



the expediency of local politics may from time to time dictate. And owing to differences in the constitutions of the two countries the probability of such action on the part of the States is greater than that of action by the provincial governments.

### **Apportionment of Powers on Different Basis**

Under the constitution of the United States the apportionment of legislative powers between the federal government and the states is on a different basis from that of the Canadian constitution under the British North America Act. The latter instrument enumerates in detail the powers of the provincial governments as well as those of the central or federal governments; and such powers as are not specifically assigned are by a general clause committed to the central government. This feature of the Canadian constitution is usually expressed by saying that the "residuum of power" is in the Dominion Government. The constitution of the United States, on the other hand, merely selects from amongst the powers which the states would have as independent nations, a certain number of specific powers, which are collected and committed to the federal government. The enumeration of these powers in the constitution is reinforced by prohibition upon the exercise of certain powers. But apart from the items of power specifically delegated to the central government and those prohibited to the States, the balance or residuum of powers remains in the individual states.

There is also a further important difference. Except in a small number of comparatively unimportant matters the powers of the Dominion and the provinces are mutually exclusive, and the absence of the legislation on the part of one will not justify legislation by the other. In other words, there is no overlapping of jurisdiction. In the United States a different rule prevails, and many powers exist concurrently in the States and in the federal governments. Where there are both state and federal enactments upon such a subject of concurrent power that of the federal government, of course, prevails; but in the absence of federal legislation the state laws are in full force.

### **Federal Powers Circumscribed**

One feature of the reciprocity arrangement which demands careful consideration is the fact that the legislation of the federal government is of a negative character. The duties upon certain articles of commerce are removed, but nothing is done by way of stamping commerce in these articles with the approval of the federal government in such a way as to shut out state regulation. The federal government not having legislated, the states remain competent to enact a variety of laws by which restriction or virtual prohibition might still be possible if sufficient ingenuity were exercised in framing them.

Although under the constitution the federal government is invested with jurisdiction "to regulate commerce with foreign nations," and although this is reinforced by prohibition upon the state that "no state shall, without the consent of Congress, lay any imposts or duties upon imports or exports except what may be absolutely necessary for executing its inspection laws . . . and all such laws shall be subject to the