

CHAPTER 3

Confederation Next -- Not Federation Now?

To our friends and associates in the Atlantic community: We propose a broader partnership that goes beyond our common fears, to recognize the depth and sweep of our common political, economic, and cultural interests. We welcome the recent heartening advances toward European unity. In every appropriate way, we shall encourage their further growth within the broader framework of the Atlantic community. -- *Democratic Platform, July 12, 1960.*

The vital need of our foreign policy is new political creativity, leading and inspiring the formation, in all great regions of the free world, of confederations, large enough and strong enough to meet modern problems and challenges. We should promptly lead toward the formation of such confederations in the North Atlantic community and in the Western hemisphere. -- *Point Two of the Nixon-Rockefeller Agreement, July 23, 1960.*

The advance toward Atlantic Union reached a new high mark in 1960 when Governor Nelson Rockefeller proposed a "North Atlantic Confederation" in his address to the Binghamton (N.Y.) Rotary club on June 21.¹ It rose still higher on July 12 when the Democrats adopted a platform promising a "broader partnership" in "the Atlantic Community" than NATO; the terms were broader and the volume of support was greater. And then the advance reached still another peak on July 23 when Richard M. Nixon agreed to the Rockefeller proposal's Point Two in their joint statement.

The climax came when the Democratic party, which has long been the one more favorable to Atlantic Union, won the White House and both Houses of Congress. This puts it in position to achieve, as far as the United States is concerned, its promise of a "broader partnership" -- a term that does not exclude Atlantic Union. Its responsibility to do this is the greater, since it cannot fear opposition to this from Vice President Nixon -- and he ran so far ahead of the Congressional candidates of his party that he nearly won the White House, and surely won their respect. Nor need President Kennedy fear opposition from Governor Rockefeller and his wing of the Republican party. To advance Atlantic unification through Congress in these conditions would seem easy, compared to some of the legislative feats that those master Congressional leaders, Vice President Lyndon Johnson and Speaker Sam Rayburn, have already accomplished.

Their party being split as it is, the Republican candidate for President and Governor Rockefeller deserve hearty applause for the refreshing courage they have shown in proposing American leadership toward a North Atlantic Confederation. In the American mind "confederation," is inevitably associated with two highly significant experiences in American history: The Articles of Confederation, ratified by the Thirteen States in 1783, which formed a system more advanced than NATO, and the Confederate States of America, set up by the South in 1861, which was practically a federation (as Chapter 8 will bring out).

Parties tend to steal each other's thunder (rather than lightning), and Confederacy may understandably appeal more than Union to Southern Democrats. Before we attach too much importance to this emotional factor, however, or to the Nixon-Rockefeller use of the term, let us see what they mean by confederation, and try to define the basic difference between confederation and federation, both in principle and in American practice. Then let us assess the results achieved by the American experiments with both systems, and draw all the advantage we can from the lessons they have now for us, and all Atlantica -- and the world.

"Albert Kolonji, a Baluba tribal leader," Russell Howe reported from Elisabethville in the *Washington Post* on August 10, 1960, "called for a confederal type of association in the Congo but seemed hazy about the difference between federation and confederation. He said he was studying the constitutions of Canada, the United States and Switzerland." His confusion is all too widespread, and may even be increased by the examples he is studying. All three are clear examples of federations, but the Swiss style theirs the "Helvetian Confederacy." One may gain more clarity by studying the examples of both systems which the history of the United States gives.

What Did Nixon and Rockefeller Mean?

First let us see what light the authors of the Nixon-Rockefeller agreement throw on the meaning they attach to "confederation." The latter, while leaving its substance vague, has given some significant hints. The most far-reaching came when Curtin Winsor asked the Governor this question from the floor, after his talk on "The Third Century" to the Philadelphia World Affairs Council on April 22, 1960: "Do you think that it is possible that these regional groupings (such as the Atlantic one) might get together into full federation, at some time in the future?"

Governor Rockefeller answered: "I would think, myself, that that would be, at some point, a very logical conclusion. Certainly the experience of the United States has been one of the most exciting and thrilling in the history of the world. I know that some of us are concerned about states rights, and we do our best to preserve them. Yet I think the federal system has proven its tremendous strength and vitality. So I do not see why -- where regions exist, with compatible objectives on the part of the people -- they should not ultimately lead to confederation."

These words suffice to show that he has been thinking in terms of federal union and does not shy at the thought of trying this solution "at some point." The last two sentences indicate, moreover, that he then used "federal" and "confederation" as synonymous, that when he spoke of ultimate "confederation" in the last sentence, he had in mind "the federal system" he had cited just before. How could the reverse be true -- how could he have meant confederation in its usual sense when he spoke of "federal," since he had said "the federal system has proven its tremendous strength and vitality," and he had already called "the experience of the United States ... most exciting"? Its trial of the Articles of Confederation proved, as Governor Rockefeller knows the feebleness and futility of confederation.

On the other hand, one must remember that Governor Rockefeller was then speaking "off the cuff." Although such speaking often throws more light on a political leader's real thinking than do his formal statements, the latter show much better what he considers to be "practical politics."

The little light he gives on the meaning he attaches to confederation strongly indicates that he uses the term in its usual, non-federal sense. "The work of moving toward confederation does not involve any super-states," he explained at Binghamton. He made clearer that he did not mean federation when he proposed in the same speech that the United States should enter not only a North Atlantic but also a Western Hemisphere confederation. No state in the United States -- or in any federal union -- can belong at the same time to another federation, or enter into any confederation, league, alliance or treaty with any foreign nation. Nor could any member do this in the Confederation originally set up by the Thirteen States; the Confederation stipulated in Article VI: "No state without the Consent of the united states (*sic*) in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement or alliance or treaty with any King, prince or state." Apparently Governor Rockefeller uses confederation in a much looser sense than did these Articles.

The only significant hints added by Governor Rockefeller's statement of July 23 to which Mr. Nixon agreed lay in the words, "vital," "strong," "promptly" -- "the vital need ... of confederations, large enough and strong enough to meet modern problems and challenges. We should promptly lead toward the formation of such confederations in the North Atlantic community and in the Western Hemisphere."

Vice President Nixon, in his major campaign speech on foreign policy on October 14, strongly pledged himself to push energetically, if elected, "toward confederation" -- a term he twice repeated. "I would ask the NATO governments to consider the feasibility of still closer ties," he said and added a little later, in a way that covered both Atlantica and Latin America, "Such regional action, moving toward confederation, is an imperative of our times."

He threw no light on what he meant by confederations, but the context suggested that he shared the Rockefeller view as indicated above -- except that he made no mention of either super-state or federal union.

From the available evidence, one may well conclude either that Vice President Nixon and Governor Rockefeller have not thought out what they mean by confederation (although there is good reason to believe they have long given thought to both confederation and federation), or that they have made only an opening move which will be spelled out later. Certainly one must conclude from the public evidence now that the confederation they are talking about is a system stronger in structure than the present NATO alliance -- but much weaker than confederation in the historic American sense, though capable of "gradual and evolutionary" growth (to quote from the Binghamton speech) into something similar to the latter.

To clarify this vital question further, let us turn now to the dictionary, see if its definitions can be bettered, and then pin them down more realistically by comparing NATO with the Articles of Confederation, and the latter with the federation which the Federal Constitution formed. Webster distinguishes thus between confederation and federation:

Confederacy and confederation ... [apply] specifically to a union by treaty or compact of independent states under a government to which powers are delegated for dealing with common external relations; of the two, confederation, perhaps, now implies the closer or more permanent association; as the Southern Confederacy, the Articles of Confederation, the Germanic Confederation. *Federation* in its broad sense includes any union under the terms of a league or covenant; but specifically it designates a sovereign state, especially one formed by the union of other states with a central general government and several local governments; ... in the strictest sense the United States of America constitutes a federation.

This indicates how dictionaries reflect the existing loose usage, and contribute to the resulting confusion.

Study of the sense in which each of the various terms used today for interstate groupings is generally meant shows that they readily fall into two types. These two can be most simply and surely distinguished by the supreme or sovereign unit of, by and for which the combination is formed. In last analysis (see *Union Now*, Chapter VI) there are only two possible units: Man taken as an *individual person* or sovereign, and man taken as a *collective person* or sovereign -- a manmade body politic taken as supreme instead of a God-made, flesh-blood-and-soul human body ... John Bull instead of a John Q. Citizen.

If the citizen is the sovereign, and power is divided between the representatives he elects to his state and his interstate government, then the combination is variously called a union, organic union, federal union, federal republic, federation. I see no significant difference between these terms and use them all interchangeably. As regards the outside world, each creates a "sovereign" state in the sense of diplomacy. From the domestic standpoint, however, its "sovereignty" is limited by that which the member states retain. Each is "sovereign" in relation to the other as regards the powers assigned it by the constitution. But the supreme sovereignty is equally divided among the citizens, who have merely delegated a portion of their sovereignty to their representatives in their state and interstate governments, and retain the power to re-delegate this.

If, to the contrary, some body politic -- tribe, city, kingdom, state, nation -- is taken as the supreme sovereign unit, the resulting combination is variously called a bloc, coalition, alliance, league, confederation, confederacy, or -- when used in the modern international sense -- community. None of these forms a new "sovereign" state or government in the usual sense of the terms; however close some types may come to this, they remain in last analysis an association of sovereign states. The different names indicate different degrees of association, though one finds many exceptions to whatever distinguishing rules one seeks to apply. I lump all these terms together when seeking to distinguish the category to which they all belong from the other basic category. But when using them in contra-distinction to others in their own category, I would define them broadly and briefly as follows:

A *bloc* or *coalition* is the loosest and most temporary form; neither usually involves a treaty, and the former indicates more common interests than the latter, which implies association despite conflicting interests. Both imply a number of members.

An *alliance* may have two or a number of members; it implies a treaty and a longer period of duration, with some definite commitments, presumably military, though possibly political.

League now implies a treaty associating a still larger number of states for a longer time and for more purposes with some common institutions, such as a secretariat and council, and a headquarters city.

Confederation and *confederacy* I use interchangeably to mean a league that usually has fewer members but should have closer ties, stronger commitments and more developed institutions -- the system in which member states may (but rarely do) join together as closely as is possible while still remaining the supreme sovereign units in it.

All the above terms involve a political association, though alliances may and leagues and confederations do involve more than political and military affairs.

Community has entered the international field since World War II from Western Europe where it is used with reference to associations which are highly confederal in character except that they have thus far been non-political and limited each to one field, as the European Economic Community or Common Market of the Six Nations, and the projected European Defense Community. Though the term began as part of the "functional" approach to union, it has recently taken on broader scope, but vaguer meaning. Thus 1957 brought the Bruges "Conference on Atlantic Community" which conspicuously omitted the article the before Atlantic to make clearer that it meant "community" in the older and widest sense. Then the London Atlantic Congress sponsored by the NATO Parliamentarians Association in 1959 repeatedly used the term, "the Atlantic Community," in the sense of something existing. Yet at the same time its Declaration also said: "The time is ripe for these nations to build an Atlantic Community with responsibilities extending to military, political, economic, social and scientific fields."

The term, *community*, in short, seems to be moving in the international sense from the functional and specific to the political and general, and from the confederal to the federal type of structure. But the degree depends so much on the user of the word, or the listener, that its growing popularity increases the existing confusion considerably.

Unfortunately for clarity, many organizations of states or nations fall between these -- or other -- definitions, or their own choice of terms causes confusion. The Articles of Confederation established a most advanced type of confederacy; Article II gave it that name -- but Article III called it a "league of friendship," and the other Articles usually referred to it as "the united states in congress assembled" (without the capital letters used today). The Charter of the United Nations calls that body an "organization", I would call it a league, leaning toward a confederation. The North Atlantic Treaty gave no name whatever to the grouping it formed; the parties to it later styled it the "North Atlantic Treaty Organization" (NATO). It is universally termed an alliance and is, in fact, an exceptionally developed "grand alliance." It might well be called a league, were it not so predominantly military in its development thus far. It has far to go before it could be rightly called a confederation.

The U.S. Confederation Was Stronger Than Nato

Since the Nixon-Rockefeller agreement calls for a North Atlantic Confederation, let us now compare the existing structure of the North Atlantic alliance with that of the Articles of Confederation. However hazily the two authors of that agreement may have had the latter in mind, this comparison will serve to show how greatly NATO can be strengthened while remaining an association of sovereign states -- without crossing the Rubicon that separates confederation from a federal union of sovereign citizens.

The NATO Council, like the United States Congress under the Confederation, is composed of delegates named, paid and instructed by each member nation's government, with each state having one vote, regardless of the number of people in it. NATO, like the United States then, has no executive organ but simply a figurehead president. He serves one year and his name is as forgotten a year or so later as are the names of all the "Presidents of the United States" who preceded George Washington. But though the United States Congress was then only a "diplomatic assembly," as John Adams contemptuously called it, the Confederation it represented was far stronger than NATO structurally at every significant point of comparison. Consider these nine points:

1. The Congress of the Confederation could act: the NATO Council can only make recommendations to the member nations.
2. To make even these recommendations, NATO requires unanimity; the Congress of the Confederation could act in a number of fields, by a majority of seven of the Thirteen States, and in others, by a vote of nine states.
3. The North Atlantic Treaty provides no judicial machinery whatever; the Confederation not only established machinery for settling disputes between states but authorized Congress to act as a court of "last resort" by a majority of seven of the Thirteen States.
4. With the assent of only seven states Congress had the power of fixing the standards of weights and measures throughout the Confederation, regulating trade between the states, establishing and regulating postal service "throughout all the United States," appointing "all officers of the land forces, in the service of the United States, excepting regimental officers" and commissioning all naval officers. NATO not only has none of these powers but has never dared even to make recommendations in any of these fields.
5. With the assent of only nine states, the Confederation could and did make war and peace, enter into treaties and alliances, coin money and regulate its value, fix the expenses "for the defense and welfare of the United States," emit bills, borrow on the credit of the Confederation, appropriate money, decide on the land and naval forces to be raised, and the quota to be furnished by each state, and appoint the commander-in-chief of the army and navy. NATO has no such powers, nor has its Council dared to make recommendations in any of these fields except as regards the total military forces to be assigned to NATO, and the contributions to joint defense to be made by member nations. It is not free to choose its commander-in-chief, but must accept, in practice, an American nominated by Washington.
6. Congress could not only formulate foreign policy for the Confederation but name diplomatic envoys to other states -- as Franklin and Jefferson to France and Adams to London. NATO has never dreamed of sending even its Secretary General -- although Paul Henri Spaak has often been Premier and Foreign Minister of his own country -- to speak for it in Moscow ... let alone

think of naming an envoy to represent it in any country, or formulating a NATO foreign policy toward the world.

7. No state without the consent of Congress could send or receive any diplomatic envoy, or enter into any treaty alliance or confederation, or engage in war unless invaded. In NATO no nations -- not even the Six Nations who have established such "communities" as the Common Market Coal and Steel Authority and Euratom -- dream of such a commitment.
8. In 1783, Virginia, the largest state in the Confederation, followed the example of Connecticut and New York, and turned over to the Confederation its much larger and stronger claims to the Northwest Territory. The Confederation thereafter governed this huge area. In 1784 it decided that one square mile in each township of thirty-six in this Territory should be reserved for the maintenance of public schools; and by the Northwest Ordinance of 1787 it provided for the government of the Territory and for its eventual division into states and their entry into the Confederation on an equal basis with the Original Thirteen. Out of this territory came the states of Ohio, Indiana, Illinois, Michigan and Wisconsin -- after the Confederation had been transformed into the present Federal Union.

None of the NATO nations has ever offered to turn over any of its territory in Africa or elsewhere to the alliance; the latter has no important joint possession of any kind to hold it together and make it less dependent on its member nations. There has been increasing talk in NATO of the need of a common policy for the building up of the under-developed countries, but -- despite the fear of Communist expansion there -- nothing has been done to meet this need. Even the talk is timid, compared to the bold solution of this problem by the Thirteen Confederated States.

9. Finally, the Confederation allowed the citizens of each state to move freely in and out of all the others, and enjoy in each all the privileges of its own citizens. This was done "the better to secure and perpetuate mutual friendship and intercourse among the people of the different states." NATO faces the same need, only more acutely, but it has made no such provisions, nor has its Council yet recommended any important step in this direction.

This may suffice to show what confederation meant from the start in United States history, how primitive by comparison is the NATO structure, and how far one can go in developing it into a confederation, while still keeping it an association of sovereign states.

The "Superstate" Bogy

Governor Rockefeller said that the confederations he had in mind involved no "superstates." Yet if he proposed concretely to bring NATO UP to the level of the Articles of Confederation in even one or two of the above nine respects, the cry of "superstate" would doubtless be raised. It was raised in the Senate against the League of Nations, although that League, like NATO today, had none of these powers our early "League of Friendship" enjoyed. But even the most benighted Member of Congress would not think of calling that Confederation of ours with all its powers a "superstate." He would be laughed out of Congress, for that Confederation is indelibly associated in the American mind with wretched weakness, not with strength.

This bogy, however, still has power to frighten American politicians. They do not blanch at the ghosts of all the myriads who were slaughtered in World War II because the League of Nations

proved too weak. Nor do they blanch at the certainty that far more millions will be slaughtered sooner or later if NATO is not made strong enough to keep the peace. But they do blanch at the word "superstate."

The Nixon-Rockefeller compact, happily, calls for a North Atlantic Confederation "strong enough to meet modern problems and challenges." No candidate for President, or for Senator or Congressman, and certainly no statesman, could dare propose anything less -- openly call for some solution which he admitted was "too weak" to do the job.

Both presidential candidates in 1960, and both parties agreed that NATO is too weak, that it must be strengthened. The candidate who won the White House -- and all those who won seats in the Senate and the House -- thus have a strong moral commitment to the American people to unite the North Atlantic peoples strongly enough to meet "modern problems and challenges" -- to win for freedom without another world war or depression.

The basic question, therefore, is this: Can this obligation be met by converting NATO into a confederation -- or "community" or "partnership" -- that is no stronger structurally than the Articles of Confederation (to say nothing of something weaker)?

The answer is flatly but demonstrably, *No*. The proof is easy: Since so strong a "superstate" as the American Confederation failed to meet the problems and challenges of oxcart, sailing ship years, what American in his senses can hope that a North Atlantic Confederation can meet those of our rocket-atomic age? The highly advanced confederation of the Thirteen States did not face Red Russia and Red China; it faced only small tribes of Redskins, who were as divided among themselves as the NATO "tribes" are today. The Thirteen American States were relatively self-sufficing, with simple economies. Yet the fact is undeniable that their super-superstate failed to meet even the problems of that day, and has left its name as a symbol of feeble futility.

All of us Americans rightly honor our forefathers for scrapping that Confederation promptly -- not in any gradual, evolutionary way -- before it delivered them to anarchy, tyranny, war. We honor them for not waiting long, as we have waited with NATO, before replacing it with a revolutionary experiment. We revere Washington for calling on them at the Federal Convention, to "raise a standard to which the wise and the honest" could repair -- for leading them to take the "con" out of confederation and create a system that was truly strong enough to meet the challenge. We rightly honor him and them, because their answer -- federation of the free -- met the challenges of 1789, 1803, 1832 and 1861, and then of 1917, 1933, 1941, and offers now the one reasonable hope of meeting today's and tomorrow's challenges.

The common sense conclusion is that we should waste no more billions of taxpayer money and still more precious time on answers which failed to meet even lesser tests; that we should try next the federal union solution that has succeeded wherever it has been tested; that we should skip the confederation stage now, as we should have skipped the alliance stage in 1949. But when one draws this conclusion he is met by a perennial argument, though it is put forward a little less dogmatically now than formerly.

We heard this argument from 1939 to 1949 when we cited the example of American history as a warning against wasting time, money and lives trying to secure peace and freedom through a league system, unsupplemented by an Atlantic Federal Union. After the United Nations had to be supplemented with NATO, we heard the same objection when we cited the American example as a warning that alliance would also fail, and urged the Atlantic democracies to call a convention, as the Thirteen did in 1787, to explore the possibilities offered by the federal alternative. Now that NATO has proved inadequate, and confederation is proposed in its place, the same objection is raised when we propose that Atlantica skip making a costly experiment with this system that failed the Thirteen States, and try now the method that worked so well for them -- and all the other peoples who since have tried it.

This hardy perennial argument is that the comparison is not valid, that conditions are too different for there to be any analogy; and especially that it was much easier for the Thirteen to federate than it is for the Atlantic nations to do so now.²

And so we are told that the nations around the North Atlantic are separated by history, language, different political and economic institutions and customs, the ocean and other barriers. The people of the Thirteen States, the argument continues, had much more in common -- the same historical background, the same language, the same political system, the same basic "New World" problems and psychology, the same relatively simple economy, and they were all on the same continent, and had never been in war with each other.

Confederation Failed Then -- in the Best Conditions

There is much that is obviously true in all this, and much that will not stand investigation, either because it simply isn't so or omits the other side of the picture.³ Let us pause for a smile while we hear one contemporary witness, the English traveler, Burnaby, who wrote after visiting the colonies in 1760:

Fire and water are not more heterogeneous than the different colonies in North America. Nothing can exceed the jealousy which they possess in regard to each other. The inhabitants of Pennsylvania and New York have an inexhaustible source of animosity in their jealousy for the Jerseys. Massachusetts Bay and Rhode Island are not less interested in that of Connecticut. Even the limits and boundaries of each colony are a constant source of litigation. In short, such is the difference of the character, of manners, of religion, of interest in the different colonies, that I think, if I am not wholly ignorant of the human mind, were they left to themselves there would soon be a civil war from one end of the continent to the other; while the Indians and negroes would, with better reason, impatiently watch the opportunity of exterminating them altogether.

The widespread belief that it was easy to federate the Thirteen States is more plausible than informed. It remains true that they did have certain advantages, but it is also true that they faced difficulties we do not have today, and that we have advantages they lacked. When the balance is struck some may still conclude that it was less difficult to federate America than Atlantica now. But this leaves their argument confronted with this self-evident, unanswerable fact:

All the advantages that made federal union a workable solution for the Thirteen States were equally enjoyed by the Confederation. Since their highly developed type of confederation failed to work in these most advantageous conditions, how can any practical statesmen hope that NATO will prove adequate if only we convert it into a similar confederation -- let alone a far weaker one?

Whether or not the difficulties facing federation then were less than now, there can be no doubt that we now face far more formidable dangers. It is no less certain that we live in a world that requires much swifter political and economic adaptation to changing conditions as the price of life, liberty and happiness, than did the people of the American Confederation.

How then can any reasonable man believe that the practical and prudent policy is to risk seeking salvation now in the confederation solution that failed in more advantageous and safer conditions?

How can you agree that Washington was right in rejecting half-way measures and in boldly raising "a standard to which the wise and the honest" could repair, and then conclude that in our rocket-atomic day we can wisely spare the time to try the experiment in confederation that failed in more hopeful conditions, and at the slow-rising dawn of the steam-electric world?

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1. See July-August *Freedom & Union* for the full text of his proposal.
 2. As if the question were one only of relative ease, and not primarily one of relative necessity and advantage -- whether they required federation to preserve their liberties and lives then in America more or less than we do now in Atlantica.
 3. See the description of the Thirteen States during their Confederation by Tom Paine and Josiah Tucker in Chapter I of *Union Now*. See also the powerful case that Prime Minister Michel Debre and Emmanuel Monick, former Governor of the Banque de France, make that "Oceans Unite Men -- Land Divides Them," in the November 1959 *Freedom & Union*, and their book, *Peace by Oceanic Union (Demain La Paix*, Plon, Paris), from which this article was drawn. Land formed so much more of a barrier in 1787 than water that the delegates of South Carolina to the Federal Convention found it easier, safer and faster to come to Philadelphia by ship.