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**E Pluribus Unum:
American Federalism
as related to the Unification of the EU**

**By
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Kevin Bassney is currently an undergraduate student at Cornell University majoring in Industrial and Labor Relations. He has worked at many levels of American politics including Federal, State, and Local governments. He has also worked extensively in internationally as well including FYROM, Greece, and East Africa. Kevin spent the months of December and January working as an undergraduate intern for ELIAMEP where he conducted independent research and assisted in daily office operations. In December 2012, Kevin is planning on receiving his commission as an Officer in the United States Army.

Summary

This paper offers a broad overview of the history of states' rights and federalization within the United States of America. It is demonstrated that during time periods where the states held themselves superior to the federal government, such as the Colonial time period, Civil War, and the American Civil Rights movement, were times of the most violent discourse and strife in American history. However, during times of accepted federal superiority over the power of states we have seen relative growth of the American economy and domestic peace.

This can be seen as a template for European integration. In American a very diverse group of political, economic, and social interests, represented by the states, were able to come together to form a union; this has been to the long term benefit of all member states. So too must countries within the European Union be willing to sacrifice some of their sovereignty in order to promote long term economic, political, and social growth of the individual member states.

Keywords

Integration, Federalism, States rights, United States, America, American Civil war, Greece, European Union, America Civil Rights Movement, American Revolutionary War, Constitution of the United States of America, Constitution of the Confederate States of America, USA, CSA

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E pluribus Unum, out of many one, appears on every coin and bill printed in the United States, it is the unofficial motto of the American people and a key description of how the American government works in tandem with the states. How the government of the United States is able to function as a federal institution while still protecting the interests of the states can be seen as a blueprint for unification within the EU. Throughout the course of this paper I will summarize the process of state vs. federal power in America, the ongoing debates in America today between state and Federal powers, and relate them to the current situation of the EU. While books could be written on the long history of American federalism, this paper will conduct a broad overview of the topic in order to give the reader a historical perspective on the topic. To understand how America was able to unite an understanding of the thirteen colonies after the American War of Independence is necessary.

Prior to the American War of Independence the British colonies acted very independently of each other. While all were linked together through the government of the British Empire these colonies imposed their own taxes, created laws through their own elected parliaments, and controlled trade within their own borders. But the division between the states was not only based on political divisions but also religions and economic differences. An example of this can be seen with religious ideologies of the colonies, Maryland was founded as a Catholic colony in the New World (Literally Maryland can be broken down to refer to Mary's [the virgin mother] land) versus Rhode Island that was founded to embody the Puritan ideal "City on the Hill" (1.). These divisions were not even solved a century after the creation of the United States, with Anti Catholic parties gaining huge support from the American Electorate well into the 1920's.

Economic divisions were a major factor as well in dividing The Colonies. The New England Colonies (Massachusetts, Rhode Island, New Hampshire, and Connecticut) were primarily based around Maritime trades such as fishing, ship building, and the trade of pitch, timber, and furs (2.). Versus the Southern Colonies (Virginia, North Carolina, South Carolina, and Georgia) which were based around agricultural exports such as tobacco, cotton and indigo, with a labor force dependant on African slaves (2.). These differences were only exaggerated by limited interactions between the North and South during the colonial period.

The political and social differences that divided the colonies was a key struggle in creating a united effort to defeat the British Empire, in fact, the Declaration of Independence was only signed by the states over a year after hostilities began in New England. This is in part because of the difficulties in organizing thirteen very independent governments and economies towards a singular end (3.). This can be seen as very similar to the current situation of the EU, where the economies of Southern Europe are based around completely different industries than Northern Europe (4.). The colonies became united through a shared goal of defeating the British Empire but even then there were issues of colonial or state power within the new government.

The first collective government formed between the colonies was known as the Articles of Confederation, this government created a loose federation of states held together in a "League of Friendship"(6.). There was dysfunction within this government in

that many different states were unwilling to give up their individual sovereignty or tax revenue. During the War of Independence this did not pose a major problem as all of the colonial leaders were in agreement about doing whatever was necessary to defeat the British Empire. However, after the conclusions of the hostilities many of the different weaknesses of the federal government became apparent especially its lack of scope and inability to resolve disputes between the various states. This can be seen as a parallel to the European Community that was able to help unify the economies of many European nations post World War II, but the EU was created to better address rising political and economic issues. Similarly the Articles of Confederation were able to address issues during the War for Independence; however the government was unable to address the rising political and economic problems that arose post independence (7.).

The Articles of Confederation created a weak decentralized government with the majority of the power of government resting in the hands of the states. The only national decision making body was the Continental Congress. Each of the thirteen states was delegated one representative to the Congress where all national legislation had to be passed by a 3/4 majority of those present. For the Articles to be amended all thirteen state legislatures must approve of the changes (5). The Articles provided for no Supreme Court or any form of national judiciary (5). Within this system there were very few codified laws and the national government could do little to rein in the power of the states governments.

The federal government also lacked many of the essential powers of a federal system. For example the government could not impose any taxes on either the states themselves or on the citizenry (5). The government was dependant on donations made by the states to the national government, similar to the current United Nations. This system left the national government perpetually short of money and nearly derailed the American War of Independence. During the War for Independence the soldiers of the continental army would routinely go weeks even months without pay or even basic supplies due to lack of funds (6). This caused many soldiers to desert the revolutionary cause and in some instances became major handicap for the Continental Army.

The national government could also not regulate interstate and international trade (7). This lead too many states making agreements with foreign powers that while beneficial to their own narrow interests were detrimental to national interests. As stated earlier many of the different colonies had vastly different economic structures, and with little forums to come together to resolve disputes many states were forced to more underhanded approaches.

While the Articles of Confederation did not lead to a state of anarchy (The states themselves were able to maintain control of their populations), it did not lead to a sense of national identity that many would argue is necessary for a state to function properly. All of the problems of the Articles of Confederation came to a head with and uprising known as Shay's Rebellion.

John Shay, a veteran of the American Revolution, like many soldiers was not paid, or paid very little for his military service. Upon returning to his home in Massachusetts he discovered that his land and property had been seized by debt collectors, and that he must go to court to settle these disputes (8). Upon realization that he was not alone in his plight, that many veterans also faced similar difficulties, organized action was taken by other local leaders. By the end of the organizing effort thousands of Massachusetts citizens had taken up arms against their state government demanding debt relief (8, 9). Due to the nature of the Articles of Confederation a national response could not be coordinated and many within Massachusetts feared an overthrow of the state government. Luckily a private militia was raised that defeated Shay's army outside of Springfield, Massachusetts, which lead to five dead rebels and the arrest of over a thousand persons (10, 11). This rebellion demonstrated the weakness of the national government on several fronts, mainly the government inability to provide a common defense for its people, its inability to address the economic needs of both the states and its citizens, and the lack of coordination among the states themselves.

Shays Rebellion is normally described as the catalyst for the creation of the Constitution (12). It was only after this event that the states realized that by themselves they were unable to address properly the myriad of concerns of their populations and that true unification was needed for the United States to function as a proper government. It was at the Philadelphia Convention, that the representatives of the states came together to balance the sovereignty of the states with the need for a stronger federal government. An important point to note is that prior to the founding of America there had not been a functional republic in the world for thousands of years. While the American Founding Fathers were able to draw from the philosophies of Enlightenment thinkers and Government models ranging from Ancient Greece and Rome to then modern England, these individuals were beginning a government with little modern precedent to draw from. It is through this that we can see the members of the Philadelphia convention working to create a more powerful central government as well as preserve the power of state and local government.

The first institutional method in which the states worked to preserve their influence in the national government was the US Congress. As described in Article 1 Section 2 of the American Constitution representatives of the states would be the main creators of law. However representation would be divided into two separate legislatures, with the upper house (the Senate) being appointed by individual state legislatures and the lower house (the House of Representatives) would be directly elected by the populace. Each state regardless of population would be allowed two members in the Senate whereas a states representation in the House would be determined by population. This allowed for the interests of all states to be represented in the federal government regardless of their populations. However the states themselves did have to give up numerous powers to the federal government, especially with the creation of a National Executive and National Judicial system.

With the creation of the Presidency and the Supreme Court (Articles 2 and 3 of the Constitution) of the United States we can see where the states understood that for the success of this new nation to occur they must be willing to sacrifice some of their independence. With the creation of a national judiciary state supreme courts could be easily overruled if they violated the constitution or national law, known as judicial review. While this process was not spelled out in the Constitution the case of *Marbury vs. Madison* which came to the court within years of the ratification established a clear precedent for the role of the court (13). This process would be challenged as late as the civil rights movement which will be discussed later.

The second area where the states gave up much of their independence was in the creation of a national executive, the President. By creating a unifying figure that had the power to veto legislation, act as Commander and Chief of the military, as well as a host of other responsibilities and powers the states acknowledged the need for national leadership that congress would be unable to provide. By ceding power to the executive the states themselves understood that for the American government to work effectively they would need to maintain smaller national profiles.

However one area of the constitution does guarantee with certainty the supremacy of the states over the federal government in certain areas, the 10th Amendment to the Constitution, or the Bill of Rights. This amendment states that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." (14) This amendment codified the idea of a federal state with the states themselves having powers that the National government did not have. This calmed many states fears that they would be ineffective in the new government and would be unable to institute local control.

However the debate in America over state vs. federal power was far from over. During the Presidency of John Adams four laws were created known as the Alien and Sedition acts.

1. The Naturalization Act repealed and replaced the Naturalization Act of 1795 to extend the duration of residence required for aliens to become citizens of the United States from five years to fourteen years (15).
2. The Alien Act authorized the president to deport any resident alien considered "dangerous to the peace and safety of the United States (15)
3. The Alien Enemies Act authorized the president to apprehend and deport resident aliens if their home countries were at war with the United States of America (15)
4. The Sedition Act made it a crime to publish "false, scandalous, and malicious writing" against the government or certain officials.(15)

Many in America felt that these laws were a direct challenge to the Bill of Rights and the principles the young nation was founded on. This debate on the ethical repercussions of these bills and the power of the federal government to implement these laws led to the passage of the Virginia and Kentucky Resolutions.

The Kentucky and Virginia resolutions were drafted by Thomas Jefferson and James Madison, both of whom would later be elected President, and approved by the Kentucky and Virginia state congresses. (16) These resolutions stated that that acts of the national government beyond the scope of its constitutional powers are "unauthoritative, void, and of no force." (17) Essentially setting the precedent that states have the power to override federal laws they deem to be unconstitutional. However the majority of the Alien and Sedition acts included expiration dates, and within two years the majority of them were no longer in effect (15). This limited the effectiveness of the legislative action, but it did serve as a large symbolic action. While this action was widely condemned by other states within the US it is considered one of the founding documents of the states' rights movement which involved secession and nullification, which culminated in the American Civil War. In fact President Garfield concluded at the End of the American Civil War that the Kentucky Resolution; "Contained the germ of nullification and secession, and today we are reaping the fruits."(18)

The next major challenge to the supremacy of the federal government over state government came during the Nullification crisis of 1828-1833. Due to a national policy that favored more industrialization of the nation, a tariffs were instituted in 1828 and 1832 that were detrimental to many southern states economies (19). The state of South Carolina took action against this measure declaring that the tariff would not be imposed within its borders (20). This was a directly contrary to the wishes of the Federal government. In retaliation the federal government passed the Force bill allowing the President the power to use federal troops to enforce national laws (21). The governments of South Carolina and the Federal government came together to negotiate so the use of federal troops was avoided and the tariff was lessened to a lower amount to appease southern interests (22). This conflict expanded upon the Virginia and Kentucky resolutions in that the states claim in rebuking the federal government was not based on civil rights or constitutionality but instead on economic interests. This expanded the perception among the states that the federal government did not have the right to interfere in state or even regional affairs, which culminated in the American Civil war (18).

Today many scholars are still divided on the nature of the American Civil war. With many claiming that this was a war for the rights of independent states and others claiming that this war was based around the moral issues of allowing slavery in the United States. Regardless in this paper we will not be taking an in-depth look into the details of union and confederate politics, the two instances we will focus on will be the actions of President Buchanan and the confederate government.

President Buchanan was a Northern politician who was President when many of the southern states seceded from the union. Buchanan view of record was that secession was

illegal, but that going to war to stop it was also illegal (23). While he attempted many different administrative and legislative tactics he did not use armed force to maintain unity in America (24). This demonstrates one of the major problems early America faced as far as unifying a vast array of collective interests. Where the line could be drawn between what is legally allowed to maintain unity and is it the prerogative of the federal government to maintain the unity of the nation against the wishes of the individual states. Much of this doctrine of the individual rights of states was based off of the Kentucky and Virginia Resolutions, which was expanded off of the ideas of many of the Founding Fathers (18). Many of the delegates to the Constitutional Convention felt that the colonies were voluntarily joining the United States and who felt they were also entitled to leave the union if they desired (25). In fact this legal argument for secession was not settled until over 150 years had passed since the creation of The Constitution.

The Supreme Court ruled in 1866 in *Texas v. White* that a state did not have the power to secede from the union, based on the language of the constitution as well as to prevent further bloodshed to preserve the union (26). This ended nearly a century of legal ideology based around the principles of the ability of the states to secede should the federal government act contrary to their interests. But what of the alternative, what type of government did the southern states that seceded create, and was it effective in controlling the new southern government?

The government created by the seceding southern states was nearly identical to the original United States, with several notable exceptions. Mainly that the federal government lack significant powers of taxation, enforcement of federal laws, and creation of public utilities. This combined with state governors and legislators that were very independent and leery of any type of governmental limitations has caused many historians to claim that the Confederate States “Died because of States Rights”(28, 29). Because of the states unwillingness to work together even in the face of a war for their independence the Confederate states had difficulty organizing a national defense policy which was essential considering the Northern states had more personnel, better equipment, and a more centralized government.

After the Civil War there was a period of relative stability within the United States, in which the supremacy of the National government was not challenged in legislative or judicial matters. This is also in conjunction with a much less involved federal government and the nation itself not having to face an issue as contentious as slavery. The era of uninvolved government ended with crisis of the Great Depression when the federal government began expanding its powers in new and inventive ways both to stimulate economic growth and to further the war effort. These programs known in America as the “New Deal” were spearheaded by President Franklin Roosevelt to revitalize the national economy. Many felt that this was not within the purview of the national government and brought this before the Supreme Court, in cases such as *Schechter v. United States* many of the core programs of the New Deal were struck down as unconstitutional (30). This limitation of the part of the federal government to not interfere with state economies and personal economic decisions was seen by many as necessary to protect state economic interests. An example of this is Louisiana Governor Huey Long stating “I raise my hand to the Supreme Court that has saved this nation from Facism” (31). While many would argue that the policies of the New Deal encouraged economic growth the Great Depression did not officially end until the beginning to the Second World War. These powers would be questioned again once the Federal government took an active role in desegregating the American population.

Up until the 1950’s in America there was an institutional system of segregation between blacks and whites in the Southern United States. Supported by Supreme Court decisions such as *Plessey vs. Ferguson*, *Lum v. Rice* and others, blacks were barred from attending the same Primary schools and Universities as white children, the same restaurants as other patrons, even the same public facilities (32). In 1954 the Supreme Court ruled in *Brown vs. Board of Education* that this was unconstitutional, and forced the

desegregation of schools and other public places. (33) This was met with outcry in the southern states with Governors George Wallace (Alabama) and Orval Faubus (Arkansas) taking extreme action to prevent this in the name of States Rights and segregation. Governor Faubus became well known for using Arkansas National Guard to prohibit the entry of the students, which forced President Eisenhower to use the regular US Army to enforce the Supreme Court's decision (35). George Wallace is well known for his symbolic "Stand in the Schoolhouse Door" and for other actions attempting to derail desegregation, all of which was done under the authority of States Rights.

Since the passage of the Civil Rights Act of 1964 and the Voting Rights act of 1965 segregation has not been raised as an issue of States Rights, however the debate continues in America over the role of the federal government compared to that of the states. This can be seen in many different ways from the modern secessionist movements in Vermont, Texas, and Alaska, to the rhetoric of many prominent politicians (36, 37,38). An example of this is current presidential candidate Mitt Romney stating that healthcare policy should be left up to the individual states and should not be part of a national policy (40). While these debates continue in America they have not reached the contentious and bloody levels that can be seen during Shays Rebellion, the American Civil War, or the Civil Rights movement. But through this we are able to see distinct and pertinent parallels between the unification and creation of federalism in America and the ongoing unification and expansion process of the European Union.

Many similarities can be seen between the unification of the Europe Union and America, both have worked to unify their laws and judicial systems, create a single federal government that can address a diverse range of interest both social and economic interests. Lastly but importantly both unions were created after devastating wars that had forced the different states to come together for a common goal. In fact Winston Churchill on the creation of the Council of Europe dubbed the end goal to be the "United States of Europe" (39). But there have also been many challenges that Europe has faced as far as unification is concerned, that did not affect the United States.

The largest challenge facing the European Union that was not faced by the United States is Europe's history of bloodshed. Currently Europe is in one of the longest periods of peace since the Metternich period (41). Prior to this Europe's history is one of shifting alliances, racial and religious persecution, and constant bloodshed. This has left many European citizens with long standing grudges over territory and wrongs of the past. While the colonies themselves acted independently of each other, there was never a war between the separate colonies. This allowed for the colonies to come together much easier under a shared identity without their being longstanding grudges.

Another major difference between American unification and European integration is the common heritage that many Americans shared even during times of strife. Even during the Civil War Americans still had a large body of common ancestry and heritage to draw upon the allowed for reconciliation. Even the most zealot states rights advocate, post American Civil War, still considers themselves and American before they consider themselves a Californian, Floridian, or New Yorker (42), where as nationalism in Europe most citizens call themselves German, Greek or Spanish before European. This lack of a common identity or a common heritage between many Europeans has hampered unification efforts that America did not have to deal with.

Another challenge facing the European Union has been the different languages between the member countries. With nearly 27 official languages there are major barriers to achieving pan Europeanism as the majority of statements and legislative actions must first be translated which can allow for misinformation as well as generally slowing down legislative and executive action.

Regardless the European Union has made great strides during the last 60 years. During this time period Western Europe has known peace and prosperity such at no other

time in history and since the fall of the Iron Curtain Eastern Europe has made huge strides both politically and economically. In fact the EU has been so successful that similar organizations are appearing around the world to foster increased economic and political power, such as the East African Community and the Eurasian Union. However, the current debt crisis has shown the weaknesses of the European Union in taking rapid action to address a variety of fiscal and economic concerns.

Europe has taken massive steps towards integration most recently by connecting all financial markets, with the exception of the UK. But more must be done, currently while there is a president and executive council of the European Union; they offer little in public leadership or a unifying voice in a diverse and contentious political atmosphere. The nations of the European Union must cede more power to the European Parliament and European Commission. It is only then that federalism will truly function properly in Europe and the EU will be able to effectively react to and foresee crisis.

In America the weakest moments in our nation's history were moments where we were divided by regional, religious, racial assumptions. It is only when the states came to the understanding that through a strong and united government America could achieve much more than when divided by regional interests. Similarly the Nations of Europe must be willing to cede power for this reason, separate they small to medium size nations that can be dominated by larger powers, but together they can achieve far more than they could previously. But the current quasi federalism that exists must be expanded for the European Union to function as a proper unified state.

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