States ratify a series of amendments, the final text of which was the result of yet another clash between federalists and antifederalists. Madison, introducing before Congress the proposed amendments, explained the risks that could ensue from deviating from the provisions of the Constitution: "It cannot be a secret to the gentlemen in this house, that, notwithstanding the ratification of this system of government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it... I do conceive that the constitution may be amended; that is to say, if all power is subject to abuse, that then it is possible the abuse of the powers of the general government may be guarded against in a more secure manner than is now done, while no one advantage, arising from the exercise of that power, shall be damaged or endangered by it. We have in this way something to gain, and, if we proceed with caution, nothing to lose; and in this case it is necessary to proceed with caution... And therefore I shall not propose a single alteration but is likely to meet the concurrence required by the constitution."<sup>50</sup>

The initial formulations of the amendments sustained by the antifederalist minority elected at the Congress were particularly insidious. The question that the antifederalists felt strongest about was that regarding the protection of citizens' freedom, but it was not the only one. The structures of the fiscal and judiciary systems were also discussed. The situation was very unstable, as the structures of the old Confederation

were being dismantled, and those of the new institutions were being created. For example, since the new Constitution did not define the procedure for the appointment of the various governmental offices, the new Congress had had lengthy discussions to establish the procedure for appointing the Foreign, Treasury and War Secretaries of State. In the end Madison's proposal was accepted; it proposed that each secretary should be "appointed by the President, by and with the advice and consent of the Senate, and ... be removable by the President."<sup>51</sup>

No other argument was so bitterly debated as that relating to the limitation of power of the new government to those *expressly* delegated by the Constitution. On this point there was the risk of raising the whole question again over the new constitutional structure, and the restoration de facto of the confederation. Madison's answer was that: "The powers not delegated by this Constitution, nor prohibited by it to the States, are reserved to the States respectively."<sup>52</sup> This wording would have been acknowledged in the tenth amendment. Antifederalists like Tucker tried to have the word *expressly* inserted between *not* and *delegated*, but were not successful. Madison observed that "this question was agitated in the Convention of Virginia; it was brought forward by those who were opposed to the Constitution, and was finally given up by them."<sup>53</sup> In the same way a heated battle developed on the powers of taxation, the electoral system and the maintenance of the armed troops. On the subject of taxes Tucker upheld the right of States to establish those taxes to be applied. On the electoral system Aedanus Burke upheld an amendment that would ensure that the "Congress shall not alter, modify or interfere in the times, places or manner of holding elections of senators or representatives, except when any State shall refuse, or neglect, or be unable by invasion or rebellion to make such election."<sup>54</sup> Elbridge Gerry instead made an attack regarding the maintenance of the armed troops: "What, sir, is the use of militia? It is to prevent the establishment of a standing army, the bane of liberty."<sup>55</sup> This request was partly acknowledged in the second amendment, on the basis of which the citizens of the United States, "a well regulated militia being necessary to the security of a free State", still have the inviolable right "to keep and bear arms".

In general the antifederalists were not satisfied with the final text of the amendments proposed by Madison: they believed that the first Congress had not been capable of protecting the rights of the individuals and the powers of the States. Richard Henry Lee summarised his colleagues' dissatisfaction in this way: "The great points of free elections, Jury trial in criminal cases much loosened, the unlimited right of

Taxation, and Standing Armies in peace, remain as they were. Some valuable Rights are indeed declared, but the powers that remain are very sufficient to render them nugatory at pleasure."<sup>56</sup>

At the conclusion of the controversy regarding the amendments, a new phase in the battle between federalists and antifederalists began: a battle about the interpretation of the Constitution.

#### *Central Bank and the Implicit Powers.*

The alliances that had confronted each other in the preparatory phase of the new Constitution and in its confirmation did not remain compact for long. The exercise of power by the federal government imposed certain choices, which not only the antifederalists but also many federalists, were not prepared to share. Could the new government, for example, have operated without adequate economic and financial means? This was the concern at the root of the numerous reports presented to Congress by the Secretary of the Treasury Hamilton.<sup>57</sup> The Constitution did not provide for the creation of a central Bank, it did not provide indications on how to manage the debt, neither did it indicate how to manage relations with European powers. It was a case of interpreting the Constitution each time, and deciding if and how in the different areas it was the States or the Congress who had the power to decide. For the antifederalists opposed to the ratification up to the last minute, the choice had been made for some time. This was not the case for those antifederalists who had accepted the new Constitution and for those moderate federalists who feared an excessive reinforcement of federal power. A supporter of the Constitution such as senator William Maclay (Pennsylvania), who had described Richard Henry Lee as "a notorious antifederalist" and Elbridge Gerry as "highly antifederal,"<sup>58</sup> found himself increasingly supportive of the arguments of Lee and Gerry, to criticise "the designs of a certain party to use the General Power to carry the Constitution into effect by a constructive interpretation", saying that this strategy could have been extended "would extend to every case that Congress may deem necessary or expedient."<sup>59</sup>

At the time, the only reference text in circulation was *The Federalist*. However, not all considered *Publius* as the best guide for interpreting the Constitution. For example, Elbridge Gerry considered *The Federalist* to be "political heresy" and denounced the partiality with which the accounts of the various ratification Conventions had been diffused. More generally, the criticism of the 'constructive interpretation' of the Consti-

tution became the meeting point between the traditional antifederalists and many federalists who at the time had fought for the Constitution. Madison and Jefferson could by then be counted among these.

It is worth considering the basic objections Madison raised against Hamilton's plan for the need for a central Bank. "Is the power of establishing an incorporated bank among the powers vested by the constitution in the legislature of the United States? ... In admitting or rejecting a constructive authority, not only the degree of its incidentality to an express authority, is to be regarded, but the degree of its importance also; since on this will depend the probability or improbability of its being left to construction. Reviewing the constitution with an eye to these positions, it was not possible to discover in it the power to incorporate a Bank.

The only clauses under which such a power could be pretended are either: 1. The power to lay and collect taxes to pay the debts, and provide for the common defence and general welfare; 2. The power to borrow money on the credit of the United States; 3. The power to pass all laws necessary and proper to carry into execution those powers."<sup>60</sup> The constitutive law of the Bank could not be included in any of these powers, Stated Madison, and he continued: "To understand these terms in any sense, that would justify the power in question, would give to Congress an unlimited power; would render nugatory the enumeration of particular powers; would supercede all the powers reserved to the State governments. These terms are copied from the articles of confederation; had it ever been pretended, that they were to be understood otherwise than as here explained?"<sup>61</sup> Finally, after having referred to the fact that the Constitution made explicit reference to the power of the Congress for monetary regulation, declaration of war, and the provision of weapons to an army, he then went on to the implicit powers demanded by the supporters of the Bank: "The doctrine of implication is always a tender one... It is not pretended that every insertion or omission in the Constitution is the effect of systematic attention. This is not the character of any human work, particularly the work of a body of men. The examples cited, with others that might be added, sufficiently inculcate nevertheless a rule of interpretation, very different from that on which the bill rests. They condemn the exercise of any power, particularly a great and important power, which is not evidently and necessarily involved in an express power. It cannot be denied that the power proposed to be exercised is an important power."<sup>62</sup>

The law regarding the Bank was passed with no further pressure or difficulties. The immediate result of the battle however was not the birth

of a strong and active central Bank — an objective that would be achieved much later —, but a rekindling of the confrontation over sovereignty. Madison's Statements not only cast doubt on the opportunity of creating a Bank. They touched on the very sense of what was in play: the creation of a new State. While Hamilton was decidedly focusing on this objective, Madison and the antifederalists believed that the United States were not and should not become a real State. More specifically they feared that the affirmation of the new State's sovereignty would have meant its transformation into a monarchy. For Madison and Jefferson the ratification of the Convention represented above all the last act of the revolution that had freed the Americans from British domination. In an article that became a sort of founding manifesto for the republican-democratic party that old and new antifederalists joined, Madison insisted that the ratification of the Constitution had marked the beginning of a new split between the parties: it was no longer a case of being for or against independence from the British crown, for or against the Constitution, but a case of being for or against republican values: "The Republican party, as it may be termed, conscious that the mass of people in every part of the union, in every State, and of every occupation must at bottom be with them, both in interest and sentiment, will naturally find their account in burying all antecedent questions, in banishing every other distinction than that between enemies and friends to republican government."<sup>63</sup> From that Statement, the political agenda of Madison and the antifederalists became that of proving that the real enemies of the Constitution had become the very people who had advocated a reinforcement of the federal government.<sup>64</sup> But behind the "loyal opposition," which Madison and the others professed to embody, a danger lurked. As in citizens' eyes the republican values in the young American democracy were a manifestation of the Constitutions of the single States, to consider the defence of those values as a priority led perhaps unwittingly to upholding the demands of the States towards the still fragile Federation. This defence was to assume different forms. Firstly it manifested itself within the debate on the division of competence between the power of the States and that of the union, but subsequently it became the premise of the claims of the right to secession of the States.

#### *The Power of Intervention of the Supreme Court.*

In 1793 two cases were brought before John Jay, President of the Supreme Court: the case of *Ware v. Hylton*, in which the parties were a

British citizen and one from Virginia, and the case of *Chisholm v. Georgia*, which saw a citizen from South Carolina suing the State of Georgia. The latter case gave Jay the opportunity to form a very clear judgement in favour of the sovereignty of the Federation against that of the States. The case of a State being brought up for trial, feared by the antifederalists during the debate on the ratification of the Constitution, displayed such harshness that it induced the States to request, and obtain, the introduction of a further amendment to limit the powers of Congress. Jay exposed his judgement on sovereignty with extreme clarity, taking advantage of one of the first occasions to affirm the central role of the judicial power in a federal system: "It is said, that Georgia refuses to appear and answer to the plaintiff in this action, because she is a sovereign State, and therefore, not liable to such actions... It will be sufficient to observe briefly, that the sovereignties in Europe, and particularly in England, exist on feudal principles. That system considers the prince as the sovereign, and the people as his subjects; it regards his person as the object of allegiance, and excludes the idea of his being on an equal footing with a subject, either in a court of justice or elsewhere. That system contemplates him as being the fountain of honor and authority... No such ideas obtain here; at the revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects (unless the African slaves among us may be so called) and have none to govern but themselves; the citizens of America are equal as fellow-citizens, and as joint-tenants in the sovereignty.

From the differences existing between feudal sovereignties and governments founded on compacts, it necessarily follows, that their respective prerogatives must differ. Sovereignty is the right to govern; a nation or State-sovereign is the person or persons in whom that resides. In Europe, the sovereignty is generally ascribed to the prince; here it rests with the people; there, the sovereign actually administers the government; here, never in a single instance; our governors are the agents of the people, and at most stand in the same relation to their sovereign, in which regents in Europe stand to their sovereigns. Their princes have personal powers, dignities and pre-eminences, our rulers have none but official; nor do they partake in the sovereignty otherwise, or in any other capacity, than as private citizens... For the reasons before given, I am clearly of opinion, that a State is suable by citizens of another State."<sup>65</sup>

### *Domestic Politics and Foreign Politics.*

The domestic situation in the early 1790's gave cause for alarm. The organisation of a "loyal opposition" through a network of clubs of the new Democratic-Republican Party put the Federalist Party in power in increasing difficulty. The aim of these clubs was to raise the attention of public opinion on the danger of an authoritative degeneration of the federal government, in part drawing on the antifederalist themes and in part on the French revolutionary spirit. This climate saw the explosion of the armed rebellion linked to the protest against the federal tax on *Whiskey*, which Washington and Hamilton had to tackle energetically, provoking new accusations of authoritarian behaviour on the part of the antifederalists.

The *Whiskey* rebellion also had important repercussions on the debate regarding the future of the judiciary system. The rebels should have judged by the Federal Courts, and also on this subject the democratic-republican leaders once more took up the objections brought forward by the antifederalists during the ratification. This is how one of them, Albert Gallatin, spoke: "Despotic governments eagerly seize every opportunity which the faults and the temporary folly of any part of the nation may afford them, in order to add new energy to their powers and to justify the arbitrary exercise of a jurisdiction extended to new objects."<sup>66</sup> Speaking on the government's request to remove the rebels from the judgement of local Courts, he continued: "They are to be tried, not in their country, and their fate depends on the verdict, not of a jury of their own vicinage, acquainted with their private character and the whole tenor of their lives, but on men selected from amongst strangers."<sup>67</sup> On this occasion too the antifederalists reiterated the objection made repeatedly during and after the ratification: their opposition to the Constitution and the government was motivated by zeal and not by aversion to federalism. Findley explained thus his anti-federalism: "Myself and others have been called Antifederalists, as a name of reproch, yet I do, and always did, treat the appellation with contempt. If I erred, it was from an excess of zeal for federalism, and a jealousy least the federal republican principles of the government were not sufficiently guarded, and in this we agree with the majority of the citizens of the United States."<sup>68</sup>

The situation was not calm even on the international front. The treaty with Great Britain should have been concluded to put an end to disputes on western boundaries and commercial problems. And on this question, the ratification of the so-called *Jay Treaty*,<sup>69</sup> the debate on the interpreta-

tion of the Constitution was destined to assume ever more heated tones.

Beyond controversies on the specific content of the Treaty, which also resulted in violent demonstrations against Jay — who had negotiated the Treaty — and Hamilton — who had inspired him —, the basic question brought to light was the power to make treaties. This was being exercised for the first time, according to the Constitution, by the President and by the Senate, with the exclusion of the Congress, to whom, on that occasion, the documentation relating to the development of negotiations between Great Britain and the USA was not given. On one hand the democratic-republican opposition demagogically maintained the right for Congress to ratify the treaties, but on the other it took this occasion to reaffirm the opportunity to revise the constitutional norms on the qualifying majorities required in the Senate for the ratification of international treaties. Hamilton took up his position once more with a series of articles signed *Camillus*, to uphold the Senate's ratification of the *Jay Treaty*. After the Senate's ratification, Congress held its own debate during which certain considerations were re-proposed. They were considerations that had emerged in various Conventions on whether to make the majority required to ratify treaties more stringent — 2/3 of the total number of senators instead of 2/3 of the senators present — and on the anti-democracy of the procedure which excluded the Congress, the Chamber of the people's representatives, from the ratification of the treaties. The debate took the form of quotations from the *Federalist* on the one side and from *Dissent of the Minority*, letters of the *Federal Farmer* and minutes from the Conventions on the other. The latter, in particular, became the main reference texts of those opposing the government.

#### *The States' Demand for the Power of Interposition.*

Once the constitutional crisis provoked by the ratification of the *Jay Treaty* had been solved, the contention between federalists and antifederalists moved onto another level: that of the legitimacy of the acts of Congress. The cause of this clash originated once more from foreign politics. Relations with Great Britain were on the way to being resolved, but the definition of the United States policies towards France became increasingly urgent. On the one hand it was feared that France would stir up revolt in the United States, relying on widespread antifederalist dissatisfaction and on the numerous contacts that existed between French revolutionaries and American politicians. On the other hand the French government's actions posed a worry on the international field. Tension

between France and the USA reached such a point that President Adams was persuaded to entrust the ex-President Washington and Hamilton with the task of preparing a military plan for a possible French invasion. This situation, together with the Congress' adoption of the *Alien and Sedition Acts*,<sup>70</sup> refuelled antifederalist opposition, which accused federalists of wanting to continue with the secret plan to install an authoritarian and Unitarian regime. The opposition to the *Acts* was very harsh and had important consequences on the theoretic and practical evolution of anti-federalism. Instead of following the path of the constitutional opposition, and therefore that of recurring to the Supreme Court, the antifederalists, headed by Jefferson and Madison, incited the States to disobey the federal government. The two political acts, which seriously challenged the legitimacy of the federal government, were the resolutions of Kentucky, devised by Jefferson, and that of Virginia, devised by Madison. The two documents went further than the antifederalist rhetoric against a consolidation of federal power. They embraced the thesis on the basis of which the federal pact was a contract between States, and not with the people, and consequently the States, and not the Supreme Court, as the expression of the people, could sit in judgement of the violations of the pact. In the resolution of Kentucky it was stated: "As in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measures of redress."<sup>71</sup> In this way the State of Kentucky affirmed the right of the States to judge for itself the constitutionality of the federal laws. The variant introduced by the resolution of the State of Virginia consisted in the affirmation of the right of more States, and not of only one State, to be judges of the constitutionality of the statutes. The other States did not follow Kentucky and Virginia's invitations to disobey. At this point the State of Kentucky reiterated its request to consider null those federal laws not seen as conforming with the Constitution (*nullification*), while Virginia reaffirmed the right of States to oppose the application of those acts of government or of Congress that seemed to violate Constitutional rights (*interposition*). Although secession was not explicitly talked about, these positions posed a serious threat to the survival of the Union. Madison's report to the State of Virginia in 1800 presented, in a more cautious manner than Jefferson had hoped, the question of the right of secession of the States, trying to conciliate federalism and secessionism.<sup>72</sup> The result was that it supplied the antifederalists with the theoretical cover, still lacking, for their battle against the legitimacy of the federation to continue. It is a fact confirmed by pro-antifederalist Ameri-

can literature,<sup>73</sup> that Madison's 1800 report would become an important reference point for those who fought during the Eighteen hundreds to defend the sovereignty of the States. It is thus relevant to quote some excerpts of that long report which constituted the occasion for presenting the resolutions of no confidence, which the State of Virginia had towards the Congress. "The constitution of the United States was formed by the sanction of the States, given by each in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the constitution, that it rests on this legitimate and solid foundation. The States then being the parties to the constitutional compact, and in their sovereign capacity, it follows of necessity, that there can be no tribunal above their authority, to decide in the last resort, whether the compact made by them be violated; and consequently that as the parties to it, they must themselves decide in the last resort, such questions as may be of sufficient magnitude to require their interposition."<sup>74</sup> And on the question of the opportunity of recurring to the Supreme Court it argued thus: "The proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all the forms of the constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it."<sup>75</sup> Furthermore Madison stated that the attempt "to consolidate the States by degrees, into one sovereignty" would have meant "to transform the present Republican system of the United States, into an absolute, or at best a mixed monarchy."<sup>76</sup>

The attenuation of tensions with France and the return of foreign politics on the margins of the American political scene brought about crisis once again. The defeat in the same year of the federalist party in the presidential elections and the fact that Jefferson became President first and later Madison in the following twenty years contributed to reinsuring what had at one time been the antifederalist opposition and that *de facto* had come to power. Hamilton's proposal<sup>77</sup> of rapidly strengthening the federal government thus waned. The marginalisation of the American continent from European struggles, with the exception of a few episodes, enabled the USA to remain in a sort of power limbo.<sup>78</sup> From 1800, only the Supreme Court would have still played a role in defending the federal institutions in the States' demands, repeatedly affirming its authority in judging the conformity to the Constitution of the acts of the various levels of power and government. Its action alone, however, in the absence of the farsighted policies that Hamilton was only able to sketch and never implement in favour of continental development and of the consolidation of the legitimacy of the Union, would not have been sufficient to avoid

the crisis of the civil war some decades later.

### **Brief Final Considerations**

From this quick review of federalist and antifederalist positions in the last decade of the eighteenth century certain conclusions can be drawn.

1) The federalists and the antifederalists tried to affirm or defend two different models of sovereignty. In one case it was an unexplored sovereignty, that of the Union of more States, in the other it was a tested sovereignty, that of the States, which proved to be inadequate in facing the problems posed by the detachment of colonies from Great Britain. It was this very evidence of inadequacy that forced many antifederalists to support the ratification of the Constitution. If we look at the present day, in Europe the formulation and then the ratification of a federal Constitution, at least for a nucleus of countries, will not be possible either without the support of the moderate antifederalists. A support unlikely to manifest itself outside a frame of profound crisis in which the alternative between confederation and federation will have to be clearly presented to the political class and to public opinion.

2) The approval of the Constitution did not bring an end to the battle between federalists and antifederalists. Instead it marked the beginning of a new battle to affirm federal sovereignty. In this phase the fundamental role of the Supreme Court began to manifest itself. Removing from the Congress and the States the power to interpret the Constitution, the Supreme Court contributed to consolidating the federal mechanism as opposed to the confederal one. Considering the future of Europe, the problem of affirmation of federal sovereignty will, in the same way, constitute a crucial phase of the battle between European federalists and antifederalists after any ratification of the Constitution. The European antifederalists will also be unwilling to forego taking advantage of the initial weakness of the federal institutions to try and move the needle of the scales of power towards the States.

3) Without the reinforcement of the federation after its birth, the antifederalist centrifugal pressures would have condemned the United States of America to a return to confederation and therefore anarchy. The future European Federation will have to face a similar problem in a more difficult situation since Europe, as opposed to America, will remain at the centre and not on the fringes of the main international problems. Within this picture the tensions that will inevitably arise following the choices that will have to be made in foreign politics, will represent a difficult testing table for the survival of the Federation.



## NOTES

<sup>1</sup> Especially after the German Foreign Ministers Joschka Fischer's speech at the Humboldt University of Berlin, 12 May 2000 and that of the President of the Republic of France Jacques Chirac at the Bundestag 27 June 2000.

<sup>2</sup> Niccolò Machiavelli, *Il Principe*, Torino, Einaudi, 1961, Chapter VI, p. 28.

<sup>3</sup> "None the less in the instituting of Republics, in maintaining States, in the governing of Kingdoms, in organising an army and conducting a war, in (giving) judgement for Subjects, in expanding the Empire, there will not be found either Prince, or Republic, or Captain, or Citizen, who has recourse to the examples of the ancients... Whence it arises that they who read take infinitely more pleasure in knowing the variety of incidents that are contained in them, without ever thinking of imitating them, believing the imitation not only difficult but impossible: as if heaven, the sun, the elements, and men should have changed the order of their motions and power, from what they were anciently." Niccolò Macchiavelli, *Discourses on Livy*, English version at (<http://www.constitution.org/mac/disclivy1.htm>).

<sup>4</sup> Larry Siedentop gives an illuminating example in his book *Democracy in Europe*, Penguin Books Ltd, 2000. He explains all the advantages of the federation and concludes that the time is still not ripe for it in Europe.

<sup>5</sup> Niccolò Machiavelli, in *op. cit.*, p. 60.

<sup>6</sup> Mario Albertini, *Il Federalismo, Antologia e definizione*, Bologna, Il Mulino, 1993 and "Federalism" in *The Federalist*, XLII (2000), p.87. Also see the Italian version of *The Federalist: Il Federalista*, Bologna, Il Mulino, 1997, and in particular the introduction by Lucio Levi.

<sup>7</sup> "George Washington to Charles Carter" in *The Debate on the Constitution, Part One*, New York, Literary Classics of the United States, Inc., 1993, p. 612.

<sup>8</sup> In a letter to Jefferson at the end of 1786, Jay expressed his anxiety thus: "The inefficacy of our Government becomes daily more and more apparent. Our Credit and our Treasury are in a sad Situation, and it is probable that either the Wisdom or the Passions of the people will produce Changes. A Spirit of Licentiousness has infected Massachusetts, which appears more formidable than some at first apprehended; where similar Symptoms will soon mark a like Disease in several other States is very problematical." Donald L. Smith, *John Jay, A Founder of a State and Nation*, New York, Teachers College Press, 1968, p. 113.

<sup>9</sup> Only a few weeks before the start of the Philadelphia Convention Hamilton had spoken in front of the Assembly of the State of New York on the question of the request for independence of Vermont. He proposed to refuse both the hypothesis of putting down secession with the help of the army and to satisfy Vermont's request: if New York was no longer able to maintain unity with Vermont, "this admission must operate as a new inducement to the several States to strengthen the Union." From this perspective Hamilton was asking to accept recognition of the independence of Vermont only if this new State were part of the Union. This precedent would be very important in defining the criteria for expansion and of the formation of new States within the United States, as can be seen in Article 4 of the Constitution which States: "New States may be admitted by the Congress into this union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress".

<sup>10</sup> Alexander Hamilton, "Plan for National Government, June 18, 1787", in Ralph Ketcham, *The Antifederalist Papers and the Constitutional Convention Debates*, New York, New American Library, 1986, p. 70.

<sup>11</sup> In 1803 Hamilton justified in the following way those anxieties on which his speech in Philadelphia was based: "That the political principles of the people of this country would endure nothing but republican government; 2) that the republican theory should have here a fair and full trial; 3) for such a trial it was essential the government should have all the energy and stability that could be reconciled with the theory". Broadus Mitchell, *Alexander Hamilton, Youth to Maturity (1755-1788)*, *cit.*, p. 400.

<sup>12</sup> Benjamin Franklin, "Speech at the Conclusion of the Constitutional Convention, September 17, 1788", in *The Debate on the Constitution, Part One, cit.*, p. 3.

<sup>13</sup> Alexander Hamilton, "Conjectures about the New Constitution, September 24, 1788", in *The Debate on the Constitution, Part One, cit.*, p. 9.

<sup>14</sup> Donald L. Smith, *op. cit.*, p. 116.

<sup>15</sup> The problems of the legitimacy of continental institutions were not new to American political debate. One has only to think that back in 1776 Thomas Paine faced the issue in a very successful paper: *Common Sense*. Thomas Paine, *Collected Writings*, New York, Literary Classics of the United States, 1995, pp. 32-34.

<sup>16</sup> In January 1787 Jay wrote to Washington: "To me the policy of such a convention appears questionable; their authority is to be derived from acts of State legislatures. Are the State Legislatures authorized, either by themselves or others, to alter constitutions? I think not; they who holds commissions can by virtue of them, neither retrench nor extend the powers conveyed by them. Perhaps it is intended that this convention shall not ordain, but only recommend; if so there is danger that recommendations will produce endless discussion and perhaps jealousies and party heats. Would it not be better for Congress plainly and in strong terms to declare that the present Federal Government is inadequate to the purposes for which it was instituted; that they forbear to point out its particular defects or to ask for an extension of any particular powers, lest improper jealousies should thence arise; but in their opinion it would be expedient for the people of the States without delay to appoint State conventions (in the way they choose their general assemblies), with the sole and express power of appointing deputies to a general convention who, or the majority of whom, should take into consideration the Articles of Confederation and make such alterations, amendments, and additions thereto as to them should appear necessary and proper, and which being by them ordained and published should have the same force and obligation which all or any of the present articles now have? No alterations in the government should, I think, be made nor if attempted will easily take place, unless deductible from the only source of just authority — the People." Donald L. Smith, *op. cit.*, p. 116. Donald L. Smith, in the work cited., p. 116.

<sup>17</sup> "We beg leave briefly to State some cogent reasons which, among others, influenced us to decide against a consolidation of the States. These are reducible into two heads.

First: The limited and well defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude as to assent to a general Constitution in subversion of that of the State.

Secondly. A conviction of the impracticability of establishing a general Government, pervading every part of the United States and extending essential benefits to all... From these expressions, we were led to believe that a system of consolidated Government, could not, in the remotest degree, have been in contemplation of the Legislature of this State, for that so important a trust, as the adopting measures which tended to deprive the State Government of its most essential rights of Sovereignty, and to place it in a dependent situation, could not have been confided, by implication, and the circumstance, that the acts of the Convention were to receive a State approbation, in the last resort, forcibly corroborated the opinion, that our powers could not involve the subversion of a Constitution, which being immediately derived from the people, could only be abolished by their express

consent, and not by a Legislature, possessing authority vested in them for its preservation.” “Robert Yates and John Lansing, Jr, to Governor George Clinton, 14 Gennaio 1788”, in *The Debate on the Constitution, Part Two, cit.*, p. 3.

<sup>18</sup> “James Wilson’s Speech at a Public Meeting, Philadelphia, October 6, 1787”, in *The Debate on the Constitution, Part One, cit.*, p. 65.

<sup>19</sup> “Elbridge Gerry to the Massachusetts General Court, 3 Novembre 1787”, in *The Debate on the Constitution, Part One, cit.*, p. 231.

<sup>20</sup> *Ibid.*, p. 232.

<sup>21</sup> *Ibid.*, p. 233.

<sup>22</sup> At the time it was usual for federalists and antifederalists to use pseudonyms. The choice was for rhetorical motives, a wish to express ideas without the reader being influenced by the fame of the author. In certain cases reasons were less noble such as being able to offend the opposition from anonymity so as not to run the risk of being accused of slander. Just as for the federalists *Publius* became the name behind which Hamilton, Madison and Jay hid in the *Federalist Papers*. Antifederalists were behind pseudonyms such as *Brutus*, *Cincinnatus*, *One of the Common People*, *A Democratic Federalist*, *A Federal Farmer*, *Centinel etc.*

<sup>23</sup> “The Genuine Information II”, in *The Debate on the Constitution, Part One, cit.*, p. 640-644.

<sup>24</sup> Consulted in Italian in Paolo Vervaro (by) *Hamilton-Clinton, Lettere sulla Costituzione Federale*, Napoli, Guida Editore, 1996.

<sup>25</sup> “A distinction, more subtle than accurate has been raised between a confederacy and a consolidation of the States. The essential characteristic of the first is said to be, the restriction of its authority to the members in their collective capacities, without reaching to the individuals of whom they are composed. It is contended that the national council ought to have no concern with any object of internal administration. An exact equality of suffrage between the members has also been insisted upon as a leading feature of a Confederate Government. These positions are in the main arbitrary; they are supported neither by principle nor precedent. It has indeed happened that governments of this kind have generally operated in the manner, which the distinction, taken notice of, supposes to be inherent in their nature — but there have been in most of them extensive exceptions to the practice, which serve to prove as far as example will go, that there is no absolute rule on the subject. And it will be clearly shewn, in the course of this investigation, that as far as the principle contended for has prevailed, it has been the cause of incurable disorder and imbecility in the government. The definition of a Confederate Republic seems simply to be, an “assemblage of societies” or an association of two or more States into one State. The extent, modifications and objects of the Federal authority are mere matters of discretion. So long as the separate organisation of the members be not abolished, so long as it exists by a constitutional necessity for local purposes, though it should be in perfect subordination to the general authority of the Union, it would still be, in fact, and in theory, an association of States, or a confederacy. The proposed Constitution, so far implying an abolition of the State Governments, makes them constituent parts of the national sovereignty by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power - This fully corresponds, in every rational import of the terms, with the idea of a Federal Government” in *The Federalist*, Oxford, Basil Blackwell, 1987, IX, p. 39.

<sup>26</sup> “The proposed Constitution therefore is in strictness neither a national nor a federal constitution; but a composition of both. In its foundation, it is federal, not national; in the sources from which the ordinary powers of the Government are drawn, it is partly federal, and partly national; in the operation of these powers, it is national, not federal; in the extent

of them again, it is federal, not national; and finally, in the authoritative mode of introducing amendments, it is neither wholly federal, nor wholly national.” James Madison, *The Federalist, op. cit.*, XXXIX, p. 195. In this article Madison in replying to antifederalist criticisms attributes to the term *federal* the sense of Union as confederation of sovereign States and to the term *national* that of a unitary State.

<sup>27</sup> Article 2 of the *Articles of Confederation* ran “Each State retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.”

<sup>28</sup> *Cincinnatus* (Arthur Lee), “V, Reply to Wilson’s Speech, November 29, 1787”, in *The Debate on the Constitution, Part One, cit.*, p. 114.

<sup>29</sup> Students have been uncertain as to whether to attribute these letters to the Virginian Richard Henry Lee or to Melancton Smith, of New York.

<sup>30</sup> “Letters From the Federal Farmer”, in *The Debate on the Constitution, Part One, cit.*, pp. 260 and the following.

<sup>31</sup> *Ibid.*, p. 282.

<sup>32</sup> Saul Cornell, *The Other Founders, Anti-Federalism and the Dissenting Tradition in America, 1788-1828*, 1999, Chapel Hill, The University of North Carolina Press, p. 85.

<sup>33</sup> *Ibid.*, p. 87.

<sup>34</sup> *Ibid.*, p. 101.

<sup>35</sup> *Ibid.*, p. 102.

<sup>36</sup> In this long document three motives for dissent were particularly pointed out. “... We Dissent, first, because it is opinion of the most celebrated writers on government, and confirmed by uniform experience, that a very extensive territory cannot be governed on the principles of freedom, otherwise than by a confederation of republics, possessing all the powers of internal government; but united in the management of their general, and foreign concern. ... We Dissent, secondly, because the powers vested in Congress by this constitution, must necessarily annihilate and absorb the legislative, executive, and judicial powers of the several States, and produce from their ruins one consolidated government, which from the nature of things will be an iron handed despotism, as nothing short of the supremacy of despotic sway could connect and govern these United States under one government. ... We Dissent, Thirdly, Because if it were practicable to govern so extensive a territory as these United States includes, on the plan of a consolidated government, consistent with the principles of liberty and the happiness of the people, yet the construction of this constitution is not calculated to attain the object, for independent of the nature of the case, it would of itself, necessarily produce a despotism, and that not by the usual gradations, but with the celerity that has hitherto only attended revolutions effected by the sword”. “Dissent of the Minority of the Pennsylvania Convention, December 18 1787”, in *The Debate on the Constitution, Part One, cit.*, p. 535.

<sup>37</sup> *Ibid.*, p. 273.

<sup>38</sup> *Brutus XIII*, in *The Debate on the Constitution, Part two, cit.*, p. 222.

<sup>39</sup> *Ibid.*, p. 225.

<sup>40</sup> “Richard Henry Lee to Edmund Pendleton, May 26, 1788”, in *The Debate on the Constitution, Part two, cit.*, p. 464.

<sup>41</sup> James Madison, “To Alexander Hamilton, June 27, 1788”, in *Madison Writings*, New York, The Library of America, 1999, p. 407.

<sup>42</sup> *Ibid.*, p. 407.

<sup>43</sup> *Ibid.*, p. 408.

<sup>44</sup> “We the members of the Convention of this State, have deliberately and maturely considered the Constitution proposed for the United States. Several articles in it appears so exceptionable to a majority of us, that nothing but the fullest confidence of obtaining a

revision of them by a General Convention, and an invincible reluctance to separating from our sister States, could have prevailed upon a sufficient number to ratify it, without stipulating for previous amendments". "Circular, July 26, 1788", in *The Debate on the Constitution, Part two, cit.*, p. 546.

<sup>45</sup> *Ibid.*, p. 1012.

<sup>46</sup> Saul Cornell, *op. cit.*, p. 136 and following.

<sup>47</sup> First Amendment: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

<sup>48</sup> James Madison, "Speech in Congress Proposing Constitutional Amendments", in *op. cit.*, p. 437.

<sup>49</sup> The introduction to the *Bill of Rights* is explicit here and reminds us how it was the consequence of reservations expressed at the Conventions of numerous States that at the moment of ratification had expressed "a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: and as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution" (4 March 1789).

<sup>50</sup> James Madison, *op. cit.*, p. 440.

<sup>51</sup> Broadus Mitchell, *Alexander Hamilton, The National Adventure (1788-1804)*, New York, The MacMillan Company, 1962, p. 15.

<sup>52</sup> James Madison, *op. cit.*, pag. 444.

<sup>53</sup> Saul Cornell, *op. cit.*, pag. 160.

<sup>54</sup> *Ibid.*, p. 161.

<sup>55</sup> *Ibid.*, p. 161.

<sup>56</sup> *Ibid.*, p. 162.

<sup>57</sup> This is the *Report on the Public Credit*, the *Report on a National Bank*, the *Report on the Establishment of a Mint*, the *Report on Manufactures*, presented by Hamilton between 1789 and 1791 and of a second *Report on the Public Credit* of 1795.

<sup>58</sup> Saul Cornell, *op. cit.*, p. 164.

<sup>59</sup> *Ibid.*, p. 165.

<sup>60</sup> Madison, "Speech in Congress opposing the National Bank", in *op. cit.*, pp. 482-483.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*, p. 486.

<sup>63</sup> Madison, "A Candid State of Parties, 1792", in *op. cit.*, p. 530.

<sup>64</sup> The antifederalist William Findley summarised the situation in this way: "Those who opposed adopting the government without amendments, in their zealous criticism on the Constitution, said the time might come, when an insidious faction would get into the legislature, and expound these expressions in such a manner as to bottom a subversion of the governments on them; but those who advocated the Constitution in the State Convention, pronounced this apprehension to be absurd... Those who were designated antifederalists when the Constitution was in a probationary State, were not opposed to a Federal government, but... they objected to the proposed instrument as not being defined with that precision, nor guarded with those restraints that were necessary", in Saul Cornell, *op. cit.*, p. 169.

<sup>65</sup> In *The Founders' Constitution*, Volume 5, Amendment XI, Document I (<http://press-pubs.uchicago.edu/founders/documents/amendXI1.html>) The University of Chicago Press, 2000. "The authority of this case was abrogated by an amendment, Article 11 of the Constitution U.S., which provides that "the judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the

United State." Nonetheless this case decision by the Supreme Court of the United States remained a corner stone in the political debate between federalists and antifederalists. This amendment was proposed Dec. 2, 1793, declared adopted Jan. 8, 1798."

<sup>66</sup> Saul Cornell, *op. cit.*, p. 202.

<sup>67</sup> *Ibid.*, p. 203.

<sup>68</sup> *Ibid.*, p. 206.

<sup>69</sup> The instructions given to Jay to negotiate with the English had been simple and clear: "to repel war, for which we are not disposed... to assert, with dignity and firmness, our rights, and our title of reparation for the past injuries." Broadus Mitchell, *Alexander Hamilton, The National Adventure 1788-1804, cit.*, p. 336.

<sup>70</sup> Under the menace of a war with France, in 1798 Congress approved four laws known as *Alien and Sedition Acts*. The first of these laws was the *Naturalisation Act*, (18 June). This law established that 14 years of residency were required instead of 5 to be able to be considered citizens of the United States. Therefore Congress approved the *Alien Act* (25 June) with which it authorised the President to expel those foreigners considered "dangerous to the peace and safety of the United States." The third law, the *Alien Enemies Act* (6 July) allowed the arrest and deportation of any foreigner acting on the orders of a foreign power in time of war. The last law, the *Sedition Act* (14 July) declared any betrayal of the United States to be a crime including the publication of "any false, scandalous and malicious writing." This provision, obvious for any legislation, was still not so for federal law for which State legitimacy was not unanimously recognised. Following this law, 25 newspaper editors were arrested, but opposition to the *Alien and Sedition Acts* was such as to favour the election of Thomas Jefferson in 1800. Once elected, Jefferson conceded grace to all those who had been imprisoned on the basis of the *Sedition Act*, and Congress gave back all the fines paid including the interest. However laws of this kind continued to be part of the history of the United States especially during times of international crises. In the forties the *Smith Act* forbade any person to declare themselves in favour of overturning the government of the United States. In the case of *Dennis v. U.S.* (1951) the Supreme Court established that this law was directly applicable to members of the Communist Party, but since the Court modified its opinion, Congress is no longer authorised to legislate to ban anyone who maintains it necessary to overturn federal government, unless they "are urged to do something now or in the future" (*Brandenburg v. Ohio* (1969)).

<sup>71</sup> Saul Cornell, *op. cit.*, p. 240.

<sup>72</sup> *Ibid.*, p. 245.

<sup>73</sup> Saul Cornell, *op. cit.*

<sup>74</sup> Madison, "Report on the Alien and Sedition Acts, 1800", *op. cit.*, p. 611.

<sup>75</sup> *Ibid.*, p. 613.

<sup>76</sup> *Ibid.*, p. 615.

<sup>77</sup> "The recent efforts of Virginia and Kentucky to unite the State legislatures in a direct resistance to certain laws of the union can be considered in no other light than as an attempt to change the Government". The reorganisation of the Virginian militia had made the survival of the federal government, "a question of force". To oppose this tide Hamilton proposed a federal plan to promote the influence and popularity of the government through 1) the ramification of the judiciary system; 2) an efficient policy for the construction of new roads; 3) a policy of incentives for innovation, through prizes for inventions and new techniques in agriculture and industry; 4) the creation of a federal military academy; 5) the subdivision of larger States into smaller; 6) punitive laws for those who caused revolt. Broadus Mitchell, *Alexander Hamilton, The National Adventure 1788-1804, cit.*, pag 455-56. To gain some idea as to how far the United States still had to go before reaching some of the objectives indicated by Hamilton, one only has to remember the reason behind the

veto opposed in 1817 by the then President Madison to the law of Congress on canals and roads: "The power to regulate commerce among the several States can not include a power to construct roads and canals, and to improve the navigation of water courses in order to facilitate, promote, and secure such a commerce... To refer the power in question to the clause to provide for the common defense and general welfare would be contrary to the established and consistent rules of interpretation... Such a view of the Constitution would have the effect of giving to Congress a general power of legislation instead of the defined and limited one hitherto understood to belong to them." Madison, in *Madison Writings*, p. 719.

<sup>78</sup> "Nothing is more striking to a European traveler in the United States than the absence of what we call the government or the administration," Alexis de Tocqueville, *Democracy in America*, New York, Random House, 1990, 1:3.

## Discussions

### THE CRISIS OF THE STATE AS A CRITERION IN HISTORICAL AND POLITICAL ANALYSIS

In the debate over the role that federalists will be destined to play in the wake of European unification, it is crucial to appreciate the existence, or otherwise, of the *crisis of the state* at world level.

The view that globalisation has profoundly altered the role played by the state, and that it lies at the root of its crisis, is one that is widely held, both among those who favour a return to nationalism and to more or less marked forms of protectionism, and among those who maintain that the "State", as an institution, has now been superseded and that no resistance can (or indeed should) be mounted in the face of the tendency to regard the free market as the alternative to the "cage of state."

The essential importance of the state as the basis and guarantor of peace and solidarity, which, in accordance with the Kantian view that "state equals peace," is the founding concept of federalism, will not be dealt with here. It is, indeed, a topic that has often been discussed in the pages of this review.

But it could be useful for the current debate to look closely at the meaning of the expression "crisis of the states" as used in historical examinations of the process of European unification and in the political-strategic thought from which the battle to create a European federation stemmed. Such an examination could represent the starting point for an appraisal of the situation at world level and allow parallels and differences to be brought out.

\* \* \*

A key concept used to explain the process of European unification is that of the "historical crisis of the nation-states."<sup>1</sup> The expression refers to the end of the historical cycle which saw the European system of states

playing a predominant role in the sphere of international relations.

The first signs of a change in this cycle were already visible in the last century. As Geoffrey Barraclough<sup>2</sup> put it, “Long before there could be any question of the decline of Europe ... international politics were breaking through their European setting.” Indeed, US politics have, even from the earliest period in the nation’s history (and, in particular, following that of its consolidation), tended to be characterised by a vision that extends beyond the American continent, across the Pacific towards Asia — an interest that can be likened to the attention paid by Russia and Japan to the Far East.

Moreover, the same logic that underlies the system of equilibrium and hegemony described by Ludwig Dehio<sup>3</sup> had, with the passage of time, brought other forces into play: the non European superpowers that were destined to bring Europe’s central role in world politics to an end.

The real turning point in the transition from the European age to the age of world politics was produced by the United States’ entry into the Great War.<sup>4</sup> The historical crisis of the European nation-states was laid bare, and in the decades that followed, European history was characterised by the final writhings of political subjects that, by now anachronistic and without a future, were later to be destroyed by the Second World War. Thus, the definition of what we have termed a “historical crisis” is closely bound up with the crisis, and end, of the European system of states, and the power vacuum that was created in Europe in its wake.

The “power vacuum” concept is characterised and defined by the idea of an eclipse of sovereignty, in other words by an incapacity to play an independent role (and assume the attendant responsibilities) in international politics, and by an abdication in favour of the United States of America.

But these political factors are not enough, on their own, to justify the crisis of the European nation-states. The crucial fact is that they manifested themselves within the framework of an advancing process of interdependence which, in the wake of the second industrial revolution, brought with it the need for markets larger than the national ones, themselves separated by barriers whose rigidity was exacerbated by the protectionist policies implemented by the European states. While Hitler’s attempt to unite Europe by the “sword of Satan”<sup>5</sup> constituted a disastrous response to the need to overcome the limits of the nation-states, the launch of the process of European unification provided confirmation that it was a need for which an answer had to be found: confirmation that there could be no turning back.

On a conceptual level, the “political crisis” of the European nation-states is not the same as their historical crisis, but it does stem from, and thus imply, the latter.

The concept of the “political crisis” is difficult to define unequivocally because of its contingent nature; in other words, because it depends not so much on the deep historical course, as on the varying capacity of states to confront concrete problems, political or economic, as they arise.

All states have, in the course of history, been faced with periods of crisis linked to internal or external factors, periods in which power has been at stake. Yet no state has ever managed to attain a degree of self-sufficiency, in the economic sphere or in that of its security, great enough to render it immune to crises. And of course, the growth of interdependence is accompanied by an increase both in the quantity of problems on the table, and in the number of people sharing in their management.

But if all this were to be regarded as constituting the “political crisis of the state,” the significance of the expression, used in reference to an ongoing situation, would be nothing more than descriptive. It would be far more useful to develop, for the term, a definition that might, in the analysis of a given historical situation, allow us to pinpoint a moment of change, or possible change, in power structures. For example, the collaboration among states which leads to the birth of international organisations implies the renunciation, by the members of these organisations, of their absolute autonomy, but since this is an act that is always dependent upon the preservation of sovereignty, it does not produce any alteration in the power structure at world level; in other words, it fails to overcome the existing powers and the whole power hierarchy. Understood in this way, i.e., as a stimulus for collaboration, the expression “crisis of the state” refers not to an opportunity to change the power structure, but to a phase in the management of the existing one.

This is the distinction which makes it possible to identify revolutionary moments in history, periods in which the launch of political efforts to respond to the crisis through the promotion of an alternative power become feasible. These are periods in which those in positions of power become increasingly aware of the need for a new political project, and in which the political objective that must be pursued in order to confront and overcome the crisis becomes clear, i.e., the explicit renunciation of empty forms of sovereignty and independence in order to create a new state (the Schuman Declaration, which pointed to the objective of a European federation, was a case in point).

Moreover, once the project has emerged that will steer states in the

direction of this objective, the inertia of the established powers can be overcome by making the necessary leap forward at institutional level, providing that the opportunity presents itself, and that it coincides with crisis phenomena so severe as to drive states to the very brink of a precipice from which the alternative can be seen in all its clarity and urgency.

\* \* \*

The reason for the gradual erosion of the existing forms of power lies in the evolution in the mode of production, which determined the social changes that in turn prompted the major revolutions. This concept allows us to see from afar, with a look that takes in broad horizons, both spatial and temporal, the general lines characterising the profound changes of the past and present. It is this very evolution that heralds the crises that will force men to alter obsolete institutional frameworks. And yet it is not the only factor determining the modification of political formulae.

In the political sphere, human behaviour is conditioned by determinations that can be summed up in the expression “reason of power,” and the most compelling is that which impels those in possession of power to hold on to it, and to add to it. If the existing power situation, in other words, the existing states and framework of international relations, allows the problems on the table to be managed in some way, however provisionally and inadequately, then the determinations inherent in the “reason of power” will prevail, in other words, the status quo will be preserved.

The space needed for a revolutionary action aimed at altering the power structure through the transfer of power from the existing states to a larger state entity (the federalist aim) can be created only by one kind of crisis of the state: one that leaves *no other alternative*. And in situations in which the very survival of society hangs on the accomplishment of a change in the organisation of power, it can indeed be affirmed that there is no other alternative.

However, it is important not to forget the fact that the political response to the crisis of the state is neither automatic, nor unidirectional. Even in the presence of an acute power crisis it can never be taken for granted there will be a manifestation of political will commensurate with the danger faced: suicide and regression can always prevail over the will to live and over progress.

Can the present world framework be interpreted and judged on the

basis of a criterion labelled the crisis of the state? There can certainly be no doubting that we are living through a phase of transition, through a passage from one mode of production to another, nor that the new mode of production that is emerging as a result of the scientific and technological revolution is paving the way for a gradual erosion of the forms of power that currently exist. It is this awareness that underpins the federalist view — a view that has become more and more politically pertinent as the progressive interdependence of mankind has turned the overcoming of the world’s division into sovereign states into a plausible (and, in Europe, partially realisable) project.

It is thus foreseeable that states will be increasingly conditioned by the need to manage this interdependence, and even now answers — answers that, until such time as a world federation is founded, can only be partial — are being sought to fulfil this need.

But having said that, and bearing in mind that the task of federalists has always been, and always will be, to point to world government as the only solution to the problems of global interdependence, can we really already talk of a “power vacuum” at world level, or of an “eclipse of the sovereignty” of states, whose extent is sufficient to promote the emergence among the political classes of a willingness to work towards the relinquishment of absolute sovereignty in favour of a new world state? Can we talk, at the present time, of a “crisis of the state” that is perceived by the political classes as leaving room for no alternative but a substantial and global modification of the current power situation in the world?

To ask these questions is not to deny the fact that, in the federalist view, the need for a world state already exists. Instead, to ask them is to appreciate the situation; to appreciate the nature of its reality. As Albertini said, “the revolutionary is the one who obeys reality.” And the real situation before us now is a world in which there exist established powers (the USA), powers in turmoil (Russia), rising powers (China and Europe), and innumerable medium-sized and small states (democratic or partially democratic, industrialised or developing) that could play an active part in world politics, if only they were able to unite and to move in the direction of regional unification.

All of these categories of state still have a role to fulfil. Some need to institute, or to strengthen, normal democratic life, and to lay the foundations of, or advance towards, economic development. The task of others, the most advanced states which are also those bearing the greatest burden of responsibility, is to promote the decorous and orderly management of world problems, even — in their own interests — assuming responsibility

for situations characterised by backwardness and instability.

Today's major states and states in the making still have plenty of scope for believing in their continued existence as full political subjects, and in their capacity to pursue domestic and international policies that are based on national interests. It is only when the latter can no longer be pursued, even to the smallest degree, without a movement towards the acceptance by states of their incapacity to act as independent political subjects — in other words, only when crisis point is reached at world level — that a global project for unification will be able to take shape.

What can be envisaged, at the present time, is that this mechanism — a mechanism triggered by an absence of alternatives and characterised by the acknowledgement by states of their own limitations — will manifest itself first at regional level, where the capacity to operate within the framework of a global economy and to exist as independent political subjects is still attainable through the aggregation of small states.

The simplification of the world order through the creation of regional federations, a process to which a full European federation could make a decisive ideological and concrete contribution, will be accompanied an ever more rapid acceleration of the growth of global interdependence. If our analysis is correct, a time will come in which even the great powers will become anachronisms. But it is, at the present time, hard to predict with precision what factors will trigger the global crisis. Whatever they are, it can only be hoped that they will not have the same tragic character as the decline of the European states.

*Nicoletta Mosconi*

## NOTES

<sup>1</sup> Mario Albertini, *Una rivoluzione pacifica*, Bologna, Il Mulino, 1999, p. 161.

<sup>2</sup> Geoffrey Barraclough, *An Introduction to Contemporary History*, New York, Penguin Books, 1967, p. 95

<sup>3</sup> Ludwig Dehio, *The Precarious Balance. The Politics of Power in Europe 1494-1949*, London, Chatto and Windus, 1963.

<sup>4</sup> Geoffrey Barraclough, *op. cit.*, p.118.

<sup>5</sup> Luigi Einaudi, *La guerra e l'unità europea*, Bologna, Il Mulino, 1986, p.47.

## THE NATURE AND SITE OF SOVEREIGNTY

The very significant difference between confederation and federation was well analyzed by Francesco Rossolillo.<sup>1</sup> The unsatisfactory characteristics of confederation — “almost complete incapacity to act” and “democratic deficit” — can be overcome, he states, by true federation, replacing “intergovernmental cooperation...with...the democratic formation of political will, in other words, the creation of a power which, in its designates spheres of competence, will be controlled by citizens.”

Elaboration of this concept tends to run into difficulties with the words sovereignty and nation-state. The difficulties may be due either to ambiguities in definition or to real differences in viewpoint. Sovereignty is sometimes used to mean only ultimate birthright authority not properly subject to transfer, but other use the term sovereignty even for secondary powers delegated by citizens to a government. The word nation-state can mean only the citizens, or only the government, or both together. Whenever some one uses the term “sovereign nation” while thinking of its government, what that person seems to mean is “independent nation.”

It seems useful, both philosophically and pragmatically, to assume that sovereignty resides only in the people, either individually (as for human rights) or collectively (as the active body of voting citizens). Including “only” in the definition implies that the ultimate authority of sovereignty (at least in democracies) is not transferable. Instead, sovereign people transfer by consent certain “delegate powers” (not sovereignty) to representatives to operate governments. Thus it may be held that no government has any sovereignty whatever. If one accept this concept, the nation-state likewise can be assumed to have no sovereignty if it is thought of as a government. Yet the nation-state is sovereign if the term applies exclusively to its citizenry.

Among those who believed sovereignty is a birthright and resides only in the people were John Locke, Emmanuel Sieyès, Thomas Paine, James Wilson, James Madison, and George Mason. Despite a possibility suggested by Mario Albertini,<sup>2</sup> it seems unlikely that the last-three named persons and other founders of the United States constitution ever were confronted with a problem of how to divide sovereignty between the federation and member states. On the contrary, they believed that sovereignty was by nature undivided in the people and that their task was to divide between the federation and member states something quite different — namely secondary delegated powers.

In the European situation discussed by Joschka Fisher, “the political will to found a federal core,” Rossolillo prudently advises, “must be accompanied by a very clear awareness of the nature of what is at stake, and of what the institutional implications are.” The proper place to put such proposal would seem to be a written constitution drafted at a constitutional convention. Heads of European nation-states should certainly be invited, but other leaders from all walks of life should surely be included, perhaps by popular election. What about some from the United States, Canada, and other democracies? Finally, the constitution draft should be submitted by referendum to the sovereign citizens in each nation for approval and legalisation...

*Allan Matthews*

#### NOTES

<sup>1</sup> F. Rossolillo, “A call for the Creation of a Federal Core” in *The Federalist*, XLII (2000), pp. 79-86.

<sup>2</sup> M. Albertini, “Federalism” in *The Federalist*, XLII (2000), pp. 100-101.

## Federalist Action

---

### A FEDERAL CONSTITUTION FOR EUROPE\*

Thanks to the speech made on May 12th at Berlin’s Humboldt University by the German foreign minister Joschka Fischer, and the one given by French president Jacques Chirac before the German parliament on June 27th, the key problems of the process of European unification have been brought to the attention of public opinion. Awareness is dawning of the fact that, without a radical transformation of its institutions, the European Union will be unable to withstand the impact of its own enlargement and will run the risk of disintegration, with consequences that would be catastrophic for peace, democracy and wellbeing in Europe. The final destination of the process and the time frame within which this might be reached are issues that are now widely discussed, and terms like “federalism” and “constitution” have now become acceptable. However, the debate is still contaminated by the presence of ambiguities and contradictions. Federalists must therefore endeavour to contribute to efforts to clarify the terms of the problems on the table in order to streamline, as far as possible, the decision-making process. These problems can be grouped under three headings: I) the nature and destination of the constituent process, II) the general principles of the European constitution, and III) the institutions and the division of powers.

#### I) The Nature and Destination of the Constituent Process.

##### *The Intergovernmental Method.*

Both Europe’s impotence, and the estrangement of its institutions

---

\*This is the text of the European Letter No. 18, published in English, French, German and Italian by the Luciano Bolis Foundation in support of the “Campaign for European Constitution”, run by the Union of European Federalist and the Young European Federalists.



from the citizens, are rooted in the very essence of the intergovernmental method, in other words, in the fact that the decisions taken in Brussels do not represent the culmination of a democratic debate at European level, but are instead difficult compromises reached between governments of sovereign states, each of which is anxious to pursue (albeit within the framework of a minimum of European cooperation) its own national interests. This is particularly evident each time the question of reforming the Union's institutions is raised, a problem which the national governments always broach by seeking to adapt the forms of intergovernmental collaboration to the evolving circumstances, careful not to undermine the principle of national sovereignty. This refusal to erode national sovereignty is a flaw that is present even in proposals advanced by some of the most forward-thinking of pro-European politicians, and which currently emerges particularly frequently in the fixed belief that the radical reform so urgently needed by the European Union can be effected merely by improving the mechanism of enhanced cooperation. In truth, the problem that really needs to be solved if the Union is to emerge from this impasse — a grave situation that enlargement can only exacerbate — is that of the overcoming of the method of intergovernmental cooperation *per se* (enhanced or otherwise) and its replacement with the democratic formation of political will, in other words, the creation of a power which, in the areas for which it has responsibility, is controlled by the citizens and which, with the screen constituted by the member states lifted, acts directly at their level.

#### *Sovereignty.*

A reasoned opinion on what the outcome of the process of European unification could and should be can only be based on the extent to which the idea of sovereignty is still considered relevant. It is, in this regard, necessary to recall that if sovereignty is taken to mean the *power to decide in the last instance* — if, therefore, sovereignty is the basis of law, and as such the condition rendering civil cohabitation possible — then its absence implies a situation of anarchy, like the one generated in the course of the Middle Ages when the struggle for supremacy between many powers prevented the formation of the political conditions needed to guarantee the rule of law and social peace. And yet, there are many today who believe that the idea of sovereignty has already been superseded. Those who hold this view believe that we are on the brink of an era in which civil cohabitation will be regulated more by contractual relations

than by laws issued by an irresistible power existing above the level of individuals; an era in which, in any case, different legal orders — broader or narrower than the State order — will intersect with one another. In the absence of any established hierarchy, there will be no subordination of some orders to others and a situation will be produced in which every organisation, and even every individual, will have to provide for his or her own security. In such a scenario, humanity would be moving into a new, technological Middle Ages in which the rule of law, citizenship and solidarity are destined to fade and disappear, to be replaced by decidedly uncertain social relations, mid-way between peace and war, and founded on self-defence and on the abuse of the weak by the strong.

#### *Federation and Confederation.*

In this framework, there are many who maintain, on the basis of a view widely held in certain of Europe's academic circles, that the objective of European federation has already been superseded as a result of the very evolution of events, since globalisation has already rendered the State, seen as the basis and guarantee of civil cohabitation, obsolete. This is the argument that underlies the mounting refusal to accept the pertinence of the opposition between federation and confederation — in which the distinguishing criterion is, precisely, the seat of sovereignty — and its relevance to the process of European unification. It is maintained that the European Union constitutes a unique form of political aggregation which can no longer be interpreted according to the traditional canons of political and constitutional thought. It is certainly true that the European Union, when compared with any other union of states model that has emerged in history, embodies novel elements, and that it presents both confederal and federal characteristics. The crucial problem, however, is to understand whether the European Union in its present form constitutes a stable form of political aggregation, or whether it is not, rather, the precarious institutional expression of a stage of transition.

#### *The European Federal State.*

If, instead, one maintains that the idea of sovereignty, and with it those of the rule of law, of citizenship and of solidarity, have not been superseded, and if, at the same time, one is unwilling to bury one's head in the sand when faced with the progressive increase in the interdependence of human relations, then the solution to this problem seems clear. The

current institutional order of the European Union is a fragile and temporary one, destined either to lead to the creation of a European federal state, which as such will be endowed with the attribute of sovereignty, or alternatively to disintegrate, plunging Europe into the chaos generated by contrasting forces of nationalism. The creation of a European federal state is the only way forward that will allow the primacy of politics and its values to be reaffirmed and control of the process of globalisation to be regained; it is the path that must be followed if we are to be able to envisage the institutions that are needed in order to manage civil cohabitation in vaster spaces and the extension of democracy and democratic institutions at international level, and to generate the motivation without which the federal project could not be pursued. It is important to emphasise strongly that in federal states sovereignty is not the prerogative of the central tier of government, but of the federation viewed as the aggregate of all of its territorial parts, and is thus compatible with the greatest level of decentralisation and the strictest application of the principle of subsidiarity.

#### *The European People.*

Many Eurosceptics maintain that no European federation can come into being because there is no European people. Others maintain, on the contrary, that a European people can only be born of the political contest that would be conducted within the framework of the institutions of a European federation. But in truth, people and state are born simultaneously, on those exceptional historical occasions when civil society shakes off its passivity, acquires a new physiognomy, sets aside the selfish interests and contrasts which characterise its normal life, and imposes, through an inexorable demonstration of its own will, a new institutional order and a new idea of the general good. What is needed in Europe, therefore, is for many national public opinions to be transformed into a single *European people* which, by the very act of its birth, will transfer the sovereignty of the nation-states to a European federal state. It is worth underlining that the European people, if its birth is to come about, needs not only favourable circumstances, but also a guide, a role that can be fulfilled by a few leaders occupying positions of the highest political standing in the countries most deeply involved in the process who are perceptive enough to understand the gravity of the historical moment, and who have the capacity to rally support.

#### *The Two-Stage Constituent Process.*

From this perspective, the question arises of how the adoption and proclamation of a European constitution can be achieved. Taking for granted the fact that the exceptional historical moment in which the constituent phase will begin can neither be predicted, nor planned, there remains the need to try and identify the possible procedures through which, once the conditions have emerged that will render it possible, the constituent process might be carried through. These procedures can be split into two stages: the first will be the decision, by some governments, to found a European federation, and the second the drawing up, by a body whose legitimacy will be based on its election by the people, of a constitutional document.

#### *The Federal Core*

The transfer of sovereignty will depend, first of all, on a decision reached by the governments. However, the need to relinquish sovereignty will not be perceived with the same degree of urgency by all the governments of the European Union, to say nothing of an enlarged Union, and it is this which will constitute the main problem destined to arise in this phase. On the other hand, putting the decision on hold indefinitely, until the necessary awareness should develop in all the states of the Union, is no answer to the problem because the process of European unification is already at the crossroads, and the choice is between federation and disintegration. The only way to get over this impasse is to form, within the Union, a federal core that is made up of the countries that have advanced furthest along the road towards integration and towards the maturation of a European outlook among their politicians and citizens — a core destined progressively to enlarge until, eventually, it includes all the Union's member countries. The formation of a federal core would allow the countries joining it to opt for relinquishment of their sovereignty without being impeded in this course by the veto of countries that will not wish, or will not be able, to be included in it. The core could be born of negotiations culminating in an agreement between the Union's member states on how the new institutions of the federal core could be made to coexist with the old Union institutions, or alternatively it could be born of a break-away action carried out outside the framework of the Treaties by the countries that wish to form it. It can also be hypothesised, in abstract terms at least, that the mere threat of a split would allow

unanimous support for a federal design to be generated among all the states of the Union. In any case, an in-depth analysis of the measures through which the structure of the federal core might be rendered compatible with that of the Union would become a vital negotiating tool in this decisive stage of the process. These measures should allow the federal core to remain part of the Union (constituting one of its member states) and they should allow countries which wish to join the core, and which accept its constitution unreservedly, to do so. Furthermore, provision should be made for countries not wanting to join the federal core from the outset to preserve, should they wish to do so, the *acquis communautaire*.

#### *The Constituent Assembly.*

As far as the drawing up of the constitution is concerned, the main problem concerns the nature of the assembly that will be entrusted with the task. The alternatives that can, at the present time, be contemplated are: the European Parliament, an assembly comprising the European Parliament and representatives of the national parliaments, or a constituent assembly, specially elected for the purpose. This latter option appears to be the most realistic, bearing in mind both that the issue will probably be raised within a narrower framework than that of the current Union and that the European Parliament, being an institution of the Union, could not legitimately draw up a constitutional document relating to a different group of states; it must also be recalled that the European Parliament, in spite of the exception constituted by the Draft Treaty drawn up upon the instigation of Spinelli at the start of the 1980s, is still only a legislative body, and as such does not have a constituent role to fulfil. This does not exclude, however, the possibility that the assignment of the constituent mandate could be restricted to MEPs elected in the countries making up the federal core, on their own or together with members of the national parliaments.

## **II) The General Principles of the European Constitution.**

#### *The European Constitution.*

The fact remains that the procedure, whatever it is, must culminate in the drawing up of a constitutional document by an assembly that represents the European people democratically. It is therefore necessary to

examine the most important problems relating to its content and to issue a series of proposals. Some of these, being conditions necessary for an effective transfer of sovereignty, will have to be considered mandatory, while others will serve to highlight problems and to prepare a platform for debate. Some concern the general principles that must underlie the constitution, some the institutions of the federation and their relative powers.

#### *The Preamble.*

The preamble to the constitutional document should make reference to the course of history within whose context the foundation of the European federation can be viewed, in other words, the progressive overcoming of the barriers between peoples in pursuit of peace. To this end, it should include an explicit declaration that the European federation is ready to work for the transformation, in a democratic and supranational sense, of the United Nations and, on an equal footing with the other member states, to transfer powers to it.

#### *Rights and Duties.*

A topic normally dealt with in the introduction to, and in first articles of, the modern constitutions is that of the citizens' rights (and duties). This is an issue that cannot be divorced from the question of the institutions and their powers. Any declaration of rights that is separated from the constitutional document in which the structure of a state is defined is nothing other than a rhetorical artifice that serves only to skirt around the decisive issue of sovereignty. Moreover, the reason why a list of rights must be incorporated into the constitution is not so much the existence of a serious human rights problem within the Union's present member states, as the fact that openness towards the outside is destined to be one of the distinctive features of the European federation, both because the Union is bound to expand through the addition of new states, and because it will continue to be an area that attracts immigrants. The federation's power of irradiation, like its capacity to spread the values of federalism throughout the world, will depend on its openness. But it must be an openness that is regulated by strict conditions. Some of these must, realistically, be economic, while the nature of others will be political. And these will regard, essentially, respect for the rules of democracy and acknowledgement, both in the legal systems of the states wishing to join

the federation, and in the daily reality of cohabitation with immigrant communities, of the fundamental rights (and of the relative duties) that have gradually taken shape in the course of the evolution of law in Europe. The anchoring in the constitution of certain fundamental principles — such as the equality of the sexes and the dignity of women — would clarify beyond doubt what the standards of behaviour demanded of any state or individual wishing to become member or citizen of the European federation would be. Respect for religious pluralism and the secular character of the state need not, in fact, signify neutrality of the same towards basic values of civil cohabitation which, in fact, represent the very condition of its survival.

#### *Citizenship.*

One issue closely bound up with the question of rights and duties is that of citizenship. There must only be one citizenship for the whole of the federation, in other words, European citizenship must not be, like the form sanctioned by the Maastricht Treaty, a mere adjunct to national citizenship. What this principle will mean is that the rules to which the citizens of Europe shall be subject, as regards the matters falling within the jurisdiction of the national (as well as regional and local) legal systems, will depend exclusively on their place of residence which, in turn, they will be free to choose.

#### *Community Service.*

The constitution should make provision for the introduction of compulsory community service, whose purpose would be, essentially, to contribute to the fulfilment of tasks linked to the protection of the environment and of European cultural heritage, to the provision of social services, and to collaboration with less developed countries. Community service would play an important part in legitimising the new federal political community, allowing young people to become deeply acquainted with the social reality of regions of the federation other than those of their birth, and to represent the federation beyond its own confines. In this way, loyalty to the European federation would be founded, in the minds and spirits of the young, more on social solidarity and on a readiness to embrace the outside world than on the duty, prevalent in the nation-state, to defend one's country in arms.

#### *The Right of Secession.*

A final problem that falls within the sphere of the fundamental principles is that of the right of secession. The right of secession is one of the elements that allows a distinction to be drawn between the federation and the confederation. Only an entity that has retained its own sovereignty (and that is thus founded on a distinct people) preserves the right to withdraw from an agreement entered into with other sovereign states. The member states of a federation, on the other hand, renounce their sovereignty definitively, and the new entity that is born of their agreement to unite is no longer founded on distinct peoples, but on a single people. The member states thus lose, definitively, their right to withdraw from the federation. In Europe's case, secession would be a negation of the very identity of the European people, in other words, of the very foundation of the validity of the federation's constitutional order. Thus, such an event would, clearly and intrinsically, go against the constitution.

### **III) The Institutions and the Division of Powers.**

#### *The Form of Government.*

A brief analysis of the problem of the institutions must start with the observation that the transfer of sovereignty from the nations to Europe hinges on one essential point: the need to make Europe the fundamental framework within which the political contest is conducted and political will formed, rather than merely a sphere in which positions already developed at national political level clash. To this end, the main problem to be solved is that of creating the institutional conditions that will allow a European executive to rest upon the democratic consensus of the citizens. This aim could be achieved in different ways — through the institution of an American-style presidential government, the institution of a parliamentary government, or of an executive committee appointed for the whole period of the legislature according to the Swiss model. The latter formula — which betokens a body of a substantially technical nature — would not appear to be applicable to a state of continental dimensions, which will shoulder considerable responsibility internationally, and in which strong internal tensions cannot fail to surface. The choice is thus between the presidential formula and the parliamentary one. It is a choice that must be made bearing in mind the fact that the European federation will constitute a new political community which

will bring together, in a single, pluralistic people, national peoples who have different languages, cultures and traditions, and whose loyalty to the federal constitution will, in an initial phase, be weak. The federation's institutions will therefore be faced with the task of attenuating, not accentuating, opposing positions, while at the same time attracting the greatest possible consensus. And these are objectives that would appear to be easier to achieve by means of the parliamentary rather than the presidential formula. The latter, in fact, would set individuals of different nationalities — candidates for the presidency of the federation — against one another, thus encouraging dangerous nationalistic clashes. The opposite effect would, on the contrary, be produced by enhancing the standing of the parliament, and this could be achieved by entrusting it with the power to express confidence in the executive or to withdraw the same (a power that, to ensure its responsible use, would have to be carefully regulated), because in the parliamentary setting, national differences would be tempered by the collective nature of the institution and by the affinities, in terms of political orientation, that would unite the major political families of Europe represented in it. Furthermore, it must not be forgotten that a parliamentary system, since it is already prefigured by the present institutional structure of the Union, would more readily be accepted.

#### *Legislative Power and Executive Power.*

Having made this choice, clearer indications could be given as to the form that the legislative power and the executive power must assume within the federal union. In short, the Council of Ministers would need to be relieved of the concentration of legislative and executive powers that it currently holds (and that have come to symbolise the Union's authoritarian character) and the body transformed into a High Chamber of the Union; full legislative powers would need to be transferred to the European Parliament, to be exercised on an equal footing with the High Chamber of the Union; the present Commission would have to become the government of the Union, answerable to the Lower Chamber, and attributed with full executive powers. Decisions reached by the two chambers would have to be simple majority decisions on all matters except that of constitutional reform, where a qualified majority would be needed as well as some form of participation in the process on the part of the legislative bodies of the lower levels of government, or the direct intervention of the electorate through recourse to the referendum mecha-

nism. The High Chamber of the Union should be elected by the parliaments of the member states (in order to avoid transforming the High Chamber of the Union into a duplicate of the Parliament and, at the same time, to make it possible for each member state to be represented not only by its governing parties, but also by its opposition forces, this method would be preferable both to election by universal suffrage and to direct representation of the governments of the member states). Representation of the member states in the High Chamber should make provision for an increased weighting of the votes of the smaller states in relation to the larger ones, without however, in order to avoid over-penalising the larger states, going so far as the equal representation that is in force in the United States. In this framework, the present European Council would assume the role of collective Head of State of the Union, with the power to elect the head of government and to dissolve the Lower Chamber. The institutions of the federation would have to be invested — possibly after a transitory period, whose duration would nevertheless have to be predetermined — with responsibility for foreign policy and security.

#### *The Multiplicity of Tiers of Government.*

The question of the organisation of the Federation into several tiers of government deserves a particular mention. This multiplicity of tiers, albeit limited to those of its member states which already have a federal, or quasi-federal, structure, such as Germany, Belgium, Austria, Spain and, later on, Italy and Great Britain, would already be realised upon the birth of the federation. On the contrary, it is certainly impossible to imagine states like France being ready immediately to adapt their internal institutions to this model. The constitution must, however, contain a preparatory provision that outlines a subdivision of the entire federal territory into a number of spheres of varying dimensions on whose basis the functions of government would be divided. This subdivision should not end at regional level, as regional centralisation is more dangerous and more suffocating than national centralisation; instead, it should extend to local level, the level at which there can be said to be a true participatory democracy. It must be underlined that it is only in the ambit of an out and out federal state, organised into a number of tiers of government, that any significance can be attributed to the so-called principle of subsidiarity, according to which all decisions must always be taken at the lowest level compatible with effective action: nowadays, this principle is used, surreptitiously, as a pretext for the nation-states' refusal to found a federal

state. In this same context, it is important to stress how totally unfounded the claim is that local and regional governments can be represented at European level (the present Committee of Regions is an attempt to do just this). Regional and local bodies need to be given, by the constitution, a broad sphere of responsibilities, whose exercise must be guaranteed not only by the Court of Justice, but also by the presence of these bodies in the higher chambers of the tiers of government immediately superior to them. In fact, the representation of local and regional governments at continental level would (were it anything more than purely symbolic, and thus useless) produce only a shifting towards greater centralisation of decisions of regional and local import, creating confusion over the division of powers and causing the decision-making process to seize up.

*The Judicature and the Supremacy of the Constitution.*

The judicature should be headed by the Court of Justice as the tribunal of last resort. Furthermore, in view of how difficult it is to distinguish clearly between the task of interpreting laws and that of determining their constitutionality, the latter should fulfil the dual role of Constitutional Court and Supreme Court of Appeal. There should be a single judicature (rather than two, as in the United States) which would apply federal, state, regional and local laws. This would serve to prevent conflicts of jurisdiction and to avoid creating a cumbersome and costly judicial machine. It is also important to note that the judicature would not belong to any specific tier of government, but would, instead, be entirely independent of the territorial organisation of legislative and executive powers, precisely because its function would be, applying the rules of the constitution, to settle constitutional disputes arising between the different tiers. There is no reason why the European judicature should not be born of the fusion and adaptation of the national judicatures currently in place, providing all referred in the last instance to the Court of Justice and providing the circulation of judges (possessing the necessary language skills) between states were guaranteed. From a disciplinary and career standpoint, the European judicature would have to be subordinate to a Council, elected by the judges themselves. The remuneration of judges would have to be guaranteed, on a proportional basis, by all the tiers of government, and decided by a body in which all the tiers of government would, on an equal footing, be represented. It must be noted that within this framework there would be absolutely no justification for the so-called supremacy of Community law over national law. The rules of the

constitution would be the only ones that would prevail over all other laws. The federal, state, regional or local laws would, in each particular case, prevail over all the others, according to the criteria established by the constitution and on the basis of the interpretation of the same by the courts. This would thus eliminate a flaw in the Community's present legal system that is a direct consequence of the lack of a federal constitution.

*The Division of Powers.*

This still leaves open all the questions linked to the division of powers between the various tiers of government and that of the instruments for the exercising of the same. In the present context, only a few brief indications can be given. The close interdependence between all aspects of political, social and economic life that has been produced by the rapid rate of technological progress, throws into question the very criterion according to which powers are shared among different levels of government. The division of powers according to policy areas no longer seems adequate in view of what is required of a modern federal state — in fact, there is no area of civil cohabitation left that can be regulated at a single territorial level. This criterion for the division of powers must thus be replaced by a division *by territory*, on the basis of which all the tiers of government look after all the aspects of economic, social and cultural life, and are restricted only by the geographical confines of their jurisdiction. This implies the need for close interaction between the different tiers of government, and thus a co-operative interpretation of federalism; it also renders more difficult and more delicate the role of the courts which, among other things, is to settle disputes over powers.

*The Federal Budget and the Apportionment of Taxes.*

The overall amount of the income and expenses of the different tiers of government should thus be determined by a financial instrument that forms part of a multi-year programme (modifiable annually) approved by the two federal chambers in a joint session with representatives of lower tiers of government; it should take into account the programmes of the state, regional and local governments. Taxes should not be freely imposed by the different tiers of government and the latter should not compete with one another in their imposition, since this would, depending on the circumstances, lead to over-taxation of the citizens or to forms of fiscal dumping. Instead, the revenue from taxes should be shared

among the different tiers of government, and this should be done by their mutual consent, and in any event in accordance with the minimum quotas to which each tier of government would be entitled. This financial decision-making structure would be complemented by the presence of a single fiscal administration, controlled by an independent authority that should be elected, and revoked, by a body in which all the tiers of government would be represented. The remuneration of its officials should be regulated by the same criterion proposed for judges.

*Publius*

## Federalism in the History of Thought

---

### ORTEGA Y GASSET

Ortega y Gasset (1883-1955) can undoubtedly be regarded as a highly complex intellectual figure, one who is difficult to interpret. This difficulty derives both from the breadth of his writings, and from the events of his life. He was engaged not only in theoretical reflection, but also in political militancy, the latter being an involvement not, however, conducted within the normal framework of party-based politics.

In view of the essential role he attributed to élites, and because of his theory of the mass-man, Ortega y Gasset has often been labelled a conservative. But in fact, at least up to a certain point in his life, he was, in his pursuit of the liberation of the working classes, a supporter of, and contributor to the cause of, socialist parties.

However, quite apart from the beliefs and issues on which his fame rests, it is Ortega's vision, in pointing to a united states of Europe as the answer to the historical crisis of Europe's nation-states, that prompted us to examine a part of his thought. In *The Revolt of the Masses*, of which we publish a few pages here, Ortega writes, "The evident decadence of the nations of Europe, was not this *a priori* necessary if there was to be one day possible a United States of Europe, the plurality of Europe substituted by its formal unity?"<sup>1</sup>

This conclusion is reached through an analysis of the concept of nation which very closely echoes the criticism of the nation-state that constitutes such a key element in the federalist doctrine. Taking as his starting point a dynamic conception of the state, a state whose forms and dimensions are continually superseded through a process of progressive enlargement of its sphere, he criticises visions of the nation, and of the nation-state, that isolate and crystallise certain characteristics (race, language and territory) as though they were immutable. The same criticism is levelled at Renan, and is based on the fact that his "daily plebiscite" regards a nation that has already been formed and is already

established and, as such, that bases its legitimacy more on its past than on its capacity to produce a design for the future.

Despite emphasising the importance of “unifying enterprises,” which are seen as the kind destined to streamline and vitalise states, and to give them the capacity to overcome moments of crisis, Ortega’s views are not, in this text, presented from a federal perspective.

He does not, that is to say, broach the problem of creating adequate institutions for the union of states, nor that of the preservation of their autonomy in a setting characterised by unity — even though he does stress that “the current plurality” must not be lost in a united Europe.<sup>2</sup> This leads him to see unification as a process of incorporation (albeit not conducted through a war of conquest), to define this incorporation as “national fusion,” and to regard the “national idea” as the driving force of unification itself: “There is now coming for Europeans the time when Europe can convert itself into a national idea ..... The more faithful the national state of the West remains to its genuine inspiration, the more surely will it perfect itself in a gigantic continental state.”<sup>3</sup>

This “national idea,” also called “principle of nationalisation,” introduces a note of ambiguity into this otherwise clear analysis of Europe’s destiny. But we must not forget that Ortega’s language is linked to, and conditioned by, a common misconception — one belied by Albertini’s analysis and criticism of the nation-state<sup>4</sup> — in other words, the idea that a distinction must be drawn between the nation (and the values inherent in it) and nationalism seen as a degeneration of the national idea: “Nationalism — Ortega writes — is always an effort in a direction opposite to that of the principle which creates nations.”<sup>5</sup>

Nevertheless, the fact remains that Ortega recognised and drew attention to the crisis of the European states between the two world wars, that in his view concerned who would be destined to rule, and that coincided with an incapacity to assume responsibility and to overcome what he refers to as “grave demoralisation.” “The European cannot live unless embarked upon some great unifying enterprise.... The groups which up to to-day have been known as nations arrived about a century ago at their highest point of expansion. Nothing more can be done with them except lead them to a higher evolution.”<sup>6</sup>

#### NOTES

<sup>1</sup> Ortega y Gasset, *The Revolt of the Masses*, New York, W.W. Norton & Company, Inc., 1993, p. 139.

<sup>2</sup> Cfr. *infra*, p. 222.

<sup>3</sup> Cfr. *infra*, p. 219.

<sup>4</sup> Mario Albertini, *Lo Stato nazionale*, Bologna, Il Mulino, 1997.

<sup>5</sup> Cfr. *infra*, p. 222.

<sup>6</sup> Cfr. *ibidem*.

\* \* \*

#### THE REVOLT OF THE MASSES

7. [...] Once again, I repeat: the reality which we call the State is not the spontaneous coming together of men united by ties of blood. The State begins when groups naturally divided find themselves obliged to live in common. This obligation is not of brute force, but implies an impelling purpose, a common task which is set before the dispersed groups. Before all, the State is a plan of action and a programme of collaboration. The men are called upon so that together they may do something. The State is neither consanguinity, nor linguistic unity, nor territorial unity, nor proximity of habitation. It is nothing material, inert, fixed, limited. It is pure dynamism — the will to do something in common — and thanks to this the idea of the State is bounded by no physical limits.

There was much ingenuity in the well-known political emblem of Saavedra Fajardo: an arrow, and beneath it, “It either rises or falls.” That is the State. Not a thing, but a movement. The State is at every moment something which *comes from* and *goes to*. Like every movement, it has its *terminus a quo* and its *terminus ad quem*. If at any point of time the life of a State which is really such be dissected there will be found a link of common life which *seems* to be based on some material attribute or other — blood, language, “natural frontiers.” A static interpretation will induce us to say: That is the State. But we soon observe that this human group is doing something in common — conquering other peoples, founding colonies, federating with other States; that is, at every hour it is going beyond what seemed to be the material principle of its unity. This is the *terminus ad quem*, the true State, whose unity consists precisely in superseding any given unity. When there is a stoppage of that impulse towards something further on, the State automatically succumbs, and the unity which previously existed, and seemed to be its physical foundation — race, language, natural frontier — becomes useless; the State breaks up, is dispersed, atomised.

It is only this double aspect of each moment in the State — the unity



already existing and the unity in project—which enables us to understand the essence of the national State. We know that there has been as yet no successful definition of a nation, taking the word in its modern acceptation. The City-State was a clear notion, plain to the eyes. But the new type of public unity sprung up amongst Germans and Gauls, the political inspiration of the West, is a much vaguer, fleeting thing. The philologue, the historian of to-day, of his nature an archaiser, feels, in presence of this formidable fact, almost as puzzled as Caesar or Tacitus when they tried to indicate in Roman terminology the nature of those incipient States, transalpine, further Rhine, or Spanish. They called them *civitas*, *gens*, *natio*, though realising that none of these names fits the thing. They are not *civitas*, for the simple reason that they are not cities. But it will not even do to leave the term vague and use it to refer to a limited territory. The new peoples change their soil with the greatest ease, or at least they extend or reduce the position they occupy. Neither are they ethnic unities — *gentes*, *nationes*. However far back we go, the new States appear already formed by groups unconnected by birth. They are combinations of different blood-stocks. What, then, is a nation, if it is neither community of blood nor attachment to the territory, nor anything of this nature?

As always happens, in this case a plain acceptance of facts gives us the key. What is it that is clearly seen when we study the evolution of any “modern nation,” France, Spain, Germany? Simply this: what at one period seemed to constitute nationality appears to be denied at a later date. First, the nation seems to be the tribe, and the no-nation the tribe beside it. Then the nation is made up of the two tribes, later it is a region, and later still a county, a duchy or a kingdom. León is a nation but Castile not; then it is León and Castile, but not Aragon. The presence of two principles is evident: one, variable and continually superseded—tribe, region, duchy, kingdom, with its language or dialect; the other, permanent, which leaps freely over all those boundaries and postulates as being in union precisely what the first considered as in radical opposition.

The philologues — this is my name for the people who to-day claim the title of “historians” — play a most delightful bit of foolery when, starting from what in our fleeting epoch, the last two or three centuries, the Western nations have been, they go on to suppose that Vercingetorix or the Cid Campeador was already struggling for a France to extend from Saint-Malo to Strasburg, or a Spain to reach from Finisterre to Gibraltar. These philologues — like the ingenuous playwright — almost always show their heroes starting out for the Thirty Years’ War. To explain to us how France and Spain were formed, they suppose that France and Spain

pre-existed as unities in the depths of the French and Spanish soul. As if there were any French or any Spaniards before France and Spain came into being! As if the Frenchman and the Spaniard were not simply things that had to be hammered out in two thousand years of toil!

The plain truth is that modern nations are merely the present manifestation of a variable principle, condemned to perpetual supersession. That principle is not now blood or language, since the community of blood and language in France or in Spain has been the effect, not the cause, of the unification into a State; the principle at the present time is the “natural frontier.” It is all very well for a diplomatist in his skilled fencing to employ this concept of natural frontiers, as the *ultima ratio* of his argumentation. But a historian cannot shelter himself behind it as if it were a permanent redoubt. It is not permanent, it is not even sufficiently specific.

Let us not forget what is, strictly stated, the question. We are trying to find out what is the national State — what to-day we call a nation — as distinct from other types of State, like the City-State, or to go to the other extreme, like the Empire founded by Augustus. If we want to state the problem still more clearly and concisely, let us put it this way: What real force is it which has produced this living in common of millions of men under a sovereignty of public authority which we know as France, England, Spain, Italy, or Germany? It was not a previous community of blood, for each of those collective bodies has been filled from most heterogeneous blood-streams. Neither was it a linguistic unity, for the peoples to-day brought together under one State spoke, or still speak, different languages. The relative homogeneousness of race and tongue which they to-day enjoy — if it is a matter of enjoyment — is the result of the previous political unification. Consequently, neither blood nor language gives birth to the national State, rather it is the national State which levels down the differences arising from the red globule and the articulated sound. And so it has always happened. Rarely, if ever, has the State coincided with a previous identity of blood and language. Spain is not a national State to-day *because* Spanish is spoken throughout the country, nor were Aragon and Catalonia national States *because* at a certain period, arbitrarily chosen, the territorial bounds of their sovereignty coincided with those of Aragonese or Catalan speech. We should be nearer the truth if, adapting ourselves to the casuistry which every reality offers scope for, we were to incline to this presumption: every linguistic unity which embraces a territory of any extent is almost sure to be a precipitate of some previous political unification. The State has

always been the great dragoman.

This has been clear for a long time past, which makes more strange the obstinate persistence in considering blood and language as the foundations of nationality. In such a notion I see as much ingratitude as inconsistency. For the Frenchman owes his actual France and the Spaniard his actual Spain to a principle X, the impulse of which was directed precisely to superseding the narrow community based on blood and language. So that, in such a view, France and Spain would consist to-day of the very opposite to what made them possible.

A similar misconception arises when an attempt is made to base the idea of a nation on a territorial shape, finding the principle of unity which blood and language do not furnish, in the geographical mysticism of "natural frontiers." We are faced with the same optical illusion. The hazard of actual circumstances shows us so-called nations installed in wide lands on the continent or adjacent islands. It is thought to make of those actual boundaries something permanent and spiritual. They are, we are told, natural frontiers, and by their "naturalness" is implied some sort of magic predetermination of history by terrestrial form. But this myth immediately disappears when submitted to the same reasoning which invalidated community of blood and language as originators of the nation. Here again, if we go back a few centuries, we find France and Spain dissociated in lesser nations, with their inevitable "natural frontiers." The mountain frontier may be less imposing than the Pyrenees or the Alps, the barrier of water less considerable than the Rhine, the English Channel, or the Straits of Gibraltar. But this only proves that the "naturalness" of the frontiers is merely relative. It depends on the economic and warlike resources of the period.

The historic reality of this famous "natural frontier" lies simply in its being an obstacle to the expansion of people A over people B. Because it is an obstacle — to existence in common or to warlike operations — for A it is a defence for B. The idea of "natural frontiers" presupposes, then, as something even more natural than the frontier, the possibility of expansion and unlimited fusion between peoples. It is only a material obstacle that checks this. The frontiers of yesterday and the day before do not appear to us to-day as the foundations of the French or Spanish nation, but the reverse; obstacles which the national idea met with in its process of unification. And notwithstanding this, we are trying to give a definite, fundamental character to the frontiers of to-day, in spite of the fact that new methods of transport and warfare have nullified their effectiveness as obstacles.

What, then, has been the part played by frontiers in the formation of nationalities, since they have not served as a positive foundation? The answer is clear, and is of the highest importance in order to understand the authentic idea behind the national State as contrasted with the City-State. Frontiers have served to consolidate at every stage the political unification already attained. They have not been, therefore, the starting-point of the nation; on the contrary, at the start they were an obstacle, and afterwards, when surmounted, they were a material means for strengthening unity. Exactly the same part is played by race and language. It is not the natural community of either of these which constituted the nation; rather has the national State always found itself, in its efforts towards unification, opposed by the plurality of races and of tongues, as by so many obstacles. Once these have been energetically overcome, a relative unification of races and tongues has been effected, which then served as a consolidation of unity.

There is nothing for it, then, but to remove the traditional misconception attached to the idea of the national State, and to accustom ourselves to consider as fundamental obstacles to nationality precisely those three things in which it was thought to consist. (Of course, in destroying this misconception, it is I who will now appear to be suffering from one.) We must make up our minds to search for the secret of the national State in its specific inspiration as a State, in the policy peculiar to itself, and not in extraneous principles, biological or geographical in character.

Why, after all, was it thought necessary to have recourse to race, language, and territory in order to understand the marvellous fact of modern nationalities? Purely and simply because in these we find a radical intimacy and solidarity between the individual and the public Power that is unknown to the ancient State. In Athens and in Rome, the State was only a few individuals: the rest — slaves, allies, provincials, colonials — were mere subjects. In England, France, Spain, no one has ever been a mere subject of the State, but has always been a participator in it, one with it. The form, above all the juridical form, of this union in and with the State has been very different at different periods. There have been great distinctions of rank and personal status, classes relatively privileged and others relatively unprivileged; but if we seek to interpret the effective reality of the political situation in each period and to re-live its spirit, it becomes evident that each individual felt himself an active subject of the State, a participator and a collaborator.

The State is always, whatever be its form — primitive, ancient, medieval, modern — an invitation issued by one group of men to other

human groups to carry out some enterprise in common. That enterprise, be its intermediate processes what they may, consists in the long run in the organisation of a certain type of common life. State and plan of existence, programme of human activity or conduct, these are inseparable terms. The different kinds of State arise from the different ways in which the promoting group enters into collaboration with the *others*. Thus, the ancient State never succeeds in fusing with the *others*. Rome rules and educates the Italians and the provincials, but it does not raise them to union with itself. Even in the city it did not bring about the political fusion of the citizens. Let it not be forgotten that during the Republic Rome was, strictly speaking, two Romes: the Senate and the people. State-unification never got beyond a mere setting up of communication between groups which remained strangers one to the other. Hence it was that the Empire, when threatened, could not count on the patriotism of the *others*, and had to defend itself exclusively by bureaucratic measures of administration and warfare.

This incapacity of every Greek and Roman group to fuse with other groups arose from profound causes which this is not the place to examine, but which may definitely be summed up in one: the man of the ancient world interpreted the collaboration in which the State inevitably consists, in a simple, elemental, rough fashion, namely, as a duality of governors and governed. It was for Rome to command and not to obey; for the rest, to obey and not to command. In this way the State is materialised within the *pomoerium*, the urban body physically limited by walls. But the new peoples bring in a less material interpretation of the State. Since it is a plan of a common enterprise, its reality is purely dynamic; something to be done, the community in action. On this view everyone forms a part of the State, is a political subject who gives his support to the enterprise; race, blood, geographical position, social class — all these take a secondary place. It is not the community of the past which is traditional, immemorial — in a word, fatal and unchangeable — which confers a title to this political fellowship, but the community of the future with its definite plan of action. Not what we were yesterday, but what we are going to be tomorrow, joins us together in the State. Hence the ease with which political unity in the West leaps over all the limits which shut in the ancient State. For the European, as contrasted with the *homo antiquus*, behaves like a man facing the future, living consciously in it, and from its view-point deciding on his present conduct.

Such a political tendency will advance inevitably towards still ampler unifications, there being nothing in principle to impede it. The capacity

for fusion is unlimited. Not only the fusion of one people with another, but what is still more characteristic of the national State: the fusion of all social classes within each political body. In proportion as the nation extends, territorially and ethnically, the internal collaboration becomes more unified. The national State is in its very roots democratic, in a sense much more decisive than all the differences in forms of government.

It is curious to observe that when defining the nation by basing it on community in the past, people always end by accepting as the best the formula of Renan, simply because in it there is added to blood, language and common traditions, a new attribute when we are told that it is a “daily plebiscite.” But is the meaning of this expression clearly understood? Can we not now give it a connotation of opposite sign to that suggested by Renan, and yet a much truer one?

8. “To have common glories in the past, a common will in the present; to have done great things together; to wish to do greater; these are the essential conditions which make up a people.... In the past, an inheritance of glories and regrets; in the future, one and the same programme to carry out.... The existence of a nation is a daily plebiscite.” Such is the well-known definition of Renan. How are we to explain its extraordinary success? No doubt, by reason of the graceful turn of the final phrase. That idea that the nation consists of a “daily plebiscite” operates on us with liberating effect. Blood, language, and common past are static principles, fatal, rigid, inert; they are prisons. If the nation consisted in these and nothing more, it would be something lying behind us, something with which we should have no concern. The nation would be something that one is, not something that one does. There would even be no sense in defending it when attacked.

Whether we like it or not, human life is a constant preoccupation with the future. In this actual moment we are concerned with the one that follows. Hence living is always, ceaselessly, restlessly, a *doing*. Why is it not realised that all *doing* implies bringing something future into effect? Including the case when we give ourselves up to remembering. We recall a memory at this moment in order to effect something in the moment following, be it only the pleasure of re-living the past. This modest secret pleasure presented itself to us a moment ago as a desirable future thing, therefore we “make remembrance of things past.” Let it be clear, then, that nothing has a sense for man except in as far as it is directed towards the future.

If the nation consisted only in past and present, no one would be

concerned with defending it against an attack. These who maintain the contrary are either hypocrites or lunatics. But what happens is that the national past projects its attractions—real or imaginary—into the future. A future in which our nation continues to exist seems desirable. That is why we mobilise in its defence, not on account of blood or language or common past. In defending the nation we are defending our to-morrows, not our yesterdays.

This is what re-echoes through the phrase of Renan; the nation as a splendid programme for the morrow. The plebiscite decides on a future. The fact that in this case the future consists in a continuance of the past does not modify the question in the least; it simply indicates that Renan's definition also is archaic in nature. Consequently, the national State must represent a principle nearer to the pure idea of a State than the ancient *polis* or the "tribe" of the Arabs, limited by blood. In actual fact, the national idea preserves no little element of attachment to the past, to soil, to race; but for that reason it is surprising to observe how there always triumphs in it the spiritual principle of a unification of mankind, based on an alluring programme of existence. More than that, I would say that that ballast of the past, that relative limitation within material principles, have never been and are not now completely spontaneous in the Western soul; they spring from the erudite interpretation given by Romanticism to the idea of the nation. If that XIXth-Century concept of nationality had existed in the Middle Ages, England, France, Spain, Germany would never have been born. For that interpretation confuses what urges on and constitutes a nation with what merely consolidates and preserves it. Let it be said once and for all—it is not patriotism which has made the nations. A belief in the contrary is a proof of that ingenuousness which I have alluded to, and which Renan himself admits into his famous definition. If in order that a nation may exist it is necessary for a group of men to be able to look back upon a common past, then I ask myself what are we to call that same group of men when they were actually living in a present which from the view-point of to-day is a past. Evidently it was necessary for that common existence to die away, in order that they might be able to say: "We are a nation." Do we not discover here the vice of all the tribe of philologues, of record-searchers, the professional optical defect which prevents them from recognising reality unless it is past? The philologue is one who, to be a philologue, requires the existence of the past. Not so the nation. On the contrary, before it could have a common past, it had to create a common existence, and before creating it, it had to dream it, to desire it, to plan it. And for a nation to exist, it is enough that it have a

purpose for the future, even if that purpose remain unfulfilled, end in frustration, as has happened more than once. In such a case we should speak of a nation untimely cut off; Burgundy, for example.

With the peoples of Central and South America, Spain has a past in common, common language, common race; and yet it does not form with them one nation. Why not? There is one thing lacking which, we know, is the essential: a common future. Spain has not known how to invent a collective programme for the future of sufficient interest to attract those biologically related groups. The futurist plebiscite was adverse to Spain, and therefore archives, memories, ancestors, "mother country," were of no avail. Where the former exists, these last serve as forces of consolidation, but nothing more.

I see, then, in the national State a historical structure, plebiscitary in character. All that it appears to be apart from that has a transitory, changing value, represents the content, or the form, or the consolidation which at each moment the plebiscite requires. Renan discovered the magic word, filled with light, which allows us to examine, as by cathode rays, the innermost vitals of a nation, composed of these two ingredients: first, a plan of common life with an enterprise in common; secondly, the adhesion of men to that attractive enterprise. This general adhesion gives rise to that internal solidity which distinguishes the national State from the States of antiquity, in which union is brought about and kept up by external pressure of the State on disparate groups, whereas here the vigour of the State proceeds from spontaneous, deep cohesion between the "subjects." In reality, the subjects are now the State, and cannot feel it—this is the new, the marvellous thing, in nationality—as something extraneous to themselves. And yet Renan very nearly annuls the success of his definition by giving to the plebiscite a retrospective element referred to a nation already formed, whose perpetuation it decides upon. I should prefer to change the sign and make it valid for the nation in *statu nascendi*. This is the decisive point of view. For in truth a nation is never formed. In this it differs from other types of State. The nation is always either in the making, or in the unmaking. *Tertizium non datur*. It is either winning adherents, or losing them, according as the State does or does not represent at a given time, a vital enterprise.

Hence it would be most instructive to recall the series of unifying enterprises which have successively won enthusiasm from the human groups of the West. It would then be seen—that Europeans have lived on these, not only in their public life, but in their most intimate concerns, that they have kept in training, or become flabby, according as there was or

was not an enterprise in sight.

Such a study would clearly demonstrate another point. The State-enterprises of the ancients, by the very fact that they did not imply the close adherence of the human groups among whom they were launched; by the very fact that the State properly so-called was always circumscribed by its necessary limitation — tribe or city — such enterprises were practically themselves limitless. A people — Persia, Macedonia, Rome — might reduce to a unit of sovereignty any and every portion of the planet. As the unity was not a genuine one, internal and definitive, it remained subject to no conditions other than the military and administrative efficiency of the conqueror. But in the West unification into nations has had to follow an inexorable series of stages. We ought to be more surprised than we are at the fact that in Europe there has not been possible any Empire of the extent reached by those of the Persians, of Alexander and of Augustus.

The creative process of nations in Europe has always followed this rhythm:

*First movement.* — The peculiar Western instinct which causes the State to be felt as the fusion of various peoples in a unity of political and moral existence, starts by acting on the groups most proximate geographically, ethnically, and linguistically. Not that this proximity is the basis of the nation, but because diversity amongst neighbours is easier to overcome.

*Second movement.* — A period of consolidation in which other peoples outside the new State are regarded as strangers and more or less enemies. This is the period when the nationalising process adopts an air of exclusiveness, of shutting itself up inside the State; in a word, what to-day we call *nationalism*. But the fact is that whilst the *others* are felt *politically* to be strangers and opponents, there is economic, intellectual, and moral communion with them. Nationalist wars serve to level out the differences of technical and mental processes. Habitual enemies gradually become historically homogeneous. Little by little there appears on the horizon the consciousness that those enemy peoples belong to the same human circle as our own State. Nevertheless, they are still looked on as foreigners and hostile.

*Third movement.* — The State is in the enjoyment of full consolidation. Then the new enterprise offers itself to unite those peoples who yesterday were enemies. The conviction grows that they are akin to us in morals and interests, and that together we form a national group over against other more distant, stranger groups. Here we have the new

national idea arrived at maturity.

An example will make clear what I am trying to say. It is the custom to assert that in the time of the Cid Spain (*Spania*) was already a national idea, and to give more weight to the theory it is added that centuries previously St. Isidore was already speaking of “Mother Spain.” To my mind, this is a crass error of historical perspective. In the time of the Cid the León-Castile State was in process of formation, and this unity between the two was the national idea of the time, the politically efficacious idea. *Spania*, on the other hand, was a mainly erudite notion; in any case, one of many fruitful notions sown in the West by the Roman Empire. The “Spaniards” had been accustomed to be linked together by Rome in an administrative unity, as a *diocesis* of the Late Empire. But this geographical-administrative notion was a matter of mere acceptance from without, not an inspiration from within, and by no manner of means an aspiration towards the future.

However much reality one may wish to allow to this idea in the XIth Century, it will be recognised that it does not even reach the vigour and precision which the idea of Hellas had for the Greeks of the IVth. And yet, Hellas was never a true national idea. The appropriate historical comparison would be rather this: Hellas was for the Greeks of the IVth Century, and *Spania* for the “Spaniards” of the XIth and even of the XIVth, what Europe was for XIXth-Century “Europeans.”

This shows us how the attempts to form national unity advance towards their purpose like sounds in a melody. The mere tendency of yesterday will have to wait until to-morrow before taking shape in the final outpouring of national inspirations. But on the other hand it is almost certain that its time will come. There is now coming for *Europeans* the time when Europe can convert itself into a national idea. And it is much less Utopian to believe this to-day than it would have been to prophesy in the XIth Century the unity of Spain. The more faithful the national State of the West remains to its genuine inspiration, the more surely will it perfect itself in a gigantic continental State.

9. Hardly have the nations of the West rounded off their actual form when there begins to arise, around them, as a sort of background — Europe. This is the unifying landscape in which they are to move from the Renaissance onwards, and this European background is made up of the nations themselves which, though unaware of it, are already beginning to withdraw from their bellicose plurality. France, England, Spain, Italy, Germany, fight among themselves, form opposing leagues, and break

them only to re-form them afresh. But all this, war as well as peace, is a living together as equals, a thing which neither in peace nor war Rome could ever do with Celtiberian, Gaul, Briton, or German. History has brought out into the foreground the conflicts and, in general, the politics, always the last soil on which the seed of unity springs up; but whilst the fighting was going on in one field, on a hundred others there was trading with the enemy, an exchange of ideas and forms of art and articles of faith. One might say that the clash of fighting was only a curtain behind which peace was busily at work, interweaving the lives of the hostile nations. In each new generation the souls of men grew more and more alike. To speak with more exactitude and caution, we might put it this way: the souls of French and English and Spanish are, and will be, as different as you like, but they possess the same psychological architecture; and, above all, they are gradually becoming similar in content. Religion, science, law, art, social and sentimental values are being shared alike. Now these are the spiritual things by which man lives. The homogeneity, then, becomes greater than if the souls themselves were all cast in identical mould. If we were to take an inventory of our mental stock to-day — opinions, standards, desires, assumptions — we should discover that the greater part of it does not come to the Frenchman from France, nor to the Spaniard from Spain, but from the common European stock. To-day, in fact, we are more influenced by what is European in us than by what is special to us as Frenchmen, Spaniards, and so on. If we were to make in imagination the experiment of limiting ourselves to living by what is “national” in us, and if in fancy we could deprive the average Frenchman of all that he uses, thinks, feels, by reason of the influence of other sections of the Continent, he would be terror-stricken at the result. He would see that it was not possible to live merely on his own; that four-fifths of his spiritual wealth is the common property of Europe.

It is impossible to perceive what else worth while there is *to be done* by those of us who live on this portion of the planet but to fulfil the promise implied by the word Europe during the last four centuries. The only thing opposed to it is the prejudice of the old “nations,” the idea of the nation as based on the past. We are shortly to see if Europeans are children of Lot’s wife who persist in making history with their heads turned backwards. Our reference to Rome, and in general to the man of the ancient world, has served us as a warning; it is very difficult for a certain type of man to abandon the idea of the State which has once entered his head. Happily, the idea of the national State which the European, consciously or not, brought into the world, is not the pedantic

idea of the philologues which has been preached to him.

I can now sum up the thesis of this essay. The world to-day is suffering from a grave demoralisation which, amongst other symptoms, manifests itself by an extraordinary rebellion of the masses, and has its origin in the demoralisation of Europe. The causes of this latter are multiple. One of the main is the displacement of the power formerly exercised by our Continent over the rest of the world and over itself. Europe is no longer certain that it rules, nor the rest of the world that it is being ruled. Historic sovereignty finds itself in a state of dispersion. There is no longer a “plenitude of the times,” for this supposes a clear, prefixed, unambiguous future, as was that of the XIXth Century. Then men thought they knew what was going to happen to-morrow. But now once more the horizon opens out towards new unknown directions, because it is not known *who* is going to rule, how authority is going to be organised over the world. *Who*, that is to say, what people or group of peoples; consequently, what ethnic type, what ideology, what systems of preferences, standards, vital movements.

No one knows towards what centre human things are going to gravitate in the near future, and hence the life of the world has become scandalously provisional. Everything that to-day is done in public and in private — even in one’s inner conscience — is provisional, the only exception being certain portions of certain sciences. He will be a wise man who puts no trust in all that is proclaimed, upheld, essayed, and lauded at the present day. All that will disappear as quickly as it came. All of it, from the mania for physical sports (the mania, not the sports themselves) to political violence; from “new art” to sun-baths at idiotic fashionable watering-places. Nothing of all that has any roots; it is all pure invention, in the bad sense of the word, which makes it equivalent to fickle caprice. It is not a creation based on the solid substratum of life; it is not a genuine impulse or need. In a word, from the point of view of life it is false. We are in presence of the contradiction of a style of living which cultivates sincerity and is at the same time a fraud. There is truth only in an existence which feels its acts as irrevocably necessary. There exists to-day no politician who feels the inevitableness of his policy, and the more extreme his attitudes, the more frivolous, the less inspired by destiny they are. The only life with its roots fixed in earth, the only autochthonous life, is that which is made up of inevitable acts. All the rest, all that it is in our power to take or to leave or to exchange for something else, is mere falsification of life. Life to-day is the fruit of an interregnum, of an empty space between two organisations of historical rule — that which

was, that which is to be. For this reason it is essentially provisional. Men do not know what institutions to serve in truth; women do not know what type of men they in truth prefer.

The European cannot live unless embarked upon some great unifying enterprise. When this is lacking, he becomes degraded, grows slack, his soul is paralysed. We have a commencement of this before our eyes to-day. The groups which up to to-day have been known as nations arrived about a century ago at their highest point of expansion. Nothing more can be done with them except lead them to a higher evolution. They are now mere past accumulating all around Europe, weighing it down, imprisoning it. With more vital freedom than ever, we feel that we cannot breathe the air within our nations, because it is a confined air. What was before a nation open to all the winds of heaven, has turned into something provincial, an enclosed space. In the European supernation, that we imagine, the current plurality cannot and must not be lost. While the ancient State annihilated all that which was different in peoples, or left it excluded and inactive, or at most conserved it in a mummified state, the national idea, more purely dynamic, demands the active permanence of this plurality which has always constituted the life of the West.

Everyone sees the need of a new principle of life. But as always happens in similar crises — some people attempt to save the situation by an artificial intensification of the very principle which has led to decay. This is the meaning of the “nationalist” outburst of recent years. And, I repeat, things have always gone that way. The last flare, the longest; the last sigh, the deepest. On the very eve of their disappearance there is an intensification of frontiers — military and economic.

But all these nationalisms are so many blind alleys. Try to project one into the future and see what happens. There is no outlet that way. Nationalism is always an effort in a direction opposite to that of the principle which creates nations. The former is exclusive in tendency, the latter inclusive. In periods of consolidation, nationalism has a positive value, and is a lofty standard. But in Europe everything is more than consolidated, and nationalism is nothing but a mania, a pretext to escape from the necessity of inventing something new, some great enterprise. Its primitive methods of action and the type of men it exalts reveal abundantly that it is the opposite of a historical creation.

Only the determination to construct a great nation from the group of peoples of the Continent would give new life to the pulses of Europe. She would start to believe in herself again, and automatically to make demands on, to discipline, herself. But the situation is much more difficult

than is generally realised. The years are passing and there is the risk that the European will grow accustomed to the lower tone of the existence he is at present living, will get used neither to rule others nor to rule himself. In such a case, all his virtues and higher capacities would vanish into air.

But, as has always happened in the process of nation-forming, the union of Europe is opposed by the conservative classes. This may well mean destruction for them, for to the general danger of Europe becoming definitely demoralised and losing all its historic strength is added another, more concrete and more imminent. When Communism triumphed in Russia, there were many who thought that the whole of the West would be submerged by the Red torrent. I did not share that view; on the contrary I wrote at the time that Russian Communism was a substance not assimilable by the European, a type that has in its history thrown all its efforts and energies in the scale of individualism. Time has passed, and the fearful ones of a while since have recovered their tranquillity. They have recovered their tranquillity precisely at the moment when they might with reason lose it. Because now indeed is the time when victorious, overwhelming Communism may spread over Europe.

This is how it appears to me. Now, just as before, the creed of Russian Communism does not interest or attract European — offers them no tempting future. And not for the trivial reasons that the apostles of Communism — obstinate, unheeding, strangers to fact — are in the habit of alleging. The bourgeois of the West knows quite well, that even without Communism, the days are numbered of the man who lives exclusively on his income and hands it down to his children. It is not this that renders Europe immune to the Russian creed, still less is it fear. The arbitrary bases on which Sorel founded his tactics of violence twenty years ago seem to us stupid enough to-day. The bourgeois is no coward, as Sorel thought, and at the actual moment is more inclined to violence than the workers. Everybody knows that if Bolshevism triumphed in Russia, it was because there were in Russia no bourgeois. Fascism, which is a *petit bourgeois* movement, has shown itself more violent than all the labour movement combined. It is nothing of all this then that prevents the European from flinging himself into Communism, but a much simpler reason. It is that the European does not see in the Communistic organisation an increase of human happiness.

And still, I repeat, it seems to me quite possible that in the next few years Europe may grow enthusiastic for Bolshevism. Not for its own sake, rather in spite of what it is. Imagine that the “five year plan” pursued with herculean efforts by the Soviet Government fulfils expectations and

that the economic situation of Russia is not only restored, but much improved. Whatever the content of Bolshevism be, it represents a gigantic human enterprise. In it, men have resolutely embraced a purpose of reform, and live tensely under the discipline that such a faith instils into them. If natural forces, so responseless to the enthusiasms of man, do not bring failure to this attempt; if they merely give it free scope to act, its wonderful character of a mighty enterprise will light up the continental horizon as with a new and flaming constellation. If Europe, in the meantime, persists in the ignoble vegetative existence of these last years, its muscles flabby for want of exercise, without any plan of a new life, how will it be able to resist the contaminating influence of such an astounding enterprise? It is simply a misunderstanding of the European to expect that he can hear unmoved that call to new *action* when he has no standard of a cause as great to unfurl in opposition. For the sake of serving something that will give a meaning to his existence, it is not impossible that the European may swallow his objections to Communism and feel himself carried away not by the substance of the faith, but by the fervour of conduct it inspires.

To my mind the building-up of Europe into a great national State is the one enterprise that could counterbalance a victory of the "five year plan." Experts in political economy assure us that such a victory has little probability in its favour. But it would be degradation indeed, if anti-Communism were to hope for everything from the material difficulties encountered by its adversary. His failure would then be equivalent to universal defeat of actual man. Communism is an extravagant moral code, but nothing less than a moral code. Does it not seem more worthy and more fruitful to oppose to that Slavonic code, a new European code, the inspiration towards a new programme of life?

*(edited by Nicoletta Mosconi)*

## ABOUT THE AUTHORS

ALLAN MATTEWS, Member of the Board of the Association to Unite the Democracies, Washington, DC.

NICOLETTA MOSCONI, Member of the Central Committee of the Movimento Federalista Europeo.

FRANCO SPOLTRE, Member of the National Council of the Movimento Federalista Europeo.



## INDEX TO VOLUME XLI I (2000)

### EDITORIALS

- Europe and World Trade* p. 3  
*A Call for the Creation of a Federal Core* » 79  
*American Economic Power and the Division of Europe* » 151

### ESSAYS

- ANTONIO MOSCONI, *The Euro and the Dollar: Towards a World Monetary System* » 11  
MARIO ALBERTINI, *Federalism* » 79  
FRANCO SPOLTORE, *The Debate between Federalists and Antifederalists from 1787 to 1800 and Its Current Situation* » 156

### NOTES

- Europe and a New Lomé Convention* (Domenico Moro) » 56  
*The Federal Prospect of Federalism in the Schuman Declaration* (Sergio Pistone) » 113  
*Global Interdependence and the Crisis of Statehood* (Luisa Trumellini) » 123

### DISCUSSIONS

- Does Interdependence Equal Unification?* (Nicoletta Mosconi) » 68  
*The Crisis of the States as a Criterion in the Historical and Political Analysis* (Nicoletta Mosconi) » 185

*The Natural Site of Sovereignty* (Allan Matthews) » 191

### FEDERALIST ACTION

*A Federal Constitution for Europe* (Publius) » 193

### THIRTY YEARS AGO

*Why Build Europe?* (Francesco Rossolillo) » 125

### FEDERALISM IN THE HISTORY OF THOUGHT

*Ortega y Gasset* (Nicoletta Mosconi) » 207

Some articles from recent numbers:

1996

#### Editorials

Should the Construction of Europe Fail.

The End of Politics?

The Long Path Towards the World Federation.

#### Essays

Ali A. Mazrui, Democracy, Regionalism and the Search for Pax Africana

Sergio Pistone, The Club of Florence and the Intergovernmental Conference for the Revision of the Maastricht Treaty.

Jean-Francois Billion, The World Federalist Movements from 1955 to 1968 and the European Integration.

#### Notes

The Right to Justice and the Right to Peace.

Tolerance and the Multicultural Society

France and Germany at the Crossroads.

#### Federalist Action

For a European Constituent Assembly.

#### Thirty Years Ago

Mario Albertini, The Strategy of the Struggle for Europe.

#### Federalism in the History of Thought

Dante Alighieri

1997

#### Editorials

Mario Albertini.

The European Council in Amsterdam.

New Problems, Old Alignments.

#### Essays

Dominique Rousseau, European Constitutional Heritage: A Condition

for European Constitutional Law.

Guido Montani, The European Government of the Economy.

#### Notes

Globalization and New Inequalities: The Limits of the UN Human Development Report 1996.

Peace and Disarmament.

Peace through Law.

NATO-Russia Pact and Enlargement of NATO.

#### Federalist Action

Francesco Rossolillo, Political Report at 17th Congress of UEF.

#### Thirty Years Ago

Mario Albertini, The Fast Track to Europe.

#### Federalism in the History of Thought

Thomas Paine.

1998

#### Editorials

Europe and Emigration.

Sovereignty and the European Currency.

Moving Towards a World System of States.

#### Essays

Lucio Levi, The Theory of the Nation.

John Pinder, Spinelli Monnet Albertini.

Karl Lamers, The New Challenges for Europe After the Monetary Union.

Guido Montani, Towards the Monetary Union: A Comparison of Two Methods.

#### Notes

Regional Unification and Reform of the United Nations Security Council.

The Twentieth Century as Interpreted by Ernst Nolte.

Federalism and Citizenship.

Sovereign Yet Independent: The Future of the G7.

## Wiewpoints

J. Isawa Elaigwu, Federalism, Regionalisation and Globalisation. Africa.  
Sergei A. Beliaev, The Problems of Federalism in the Former Soviet  
Union.

## Federalism in the History of Thought

Immanuel Kant.

1999

## Editorials

The Decisive Battle.

Europe and the War in Kosovo.

How Europe Can Help the United States.

## Essays

Francesco Rossolillo, European Federation and World Federation.

Lucio Levi, The Unification of the World as a Project and as a Process.

The Role of Europe.

## Notes

The Scientific Revolution and the Internet.

Reflections on Totalitarianism.

Europe, Turkey and the Kurds.

Germany and the "Past that Will Not Go Away.

The USA and the New International Anarchy.

## Discussions

On the Subject of World Citizenship.

## Thirty Years Ago

Mario Albertini, The Power Aspect of European Planning.

## Federalism in the History of Thought

Giuseppe Mazzini.

---

Direttore Responsabile: Giovanni Vigo - Editrice EDIF - Autorizzazione  
Tribunale di Pavia n. 265 del 13-12-1981 - Tipografia Pi-Me, Pavia -  
Sped. in abb. postale art. 2 comma 20/c legge 662/96 - Filiale di Pavia