

6

Federal Union

Federal Union was an organization formed in the autumn of 1938 in the midst of European crisis by three young men, Derek Rawnsley, Charles Kimber and Patrick Ransome. Rawnsley and Kimber were the originators of an effort to prevent war by a reform of the League of Nations. They wanted to promote the creation of a European-wide organization with sufficient power to control the nation-states. In their estimation, national sovereignty had got out of hand and it would only be through some wider form of union that peace would be assured in the world. They called their embryonic organization Pax Union but when Patrick Ransome joined he persuaded them to change the name to Federal Union.

Rawnsley and Kimber had known virtually nothing of federalism, federal theory or federations until Ransome enlightened them. A former student of international law under Hersch Lauterpacht at Cambridge and a student of Harold Laski's at the London School of Economics, Ransome was well-versed in federalism and quickly persuaded Rawnsley and Kimber that they should adopt that political form as their major goal. Within a few weeks an initial pamphlet had been drafted, a statement of aims drawn up and an impressive band of backers and associates had been attracted to their ideal. A research department was established in late 1939 with the help of Sir William Beveridge, Master of University College, Oxford, and meetings were soon being held of various experts to discuss the economic, constitutional and colonial questions raised by a federal solution of the world's ills. This research department was reconstituted as the Federal Union Research Institute in March 1940 with Beveridge as director and Ransome as secretary. A series of federal tracts were prepared and eventually published.¹ Meanwhile, contributions were invited for a discussion of the principles of federalism and these appeared in early 1940 as *Federal Union: A Symposium*, edited by Melville Channing-Pearce.² Two annual reports of the research institute comprising the working memoranda and comments of the expert committees were circulated in August 1940 and August 1941.³ Along with the *Federal Union News* and a number of individual contributions by its members this varied material represents the core of Federal Union thinking on the adaptation of the federal idea to the reso-

lution of European and world problems as of the late 1930s and the early 1940s.

The organization had enormous popular success in the early months of the war and hundreds of local branches were formed with thousands of individual supporters. The appeal was primarily to the young and to those who had survived the horrors of the 'war to end all wars' convinced that the power of the nation-states must be curbed for the common good. As the war dragged into its third year, Federal Union lost many of its young supporters to the armed forces and most of its leadership to government service. From the summer of 1941 its efforts were minimal, but a residue of commitment survived the war and is still active in the Federal Trust and the Lothian Foundation of today.

Federal Union was born against a background of gathering tension and increasing aggression and the clear failure of the League of Nations to resolve the various crises confronting it. There was a general appreciation that the nation-state, certainly in its European form, was out of control and that the existing international apparatus designed to mute friction between states had proved ineffectual. Men like Lothian, Curtis, Bertrand Russell, H.G.Wells and Leonard Woolf had periodically called for a rethinking of the approach to the resolution of the world's problems. Lothian and others had claimed the primary cause of contemporary instability was national sovereignty. Something had to be done to control or curb or leash it. To Lothian and Curtis the obvious answer had been federation, preferably a transatlantic one involving the United States, but certainly one involving the democracies. It was not surprising, therefore, that when Rawnsley and Kimber initially sent out personal letters to some 500 individuals whom they had identified as interested or involved in international affairs that Lothian and Curtis should have been recipients, nor that they responded quickly.

Lothian and Curtis rapidly became two of the principal advisors and counselors of the three young men whose concern and ideals appealed to them and reminded them of their younger selves in the earlier heady days of the 'kindergarten' and of the Round Table movement. In fact, Curtis wanted to have a relationship to Rawnsley, Kimber and Ransome similar to the one that Milner had had to the 'kindergarten' when it was founding the movement. Lothian and Curtis were to be very helpful to Federal Union in its early days but there soon developed a strong difference of opinion between the older and younger men. Lothian did write an initial pamphlet for Federal Union but he wanted the group to adopt the title 'Federal Union Now' in support of the American, Clarence Streit, whose book *Union Now: A Proposal for a Federal Union of the Democracies of the North Atlantic* had first been published in March 1939 and had quickly sold in the tens of thousands on both sides of the Atlantic.⁴ The three founders of Federal Union had resisted because they believed that the organization should aim at a European federation in the first instance rather than a transatlantic one. Curtis finally broke with Federal Union in 1941 in order to take up the cause of world-wide federation.⁵

Despite this rupture there was a considerable link between the ideas of the

elder statesmen of the Round Table and the young federalists of the late 1930s and early 1940s. Both agreed that war could only be prevented if national sovereignty were curbed within the framework of a wider union. Both preferred a federal solution because it was the one political/constitutional arrangement that enabled two levels of sovereignty to coexist within a single form—one at the supranational level and the other at the national level. They also shared a commonality of opinion on the nature of the state and the mutual obligations of the citizens within the state. For them the state existed for the citizens, not the citizens for the state. Lothian and Curtis adhered deeply, of course, to the ‘principle of the commonwealth’ and both, although for slightly different reasons, believed federation was a commonwealth in constitutional form. Lothian had also had a deep abhorrence of the excesses of national sovereignty since the early years of the century and his experiences during the war, as one of Lloyd George’s secretaries, and at the Paris Peace Conference, and in the years since, had simply confirmed him in his earlier convictions. Where they differed, however, was in their approaches. Rawnsley, Kimber and Ransome wanted a European-based federation while Lothian forever hankered after a transatlantic one. He found Streit’s scheme compelling while the others did not. For his part, Curtis thought Federal Union should undertake a public campaign to raise awareness about the merits of federalism rather than espouse particular proposals which the expert committees were prone to do.

What strikes the reader very soon after starting to sort through the literature and the ideas generated by Federal Union is that in a few short months more probing attention was given to the federal idea and its implications for economic and political arrangements than at any previous time in British history. Under the threat of war and during the early years of World War II minds were highly concentrated on the federal solution in a way not achieved even at the height of the Anglo-Irish imbroglio or of Anglo-dominion tension. It was clear that while the general public might have only a passing awareness of federalism there were individuals in British society who not only had such knowledge but who had already begun to think and write about the federal idea. The Federal Union organization offered them an opportunity to explore the concept with other like-minded or, at least, open-minded individuals in an intense hot-house atmosphere, productive of imaginative thinking and probing analysis. Most admitted that world federation, even European federation, or a federation of democracies, was not imminent but they were agreed that the world had reached an impasse in its constitutional arrangements. The nation-state had at one time been a bold and stabilizing development in an age of competing groups, regions and monarchies. Now it was acting as those earlier smaller units had done with little thought for the larger whole and with paranoid aggression in every sphere. It was clear to them that the world must move on to a wider-ranging form of international unity. Cooperation seemed to have failed. The confederate underpinnings of the League of Nations system had proved as vulnerable as those of the United States in the early 1780s. What was necessary was a systematic analysis of the economic and constitu-

tional implications of federal union. And since many of the potential members of a new federal order were imperial powers with colonial possessions it would be essential to explore how those colonies would be managed and what arrangements would be made to ensure their full economic and constitutional development. All these questions, and others, were tackled by Federal Union during its first two years—the heyday of its existence.

The first major publication to receive the support of Federal Union, although not considered by it to be an official statement of its views, was *The Case for Federal Union*, published as a Penguin Special in the autumn of 1939 and written by W.B. Curry, the headmaster of Dartington Hall School in Devon.⁶ It was a cogent, eloquent, passionate cry for ‘a sanely organized world order’ free of the continuous preparation for mutual slaughter where liberty and diversity could be combined with effective government. Curry argued that the solution was federal union, beginning with the democracies but ultimately extending over the whole world.⁷ While he had thought about the problems associated with rampant national sovereignty for many years, he had not been moved to write until he had read Clarence Streit’s *Union Now*. Impressed by Streit’s proposals and convinced that ‘if the leading democracies could be persuaded to federate...they could become the nucleus of a democratic world order’, Curry hurried to add his voice to those in Federal Union who were arguing ‘that peace is not a matter of good intentions, but that it can only result from effective ordering of the common affairs of mankind’.⁸

Curry pointed out that war always wreaked a devastating toll and since science had recently drawn nations closer together, making of them a community, it was doubly imperative to achieve lasting peace through federal world government. Curry argued that the root cause of war lay with the rivalries and aggressive postures of nation-states and the consequent fostering of unthinking nationalism. Clearly, the power of the nation-state to wage war virtually at will had to be eliminated or, at least, controlled. This would mean the curbing of sovereignty for, as Curry put it, ‘Whatever may have been its utility in the past, the sovereign State has now become an unmitigated nuisance, wasting our lives and frustrating our hopes. While it continues to exist and make its preposterous claims, mankind has no hope of a peaceful or even a tolerable existence.’⁹ Nevertheless, Curry realized that any new world order had to be based on democratic principles that protected both the interests of the individual and those of the nation-state.

As an indispensable minimum. Curry argued, the national states would have to relinquish certain powers; they would have to, first, hand over to a world government the independent control of foreign policy; second, there would have to be a pooling of all armed forces; third, the economic relations between states would have to be governed by the world community; fourth, international finance would have to be brought under world control; fifth, the problem of colonies would have to be handed over to the world government, as would, sixth, the control of international communications; seventh, there would have to be international control of currency; eighth, the international

migration of peoples would have to be placed under the control of a world government; and, ninth, the world community would have to ensure the free movement of information and ideas in order to create an informed and alert world citizenry.

What form should such a world government take? Curry quickly rejected the confederal League of Nations as too much constrained by the powers of the nation-state and he soon dismissed a world super-state because it would involve almost complete surrender of autonomy by the nation-states. To Curry, the only reasonable solution was a federal arrangement which at one and the same time would allow the 'world' government to have sovereignty in key supranational areas while ensuring the sovereignty of the individual nations in internal national affairs. Neither level of government would have the right to interfere with the functions or powers of the other. Moreover, each level of government would be directly elected by, and thus directly responsible to, the voters in each nation-state. A 'world' government under the federal model would therefore govern directly, as would a 'national' government. Thus under a federal system each citizen would have dual citizenship of her/his own state and of the world-wide federal union.

Curry pointed out that

A federal system is the logical application to the whole world of liberal democratic government, already discovered by mankind to be the only way of combining liberty with order. By assuming control over those matters that concern mankind as a whole, the federal government gains all the advantages of a world super-state. By retaining separate national governments, having authority in those matters of mainly local concern, we retain local diversity and maximize liberty. By making the individual a citizen with democratic rights both in his national state and in the federal area as a whole, we develop loyalties to the federal union which make it unlikely that serious conflict between a single state and the federal government will arise.

By defining, in terms of a constitution, the areas of government respectively under the control of national and federal government, we retain constitutional safeguards for the Rights of Man. By setting up a federal government, which acts directly upon individuals, and not upon nations, we make law enforcement possible without resort to anything resembling warfare. Because law enforcement is possible, because justice is secured in advance, because under this system State aggression becomes unthinkable, total disarmament, save for local police forces, becomes not an idle dream but the simple common-sense of the system we have set up. The union of free men for the preservation of their liberties and the fostering of their common purposes is the basis of democracy. Federal Union is the doctrine that enables us to apply throughout the world the only system of government which has hitherto proved either tolerable or durable.¹⁰

Curry recognized that world government was some way off and that considerable educational efforts would need to be made in order to effect so radical a shift from traditional ways of conducting international affairs. Nevertheless, he believed a start could be made, if not with the fifteen states suggested by Streit, then by another small grouping of European and/or transatlantic countries. The first step to that end might, he thought, be a convention analogous to that convened in Philadelphia in 1787.

Curry's book was a timely *cri de coeur* and it sold rapidly to thousands of people fearful of war and desperately anxious for any solution of the world's ills that would lead to permanent peace. Curry was clearly fully familiar with the essence of federalism and the crucial division of sovereignty as the heart of the system. His suggestions were therefore in keeping with a 'true federation' as opposed to devolutionary or home rule schemes but he did not engage in a full-scale analysis of the application of a federal system to the world's affairs nor did he explore the ramifications of such a system in the economic, social and religious realms. He did address some of the questions often asked, such as why not socialism rather than federalism? What of the USSR? And what of India and China? But his answers did not open up in any systematic fashion an analysis of federalism.

The first tract written for Federal Union was 'Peace by Federation' by Sir William Beveridge.¹¹ Unlike Curry, Beveridge was firmly of the opinion that 'the federal principle is not now, if it ever will be, applicable to world government'. Instead, he recommended a federation of the western European countries of Britain, France, Germany, Denmark, Holland, Belgium, Norway, Sweden, Finland, Switzerland and Eire plus the four self-governing dominions of Canada, Australia, New Zealand and South Africa. In the main, the area was limited and therefore manageable and the countries to a large extent shared a common culture, comparable standards of life, close economic relations and all but one, Germany, were democratic. Beveridge argued that Germany would have to be included in order to ensure peace, while the dominions should be included because 'Britain could not go into a European federation turning her back upon the British Commonwealth'. Anyway, the experience of the dominions in working democratic and federal systems would be invaluable. Beveridge, like others in Federal Union, wondered about India but concluded it could not be brought in because it would distort the federation if representation was to be based on population. Perhaps it would be possible for India to have a special relationship with both Britain and the federation. It was obvious from this that Beveridge and his colleagues had still not come fully to grips with the imponderables inherent in Britain remaining a colonial power nor with the difficulties posed by states of varying size and political temper.

Beveridge was clear, however, that his federation should follow the American example in the division of powers. Named powers should be given to the federal government and everything neither transferred to the federal level nor reserved to the people by constitutional guarantees should be left to the national governments. Beveridge suggested the key federal powers should be

defence, foreign policy, dependencies, currency, trade and migration. The federal legislature should have two houses, one based on population and chosen directly by the citizens and one with equal or nearly equal representation of the separate states. A federal executive should be responsible to the federal legislature and there should be a federal judiciary.

Beveridge pointed out that while federalism was unfamiliar in Britain, its problems had been the subject of intense study and practical experiment for generations elsewhere. Problems had proved capable of solution, as they arose, in existing federations and so, he suggested, would they in a wider setting. The new departure now was federation across long-established national boundaries. He, for one, was convinced that it was the only possible means of securing peace and world order. Responding to widespread criticism that such a scheme was Utopian, Beveridge claimed it was based on harsh realities but he did admit that it could be seen as Utopian because it implied a vision of the world different from the one they now lived in. Perhaps, he defiantly argued, it needed to be Utopian because 'the choice is between Utopia and Hell'.

Beveridge's dramatic and defiant claim was made in response to a telling critique by J. Middleton Murry, 'Pre-conditions of Federal Union', published in early 1940 in a book of essays addressed to the adherents and critics of Federal Union.¹² Murry acknowledged that the difficulties in the way of achieving some form of international federal union were not insuperable but they were far more formidable than many enthusiastic advocates appreciated. The most troubling as far as he was concerned was the economic difficulty. Murry was convinced that the creation of a large free trade area would create acute distress, unleashing socially disruptive forces that would compound the development of 'the fantastic and macabre nationalism' that international federation was designed to ameliorate and overcome. Unless Federal Union recognized the absolute necessity of suspending free trade within the federated area and establishing central control of industrial production and distribution, it was bound to fail. Without the resolution of economic difficulties, 'the most extravagant and bellicose forms of exclusive nationalism' would result. Until Federal Union realistically investigated the problem and proposed an appropriate solution, it would be little more than 'the latest refuge for escapist idealism' offering not much more than 'a Utopian scheme'.¹³

Similar criticisms were levelled at Federal Union from inside the civil service. Federal Union had drawn the attention of the British Foreign Office as a result of its advocacy of European federation. In particular, its involvement with a possible Anglo-French union in the early months of 1940 had aroused general comment in the Office. The eventual failure of the British overture to France in June 1940 could not be laid at the door of Federal Union but the impressions formed at that time underlined the difficulties the proponents of the federal idea were to face.¹⁴

A memorandum on Federal Union was prepared in the Foreign Office in April 1940.¹⁵ It was factually accurate but caustically dismissive, suggesting

that much of Federal Union writing suffered from 'inebriated optimism' and vagueness while the organization was overhung with

an opaque miasma of belief in the perfectibility of man. This humanitarian enthusiasm is most regrettable, and it is aggravated by a tendency...evident in most of the English authors (chiefly Sir William Beveridge) to invest with the rubber stamp of God the purely political theories which they expound.... Sir William ends his pamphlet with the words *The Choice is between Utopia and Hell*'.... Most of the writers on Federal Union claim to be inspired, but they are all in fact merely distended with their own conceits. It is this which makes their works, for the most part, so infinitely tedious to read. And their empty conceit has a practical consequence. For the verdict of history has not been kind in the long run and sometimes even in the short run to those who believe, like Oxford Groupers, that they are divinely guided. Unless Federal Union can purge itself of this element it will not easily catch the popular imagination, nor having done so will it be able for long to put its theories into practice. It would be a pity if the purge did not take place, because the theory in itself has many attractions.

Writers such as Beveridge and Curry were easy targets and left themselves open to such patronizing criticism, but the cynical dismissal of their 'humanitarian enthusiasm' was in itself revealing of the blinkered national perspectives that Federal Union had to overcome. As Orme Sargent, the permanent under-secretary in the Office, had earlier remarked, the 'idea of the Federation of Europe can make its appeal to public sentiment so long as it appears only as a vague Eldorado about the details of which we need not bother our heads at present'. Even he recognized, however, that the application of the federal idea to a concrete case such as Anglo-French union would demand more detail and 'a considerable amount of education'.¹⁶ One of his colleagues agreed and made a further telling point:

Thinking in this field seems to be dominated by a desire to work out complex logical frameworks which have, perhaps, the merit of looking ship-shape and being—abstractly—workable. In no instance does a proposed organization for mankind appear to be based on a careful observation of what the peoples in question really feel about each other, or of what their range of sentiments consist of. A marriage will not last merely in virtue of an initial ceremony and a system of laws governing the relationship. A real desire to maintain this relationship and a sufficiently compatible background and set of sentiments is a *sine qua non* for success. Exactly the same comments apply with even greater force to any arrangement for Union between countries.¹⁷

The criticisms levelled at Federal Union by Middleton Murry and certain officials in the Foreign Office were generally sound and certainly isolated the fer-

avour and idealism that were such a marked dimension of its activities. Nevertheless, such criticisms did not provide a fair insight into the work of Federal Union. As Patrick Ransome pointed out, unless the proposal for federation across national boundaries was 'accompanied by a thorough and careful investigation of the many technical considerations which its adoption would involve' it would 'become yet another dream of the idealists, unacceptable because ill-considered, and dangerous because of its avoidance of reality'.¹⁸ Accordingly, a research department was established at Oxford in late 1939 with Beveridge as director and Ransome as secretary.¹⁹ Three research committees were then set up to examine the economic, constitutional and colonial aspects of an international federation. These committees were active into the early months of 1941 and their deliberations resulted in key problems being explored systematically for the first time in the United Kingdom. When their discussions were ended by the press of other commitments a draft constitution had been prepared and various informative and educational essays had been published.

One of Federal Union's first tasks was to define for itself and to clarify for a wider public exactly what was meant by federation. To that end, Edward Mousley prepared an essay entitled *The Meaning of Federalism*.²⁰ For Mousley, federalism was the intermediary arrangement between confederate and unitary systems; its basic condition was 'willingness and readiness to unite'. Mousley pointed out that although federations had a written constitution, a clearly divided sovereignty and a superior court, giving them a certain 'fixity in the face of any change', it should not be assumed that federal union was a static constitutional form. Its internal features could be adapted to particular circumstances and the division of powers could be varied from situation to situation. The purpose of all federations regardless of particular differences was 'wider order and wider peace'; peace which depended on law and democratic government. Mousley countered suggestions that federalism was designed 'to unite artificially things which are naturally divided and naturally disunited'. On the contrary, federalism was designed 'naturally to unite what only artificially was divided and what surely was most unnaturally disunited'. He cited the United States constitution as a good example of the latter.

In sum, Mousley contended that a federation should be both a recognition of and an adaptation to diversity and should not have as its primary aim unification and centralization. His essay was a refreshing change from the Diceyan-driven analyses that had dominated discussion of federation through the late nineteenth century and the early decades of the twentieth. When Mousley's essay was read in conjunction with two others prepared under the auspices of Federal Union's research department, Duncan Wilson's 'The History of Federalism' and Ivor Jennings's 'Federal Constitutions', with its detailed look at their dominant features, the uninformed reader would have had an excellent introduction to both the federal idea and to federal practice. Equally, the essays provided clear benchmarks and much food for thought for those

actively engaged in attempting to devise a world-wide, or even a regional, federation.²¹

As valuable as these essays were, it was left to Kenneth Wheare, an Australian-born constitutional expert based at Christ Church, Oxford, to outline in late 1939 what federal government was, and was not.²² Wheare's essay was the best short description of federalism yet published in the United Kingdom. Cogent, discerning and widely informed it lacked the moral fire of the writings of Lothian, Curry and Beveridge but it ensured that anyone who read it could be in no doubt as to what federalism was. Wheare acknowledged immediately that federal government was not something about which people in Great Britain and Northern Ireland either had direct personal experience or much knowledge. It was likely they did not understand it when confronted with it and probably had no idea why such a system of government had been invented. The people in Great Britain and Northern Ireland were used to a form of government

one of the leading characteristics of which is that one single legislature, the King-in-Parliament at Westminster, has authority to make laws for the whole of the United Kingdom on all matters whatsoever; and these laws duly made prevail over rules made by any other body in the Kingdom and are accepted by the courts as valid law and supreme law. The result is that people in this country may doubt whether acts of parliament are good laws, but they cannot doubt that they are good law. In a federation, it is otherwise. There it is possible to doubt not only whether the acts of some legislature in the federation are good laws but also whether they are good law, and it is possible for a court to declare acts which are almost universally recognized as good laws to be bad law and no law at all. This intentional obstruction, in a federation, of the will of the elected representatives of the people as expressed in acts of the legislature, appears to us to be a strange device. Why do people adopt such a form of government and why do they continue to put up with it?

Wheare pointed out that the people of Northern Ireland had some experience of what a federation was like in that they were subject to the legislation of two legislatures, that of Westminster and that of Stormont. But he was quick to add that while such a division of functions between legislatures was a characteristic of federal government that was not sufficient to constitute federalism. What existed *vis-à-vis* Northern Ireland was not federalism, it was devolution. The parliament at Stormont was subordinate to the Westminster parliament which could override or abolish the Stormont parliament at any time. Stormont held its powers at the pleasure of the United Kingdom parliament and derived its powers from that same parliament.

If devolution was not federalism, then what, asked Wheare, was federalism? In essence, he explained, 'in a federal system the functions of government are divided in such a way that the relationship between the legislature which has

authority over the whole territory and those legislatures which have authority over parts of the territory is not the relationship of superior to subordinates as is the relation of the Parliament at Westminster to the Parliament at Stormont, but is the relationship of coordinate partners in the governmental process'. The allocation of powers between federal and state governments, once made, could not be altered by either level of government acting alone nor could either level of government interfere with the exercise of the other's powers. In sum, 'Federal government means...a division of functions between co-ordinate authorities, authorities which are in no way subordinate one to another either in the extent or in the exercise of their allotted functions.'

In considering why a federal system might be adopted, Wheare suggested devolution would serve the citizens well if they were happy simply 'to regulate local affairs locally as a general rule' and to leave a national parliament with a potential supremacy over all matters, national and local, throughout the country. Such a system was obviously thought appropriate for South Africa and it was the system in use in Northern Ireland. But where regions or states or provinces desired, for whatever reason, to have an absolute, guaranteed, exclusive control of certain matters then devolution would not do and federalism was more appropriate. 'Therefore,' said Wheare,

it is only when a group of territorial communities are prepared to cooperate with each other for the regulation of certain matters but for those matters only, and when they are determined at the same time to remain separate and supreme, each in its own territory, for the regulation of other matters, that federal government is appropriate. Federalism provides for this desire for cooperation in some things coupled with a determination to be separate in others.

Of the key essential features of a federal government the first would be a written constitution which would clearly define the division of functions and bind all state and federal governments throughout the federation. From such a constitution 'all state and federal authorities derive their powers and any actions they perform contrary to it are invalid. It must be the supreme law of the land.' Secondly,

if the division of powers is to be guaranteed and if the constitution embodying the division is to be binding upon federal and state governments alike, it follows that the power of amending that part of the constitution which embodies the division of powers must not be conferred either upon the federal government acting alone or upon the state governments acting alone. It is preferable, though not essential to federalism, that the power should be exercised by the federal and state authorities acting in cooperation.

Thirdly, in a federation it was necessary to have a body—preferably a court—other than the federal and state governments to adjudicate jurisdictional dis-

putes between the two levels of government. Finally, 'if the governmental authorities in a federation are to be really coordinate with each other in actual practice as well as in law, it is essential that there should be available to each of them, under its own unfettered control, financial resources sufficient for the performance of the functions assigned to it under the constitution'. Each level of government must be able to do its job and carry out the functions assigned it. If state governments found their resources inadequate and had to call on the federal government for subsidies then they would no longer be coordinate but, in fact, subordinate to it. 'Financial subordination', asserted Wheare, 'makes an end of federalism in fact, no matter how carefully the legal forms may be preserved.'

Wheare admitted his tone was dogmatic. It had been his aim to put forward an uncompromising position with respect to 'the delimited and coordinate division of governmental functions'. Nevertheless, he recognized that federal government would have to adapt to circumstance in order to ensure good government. It had to be remembered, above all, that federalism was not an end in itself. It was simply 'a means to providing a system of government in circumstances where people are prepared to give up only certain limited powers and wish to retain other limited powers, both sets of powers to be exercised by coordinate authorities'.

Wheare concluded his pamphlet by acknowledging that it had usually been hard to establish a federal government: 'The forces of separation and individualism which make federalism necessary make any super-state government at all almost impossible.' And when a federal government had come into existence it continued to exist only with difficulty. The operation of a federal system required great skill and tact and depended upon patience and 'an enormous capacity for compromise among the statesmen who work it'. As a result, 'swift and decisive government is impossible. Deep dividing issues must be avoided. Changes can come about only at the pace of the slowest. Federal government is conservative government. Federal government is above all legalist. It is created and regulated by a legal document; it is safe-guarded by a court of law.' 'Compromise, conservatism, and legalism': these, said Wheare, 'are at once the virtues and vices of federal government. It is wise to recall them when one proposes to set up a new federal government in the world...to recall that federalism is a form of government which is not always appropriate or always easy to work. It is fair to recall at the same time that federal government is at least government; it is order, not anarchy, it is peace, not war.'

Wheare's was a crisp, pointed introduction to the federal idea but he had not pulled his punches in outlining what would be required of both the exponents of federalism and the states that might consider joining in a federal government. What was of particular interest was that Wheare, like Mousley, Wilson and Jennings, had decidedly distanced himself from the negative and ultra-critical stance adopted toward federation by Dicey and Freeman. While not backing away from the essentially conservative and legalistic nature of a 'true federation', Wheare had underlined the adaptive capacity of federal govern-

ment. The degree to which it was adopted would depend on those involved at the two levels of government. If the polity that had resulted from federation was considered worth maintaining despite occasional, or even persistent, problems then cooperation would be its underlying feature, ensuring a healthy and viable state. Wheare's clear-headed analysis was to become a benchmark in the history of federal thought. It laid the basis for his classic *Federal Government* published in 1946 which, in turn, was to be the primary guide for all those in London and overseas who grappled with the application of federalism to colonial problems in the 1950s and 1960s.

Wheare, along with Beveridge, Jennings and Curtis, took an active part in the deliberations of Federal Union's constitutional committee.²³ In conjunction with A.L. Goodhart, Professor of Jurisprudence at Oxford, he prepared a draft constitution for consideration at two conferences in November 1939. In light of those discussions a full-scale draft of a constitution for a 'Federation of Western Europe' was submitted to the committee's scrutiny in March 1940 by Ivor Jennings and was published later that year.²⁴ As Jennings pointed out in his introduction to the published version, "'Federation" is not a magic formula. It is nothing more than the name of a complicated system of government which nobody would wish to see established anywhere if he could think of a better.' There were 'vast difficulties' to be confronted in any such attempt but he and his colleagues recognized the desirability of replacing international anarchy by international government and 'ultimately' of replacing sovereign states by world order. Although he and many of his associates did not believe that such a dramatic shift in attitudes was possible in the immediate future, it was essential to explore the practical problems and see what would be involved and necessary for a federal resolution of the world's problems.²⁵

The committee agreed that its deliberations should proceed on the assumption that the federation would be composed of democracies located primarily in western Europe but that provision should be made for the subsequent admission of the dominions. Jennings's final draft not only reflected the advice of the constitutional committee but also of the committee of economists, all of whose meetings he had attended.²⁶ The economists had generally agreed that the federal level of government should be responsible for defence, foreign policy and control of the dependencies, but as 'a further safeguard against war and as a means of raising the standard of living among all peoples and of removing insecurity' the federal government should also control trade, currency and migration.²⁷ Opinion had not been unanimous on these latter issues but all had finally accepted that the federal level of government should have the power necessary to carry out whatever policies were thought desirable for the preservation, prosperity and efficient functioning of the union. Therefore, in drawing up the articles of the constitution, it would be necessary to enumerate only the federal powers; the powers of the states would be residual. In effect, this meant that the west European federation would follow the United States pattern rather than the Canadian, although in his draft Jennings did rec-

commend the adoption of the system of responsible government in line with the British tradition.²⁸

The constitutional committee had gone over the draft constitution prepared by Wheare and Goodhart in some detail, exploring such issues as the number of houses in the legislature, their composition, the powers of each house, how deadlocks would be resolved, the role of the president and of the supreme court and the division of powers between the federal and state levels. The committee was well aware of the difficulties involved in federating sovereign states and made every effort to ensure that the sensitive issue of sovereignty was realistically addressed. Nevertheless, the Utopian underpinnings of the exercise were clear because there was no alternative, given the task at hand, but to assume that nation-states would be willing, first, to join in a federation, thereby sacrificing a considerable degree of sovereignty, and, second, to compromise and cooperate once they became members of a federal state. Jennings, who was later to become a much sought after constitutional advisor and draftsman in such complex settings as Malaysia, Ceylon and Pakistan, faithfully reflected these concerns and the recommendations of the committee in his draft constitution. It was the first effort since Lionel Curtis's in World War I to prepare such a document, certainly by a group of knowledgeable Britons. It envisaged a Europe vastly different from the one in existence and was based on the assumption of a shared vision of the future of mankind. That the assumption was false and the vision but a chimera should not lead to a quick dismissal of Federal Union's efforts. The problems the three research committees confronted and explored could not be ignored if some form of closer cooperation across national boundaries was to emerge from the chaos of war. Better they should be addressed than ignored, and in taking the initiative Federal Union did concentrate the attention of experts on a number of difficult and contentious issues.

One of the issues of particular concern was the future of the dominions and the colonial dependencies. For example, should the dominions become members? Should India? And what of those colonies which unlike India were still thought to be far from self-governing status? Should they continue to be administered by the colonial power even after that power became a constituent member of a European federation or should the colonies become the responsibility of the new federal level of government? Parallel to concerns over admission and administrative control ran questions related to the economic future of colonies. Should an open door policy be involved or should a system of local tariffs be permitted? And finally, what of the inhabitants of the colonies? Should they be consulted or not? And if so, how and to what degree? These were serious questions with no clear-cut answers and, not surprisingly, Federal Union found many different opinions within its ranks. The speculation and discussion generated by pondering these and other more technical issues brought into sharper focus the complexities of international federation at a time when empires had not fully waned and a sense of trusteeship still vied

with a desire to preserve the economic benefits accruing from colonies, to say nothing of the prestige associated with colonial possessions.

William Beveridge had made it clear that he believed the dominions should be included in a federation because the United Kingdom should not turn its back on them. He carried that argument into the discussions of the constitutional research committee where it was accepted that the dominions needed special consideration. While they obviously could not be coerced to join the federation they also could not be deprived of the military protection so long afforded them by the British. The committee suggested the dominions be offered favourable terms such as the right of secession, a right which would not be available to the European members of the federation. An alternative would be to allow the dominions to join a customs union as a step towards unqualified membership of the federation. Either way there was a strong feeling that the dominions should be involved.²⁹ The discussion was a revealing one and underscored much of the difficulty that the United Kingdom would face in any effort to maintain ties with its Commonwealth while drawing closer to Europe. The deliberations within Federal Union in the early 1940s foreshadowed the divided counsels surrounding entry into the European Economic Community some twenty years later.

India posed somewhat different problems. It was not yet fully self-governing, although presumably well on the way to that status, and it had a massive population. Its inclusion as a separate member would pose particular difficulties for both constitutional draftsmen and the day-to-day functioning of the federation. In fact, as Professor G.W.Keeton, the director of the New Commonwealth Institute, pointed out, if the federation were based on adult suffrage and racial equality then the federation would be completely different from one confined solely to white, west European states. Not to include India, however, might lead to the formation of an Asiatic federation which would simply perpetuate power politics and the threat of war. Keeton was emphatic that 'democracy, the rights of man, and social justice' had to be the pillars of world peace. Nevertheless, he was forced to conclude that India could not reasonably be included in a European federation. Even in a world union India and states such as China would have to be represented not on a population basis but in accordance with some more limited form of representation applicable to countries with large populations.³⁰

The discussions surrounding India underscored the extraordinary complexity inherent in creating a federation. Even when nation-states were willing to surrender some of their powers to a central authority, the resulting federation might be inoperable because of the demographic size of one of its components. This factor had surfaced repeatedly early in the century during the debate over the adoption of the federal idea as a solution to United Kingdom difficulties, and it had always been an obvious impediment to a federation of the empire where the United Kingdom had a population so much larger than even the combined populations of its white self-governing colonies. The British were to run into this problem repeatedly in the 1950s and 1960s as

they strived to establish a number of colonial federations. The discussions also revealed the degree to which paternalist and racist assumptions, often disguised as trusteeship, prevailed even amongst the more enlightened of colonial experts. It was clear that most participants in Federal Union conferences still believed that India would still need to be administered and guided and protected for some time to come and that full participation as an independent entity lay some time in the future. There were close parallels in the deliberations of the 1940s with those of fifty years earlier surrounding the place of India in a federation of the empire. If anything, Federal Union's analysis confirmed the problems inherent in creating a federation involving states of disparate size, in various stages of constitutional development and differing in ethnic, cultural and religious composition. Such a multiplicity of seemingly conflicting variables would confront the British constantly only fifteen years later as they sought to create stable political and economic polities in their rush to decolonize.

Federal Union also gave special attention to the place of the colonial dependencies in a federation of western Europe. Unlike India, the dependencies were not considered potential members of the federation because it was universally assumed by the discussants that the colonies would be dependent for some considerable time to come. The problem was which government should administer them, the new federal authority or the nation-state to which they 'belonged'? Moreover, what principles should undergird administrative practice and inform general policy? Should they be those of trusteeship and self-determination as enshrined in the League of Nations Mandates Commission or should each colonial power determine its own approach? These problems were, of course, important but they were peculiar to the stage at which colonial relationships had developed since World War I, and any recommendations reached in the early 1940s could be little more than fleeting reactions to a rapidly changing process in which the colonies more than the imperial powers increasingly forced the pace or proved unamenable to persuasion or coercion from the metropole.

One expert, Georg Schwarzenberger, a lecturer in international law at the University of London and secretary of the new Commonwealth Institute, pointed out that federation was 'essentially a democratic concept'. In his estimation, federation would be unthinkable without self-government and representation of the individuals who composed it. Nevertheless, he had to admit that 'quite apart from all egotistical interests of colonial powers, there are colonial territories which have not yet reached the stage in which they could join a federation on a basis of equality'. In these cases, it was obvious that the principle of trusteeship would have to be applied to the colonies of the imperial powers. He believed it would be in the best interests of the colonies if the member states were entrusted as mandatories by the federal government with the administration of their former colonies and mandates. This would mean the coherent, organic development of policy; an opportunity for the sharing of experience

and cooperation among colonial powers; and the effective supervision of the trust by a federal colonial commission.³¹

The colonial research committee which met in January and May 1940 agreed in the main with Schwarzenberger's analysis. Professor Norman Bentwich, Lionel Curtis, William Beveridge, Lord Lugard, Lucy Mair, Arthur Creech Jones, W.M. Macmillan and Sir Drummond Shields were among its members and rarely could a more informed group have been assembled.³² They focused on Article XVI of Ivor Jennings's draft constitution which dealt specifically with the 'Dependencies', and after extensive discussion, fuelled in part by two memoranda from the reigning colonial expert, Lord Lugard, the committee advised the establishment of a federal colonial commission. Its responsibilities would be to ensure 'the well-being and development' of all the people of the dependencies. There were differences among committee members on some points but all appeared to accept the underlying assumption that the role of empire would not end with a federal Europe, and while some clearly favoured a steady progress from trusteeship to the grant of self-government others urged that general references to ultimate self-government should be avoided in any constitution.³³

The discussions on colonial issues were to prove more pertinent in the short term than those on purely European matters. While the latter would come to dominate political and constitutional discourse in the late twentieth century, the problem of colonies and their future advanced to the top of the political agenda more rapidly and abruptly than most observers expected. For much of the fifties and sixties, the issues of independence and federalism were, if not twinned, certainly entwined in the minds of those involved politically and academically with the affairs of the British empire and Commonwealth.

By the time the research committees concluded their work in June 1941 the initial impetus that had launched Federal Union was waning. Increasingly, the bevy of experts who had either joined the organization or been drawn into its deliberations were siphoned into war-related activities while the general membership was distracted by the day-to-day demands of the war. Federal Union survived the war, albeit in an attenuated form, and a core of dedicated federal unionists, through the medium of the Federal Trust, an educational organization, ensured that the federal idea continued to be given a steady if not high-profile airing. The initiative of the three young men, Rawnsley, Kimber and Ransome, in founding Federal Union in the late thirties had resulted in the most intensive analysis and coherent discussion of the federal idea and its complexities since it had first been seriously broached in the nineteenth century as a solution both to the problems besetting the empire and those bedevilling the efficient and fair functioning of the United Kingdom. The stimulus given to such individuals as Kenneth Wheare and Ivor Jennings was considerable and their ideas and advice were to be frequently sought and followed after 1945 by those in London and in the colonies who saw in the federal concept a means of facilitating decolonization.