

## **Governor Franklin Roosevelt, on Federalism (1929-1930)**

### **Address before the Conference of Governors, New London, Conn. July 16, 1929**

NO CONSTITUTIONAL sovereign right vested in the forty-eight States which make up our great Nation has been more zealously defended or clearly established than the right of each State to control the police powers and the administration of justice within its borders. What constitutes a crime is a matter which each State determines for itself. What machinery of justice shall be employed to enforce its laws is also a matter for State determination. Only those matters which are violations of such Congressional laws as are based on specific grants of authority by the Constitution to the Federal Government are recognized, not as usurping the State's individual authority, but as necessary measures which the agreement of federation between the different States requires us to acquiesce in, if we are to keep faith one with another.

Our Nation has been a successful experiment in democratic Government, because the individual States have waived in only a few instances their sovereign rights and have permitted the national Government, through its own machinery and its own courts, to enforce within their borders certain particular laws which the States themselves, as represented in Congress assembled, have agreed upon as being proper national legislation.

But there is a tendency, and to my mind a dangerous tendency, on the part of our national Government, to encroach, on one excuse or another, more and more upon State supremacy. The elastic theory of interstate commerce, for instance, has been stretched almost to the breaking point to cover certain regulatory powers desired by Washington.

### **“Radio Address on States’ Rights”. March 2, 1930**

...As a matter of fact and law, the governing rights of the States are all of those which have not been surrendered to the National Government by the Constitution or its amendments. Wisely or unwisely, people know that under the Eighteenth Amendment Congress has been given the right to legislate on [alcohol], but this is not the case in the matter of a great number of other vital problems of government, such as the conduct of public utilities, of banks, of insurance, of business, of agriculture, of education, of social welfare and of a dozen other important features. In these, Washington must not be encouraged to interfere.

The proper relations between the government of the United States and the governments of the separate States thereof depend entirely, in their legal aspects, on what powers have been voluntarily ceded to the central government by the States themselves. What these powers of government are is contained in our Federal Constitution, either by direct language, by judicial interpretation thereof during many years, or by implication so plain as to have been recognized by the people generally.

The United States Constitution has proved itself the most marvelously elastic compilation of rules of government ever written. Drawn up at a time when the population of this country was practically confined to a fringe along our Atlantic coast, combining into one nation for the first time scattered and feeble States, newly released from the autocratic control of the English government, its preparation involved innumerable compromises between the different Commonwealths. Fortunately for the stability of our Nation, it was already apparent that the vastness of our territory presented geographical and climatic differences which gave to the States wide differences in the nature of their industry, their agriculture and their commerce.

Already the New England States had turned toward shipping and manufacturing, while the South was devoting itself almost exclusively to the easier agriculture which a milder climate permitted. Thus, it was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State, and that any national administration attempting to make all laws for the whole Nation, such as was wholly practical in Great Britain, would inevitably result at some future time in a dissolution of the Union itself.

The preservation of this "Home Rule" by the States is not a cry of jealous Commonwealths seeking their own aggrandizement at the expense of sister States. It is a fundamental necessity if we are to remain a truly united country. The whole success of our democracy has not been that it is a democracy wherein the will of a bare majority of the total inhabitants is imposed upon the minority, but that it has been a democracy where through a division of government into units called States the rights and interests of the minority have been respected and have always been given a voice in the control of our affairs. This is the principle on which the little State of Rhode Island is given just as large a voice in our national Senate as the great State of New York.

The moment a mere numerical superiority by either States or voters in this country proceeds to ignore the needs and desires of the minority, and, for their own selfish purposes or advancement,, hamper or oppress that minority, or debar them in any way from equal privileges and equal rights - that moment will mark the failure of our constitutional system.

For this reason a proper understanding of the fundamental powers of the States is very necessary and important. There are, I am sorry to say, danger signals flying. A lack of study and knowledge of the matter of the sovereign power of the people through State government has led us to drift insensibly toward that dangerous disregard of minority needs which marks the beginning of autocracy. Let us not forget that there can be an autocracy of special classes or commercial interests which is utterly incompatible with a real democracy whose boasted motto is, "of the people, by the people and for the people." Already the more thinly populated agricultural districts of the West are bitterly complaining that rich and powerful industrial interests of the East have shaped the course of government to selfish advantage.

The doctrine of regulation and legislation by "master minds," in whose judgment and will all the people may gladly and quietly acquiesce, has been too glaringly apparent at Washington during these last ten years. Were it possible to find "master minds" so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices, men almost god-like in their ability to hold the scales of justice with an even hand, such a government might be to the interest of the country, but there are none such on our political horizon, and we cannot expect a complete reversal of all the teachings of history.

Now, to bring about government by oligarchy masquerading as democracy, it is, fundamentally essential that practically all authority and control be centralized in our National Government. The individual sovereignty of our States must first be destroyed, except in mere minor matters of legislation. We are safe from the danger of any such departure from the principles on which this country was founded just so long as the individual home rule of the States is scrupulously preserved and fought for whenever it seems in danger.

Thus it will be seen that this "Home Rule" is a most important thing, a most vital thing, if we are to continue along the course on which we have so far progressed with such unprecedented success. Let us see, then, what are the rights of the different States, as distinguished from the rights of the National Government. The Constitution says 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," and Article IX, which precedes this, reads: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Now, what are the powers delegated to the United States by the Constitution? First of all, the National Government is entrusted with the duty of protecting any or all States from the danger of invasion or conquest by foreign powers by sea or land, and in return the States surrender the right to engage in any private wars of their own. This involves, of course, the creation of the army and navy and the right to enroll citizens of any State in time of need. Next is given the treaty-making power and the sole right of all intercourse with foreign States, the issuing of money and its protection from counterfeiting. The regulation of weights and measures so as to be uniform, the entire control and regulation of commerce with foreign nations and among the several States, the protection of patents and copyrights, the erection of minor Federal tribunals throughout the country, and the establishment of postoffices are specifically enumerated. The power to collect taxes, duties and imposts, to pay the debts for the common defense and general welfare of the country is also given to the United States Congress, as the law-making body of the Nation.

It is interesting to note that under the power to create postoffices the Constitution specifically provides for the building of post roads as a Federal enterprise, thus early recognizing that good roads were of benefit to intercommunication between the several States, and that districts too poor to afford to construct them at their own expense were entitled to some measure of Federal assistance. It is on this same principle that New York and other States are aiding rural counties, or constructing entirely at State expense improved through-thoroughfares suited to modern traffic. The Constitution also contains guarantees of religious freedom, of equality before the law of all citizens, of protection from confiscation of property and from other possible acts of injustice to the individual citizen; and Congress is empowered to pass laws enforcing these guarantees of the Constitution, which is declared to be the supreme law of the land.

On such a small foundation have we erected the whole enormous fabric of Federal Government which costs us now \$3,500,000,000 every year, and if we do not halt this steady process of building commissions and regulatory bodies and special legislation like huge inverted pyramids over everyone of the simple Constitutional provisions, we shall soon be spending many billions of dollars more.

A few additional powers have been granted to the Federal Government by subsequent amendments. Slavery has been prohibited. All citizens, including women, have been given the franchise; the right to levy taxes on income, as well as the famous Eighteenth Amendment regarding intoxicating liquors, practically complete these later changes.

So much for what may be called the "legal side of national versus State sovereignty." But what are the underlying principles on which this Government is founded? There is, first and foremost, the new thought that every citizen is entitled to live his own life in his own way so long as his conduct does not injure any of his fellowmen.

This was to be a new "Land of Promise"~ where a man could worship God in the way he saw fit, where he could rise by industry, thrift and intelligence to the highest places in the Commonwealth, where he could be secure from tyranny and injustice - a free agent, the maker or the destroyer of his own destiny.

But the minute a man or any collection of men sought to achieve power or wealth by crowding others off the path of progress., by using their strength, individually or collectively, to force the weak to the wall - that moment the whole power of Government, backed, as is every edict of the Government, by the entire army and navy of the United States, was pledged to make progress through tyranny or oppression impossible.

On this sure foundation of the protection of the weak against the strong, stone by stone, our entire edifice of Government has been erected. As the individual is protected from possible oppression by his neighbors, so the smallest political unit, the town, is, in theory at least, allowed to manage its own affairs, secure from undue interference by the larger unit of the county which, in turn, is protected from mischievous meddling by the State.

This is what we call the doctrine of "Home Rule," and the whole spirit and intent of the Constitution is to carry this great principle into the relations between the National Government and the Governments of the States. Let us remember that from the very beginning differences in climate, soil, conditions, habits and modes of living in States separated by thousands of miles rendered it necessary to give the fullest individual latitude to the individual States. Let us further remember that the mining States of the Rockies, the fertile savannas of the South, the prairies of the West, and the rocky soil of the New England States created many problems and introduced many factors in each locality, which have no existence in others. It must be obvious that almost every new or old problem of government must be solved, if it is to be solved to the satisfaction of the people of the whole country, by each State in its own way.

There are many glaring examples where exclusive Federal control is manifestly against the scheme and intent of our Constitution.....

I think if we understand what I have tried to make clear tonight as to the fundamental principles on which our Government is built, and what the underlying idea of the relations between individuals and States and States and the National Government should be, we can all of us reason for ourselves what should be the proper course in regard to Federal legislation on any of the questions of the day.

*The public papers and addresses of Franklin D. Roosevelt. Volume one, The genesis of the New Deal, 1928-1932: 367, 574.*

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