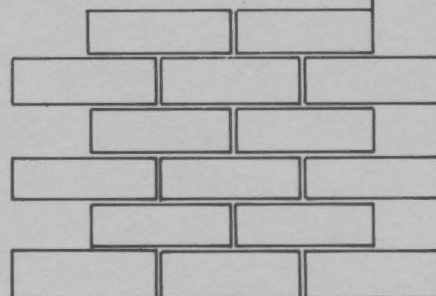


The original documents are located in Box 19, folder “Intergovernmental Affairs - Meeting of the Advisory Commission on Intergovernmental Relations, September 1975 (2)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

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State Actions 1974:
**BUILDING
ON
INNOVATION**



Advisory Commission on Intergovernmental Relations
WASHINGTON, D.C. 20575 • FEBRUARY 1975

M-90

Preface

From its first years, the Advisory Commission on Intergovernmental Relations has studied the actions States have taken as they seek to solve problems and strengthen relationships in our increasingly decentralized society. The work of the federal system can only be achieved if there is a continuing process of adjustment in relationships and responsibilities among the levels of government as new intergovernmental problems emerge.

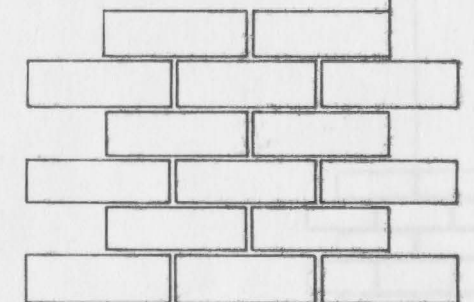
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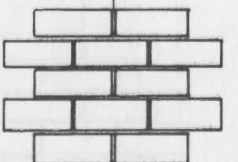
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Robert E. Merriam
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Wayne F. Anderson
Executive Director



Acknowledgements

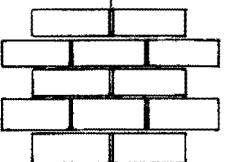
While the ACIR staff relied heavily on the Commission's own information sources in preparing this edition of *State Action*, the job of assembling and verifying the information contained herein could not have been done without the assistance of many other organizations and individuals.

The ACIR staff drew freely upon the legislative summaries and other information provided by state legislative service agencies and state libraries. Press releases and other materials furnished by governors' offices were also very helpful. In addition we gratefully acknowledge the information provided by state municipal and county league journals and publications of the Council of State Governments, Commerce Clearing House, and the Federation of Tax Administrators. Staff members of the

National Association of Counties, Common Cause, and various federal, state, and local agencies and associations were also helpful.

This report was researched and written by staff member Lynn D. Ferrell. Jack P. Suyderhoud wrote the chapter on "State Fiscal Actions." Major typing burdens were borne by Elizabeth A. Bunn and Marinda T. Davis; Franklin A. Steinko was responsible for the printing of the report. Overall supervision was provided by Lawrence D. Gilson, Director of Policy Implementation. Numerous other ACIR staff members contributed to the preparation of *State Action*.

Wayne F. Anderson
Executive Director



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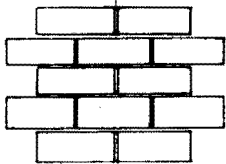
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COMMENTARY
ABC EVENING NEWS
OCTOBER 30, 1974
BY HOWARD K. SMITH

With elections six days away, we here are up to our arm-pits re-searching the politics of every state in the union.

One remarkable thing stands out in all I read. Since the New Deal, the federal government has been the fount of reform and innovation.

Well, that's changed. Suddenly the state governments are doing relatively much better.

While Washington fights budget deficits, more and more states show handsome surpluses: California 350 million dollars in the black; Minnesota 300 millions; others

relative to size doing almost as well.

This month Congress finally passed a campaign reform bill. Well, 24 of the 50 states passed them long ago, California in the lead with its stringent Proposition nine. Governor Askew of Florida has carried out a tax reform that makes Wilbur Mills' dawdling efforts in that realm look sick.

While federal agencies proliferate, state after state has re-organized and stripped down—Idaho reducing 270 agencies to 20, Maryland 248 of them to 12, and so with others too.

So with environmental protection. States like Oregon and Colorado are way ahead of Washington with their laws. . . .

State Actions 1974: Building on Innovation

Even more than in previous years, events at the national level dominated America's headlines. The President resigned less than two years after his overwhelming reelection. For the first time ever, the incoming President was a man who had never run for national office. Inflation went unchecked. Signs of a serious recession appeared as the unemployment rate reached a 25-year high. While gas lines disappeared, energy problems persisted.

Yet despite all these national problems, the states were able to act decisively in many areas to meet the needs of their citizens. As has occurred in the past, they were the first to perceive citizen desires and translate them into legislative or executive action.

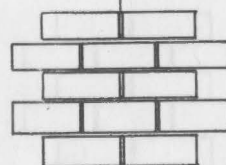
The Advisory Commission on Intergovernmental Relations prepares an annual summary of state actions in selected policy areas. Frequently the experimental state efforts described in these volumes prove to be the forerunner of accepted state practice or national policy. Some of the major trends observed in the states in 1974 follow.

With Watergate capturing the headlines for most of the year, the states passed numerous new laws aimed at increasing government accountability.

- 31 states passed legislation governing the financing of political campaigns.
- Four states (Maryland, Massachusetts, Minnesota, and Montana) instituted systems which allow a citizen to contribute to a political campaign fund by checking a box on the state income tax form.
- 18 states created agencies to enforce the laws regulating political campaigns.
- 14 states enacted requirements that public officials disclose their financial interests.
- The passage of open meetings laws in several states brought to 48 the number of states with some requirement that meetings of government agencies and bodies be open to the public.

In contrast to the Federal government, the states were quick to act on at least the short term challenges posed by the energy shortage.

- 16 states adopted gasoline rationing plans to help alleviate long lines at gas stations at the height of the crisis.



- 15 states granted their Governors emergency powers to deal with energy problems.
- 19 states created councils, commissions, agencies, committees, or boards to coordinate the supply and demand of energy within the state.

For the first time in over two decades, the aggregate state revenues derived from new political action declined in 1974. Still, economic growth assured a larger total state tax take. During 1974, the states began to reap the rewards of actions taken over the previous few years to strengthen their tax systems.

- Only three states adopted significant tax increases during 1974.
- Seven states took action to re-

duce sales taxes, either by reducing the tax rate, by exempting food and prescription drugs, or by increasing certain sales tax credits.

- Five states reduced their individual and corporate income taxes by reducing rates or increasing exemptions.
- Circuit-breaker property tax relief was adopted in three states and the District of Columbia, and three other states broadened the coverage of existing circuit-breakers to provide more relief.

The following summary highlights these and other actions taken by the states in 1974 to make government more accessible, accountable, and effective.

At least 25 states took some significant action in 1973 to make governments more accountable to the people. Just as the first revelations led to state actions in 1973, so, too, the growth of the national political scandal increased the pressure for further government reform in 1974. Following is a listing of the most significant state actions taken during the year in the crucial accountability fields of open meetings and campaign finance.

OPEN MEETINGS LAWS

A new **Arizona** law (SB 1059) requires meetings of tax-supported governing bodies of the state and its political subdivisions to be open where action is taken or decisions are made, except in the case of a judicial proceeding or any political caucus. Executive sessions are permissible for such specified purposes as discussions of personnel matters. The act also requires public notice at least 24 hours prior to any meetings.

At the primary election on June 4, the voters of **California** approved an amendment that requires proceedings of the legislature to be open to the public unless a two-thirds legislative majority votes otherwise.

The **Colorado** legislature adopted a resolution (SJR 11) which requires that all meetings of both houses of

Government Accountability

the General Assembly are to be recorded. The resolution also provides policies and procedures for the storage of the tapes.

A new **Georgia** statute (SB 441) requires the recording of every vote taken by each house of the General Assembly on any bill or resolution fixing the compensation or allowances of any official, except county and municipal officials.

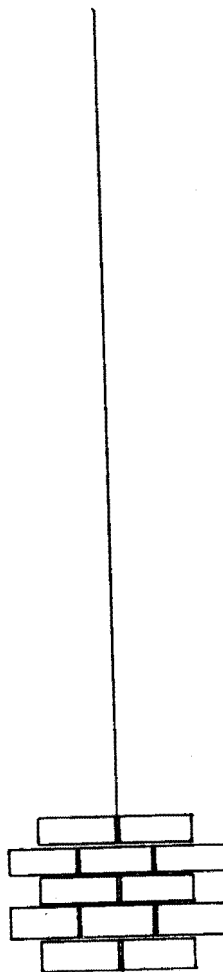
The **Fulton County** superior court found that **Georgia's** 1972 "sunshine" law is applicable to the legislature and its committees. That decision is being appealed by the state.

Idaho (H 602) requires that meetings of governing bodies, including the legislature and its committees, be open to the public. Excepted from coverage are party caucuses, personnel decisions, and property or trade deliberations.

The **Kentucky** legislature enacted the state's first open meetings law by requiring most state and local agencies to open their meetings to the public and to provide notification of the meeting in advance (HB 100).

New legislative rules in **Maryland** require committee votes to be recorded on the request of any one committee member.

In March, **Michigan** Governor Milliken notified all department heads and members of state boards and commissions that they were to



comply fully with the state open meetings statute, even though they are not legally required to do so by the law.

The **Minnesota** Supreme Court ruled that the public must be notified in advance of government meetings, although the open meetings law did not specifically make such a requirement.

In the absence of a state statute requiring open meetings, Governor Waller urged the state boards and agencies of **Mississippi** to open their meetings to the public and the media.

The **New Jersey** State Assembly adopted rules requiring that committee meeting deliberations be opened up to the public.

A **New Mexico** enactment (HB 63) strengthens the state's open meetings law by requiring that not just final actions, but that all deliberations preceeding a public policy decision, be open to the public. The law covers standing committees of the legislature and state and local bodies, and requires that advance notice of meetings be given and public records be kept of the meetings.

A 1974 **New York** freedom of information act requires that all records of state and local government agencies and legislative bodies be open for public inspection. The act also creates a Committee on Access to Public Records to advise agencies and municipalities on the requirements of the new law by formulating guidelines and regulations. The same body is mandated to recommend changes in the law which would further the public's access to records.

The **Pennsylvania** legislature expanded the state's open meetings law by requiring that meetings of any agency of the state or any of its political subdivisions, including the legislature and the boards of trustees of state owned or state related colleges, be open to the public (Act 175).

Governor Shapp also established a committee to develop guidelines for use by the executive branch to insure that the government is accessible to the public and the press.

Tennessee law (SB 1351) requires that all meetings of any governing body be public at all times. The act further provides for adequate public notice for special meetings and requires that the minutes of all meetings be open for public inspection. Any actions taken at a meeting held in violation of the act will be void.

New State Senate rules in **West Virginia** require that committee meetings be open.

Wisconsin officials who knowingly violate the open meetings law may now be fined up to \$200 (Chapter 297). The new law applies to all governmental bodies, including the agencies, boards, and commissions of state and local governments. Legislative party caucuses are specifically excluded from the law, along with exemptions for personnel matters and consultation with legal counsel. However, the act requires an announcement of the purpose of closed sessions and prohibits the reconvening of an open session within 12 hours after a closed session, unless public notice of the subsequent open session was given at the time of the notice of the initial open meeting. The law further prohibits the casting of secret ballots in government meetings.

As a continued reaction to the national and state political scandals of 1973 and 1974, 31 states took action in 1974 relating to campaign finance. Three states set up legislative committees to study campaign finance issues and to recommend legislation. (They are **Indiana**, **Massachusetts**, and **West Virginia**.)

Following are summaries of campaign reform and lobbying disclosure actions taken in 1974.

TABLE I
1974 State Actions Regulating Activities of Lobbyists

	Required to Register	Required to Report Receipts	Required to Report Expenditures	Cite
ARIZONA	X		X	SB 1122
CALIFORNIA	X	X		PROP. 9
FLORIDA	X			HB 2375
IOWA			X	SB 1200
KANSAS	X		X	SB 689
MINNESOTA	X		X	HF 951
WISCONSIN	X			SB 5

Case Studies

INITIATIVE MEASURES
INTRODUCE
COMPREHENSIVE
POLITICAL REFORMS

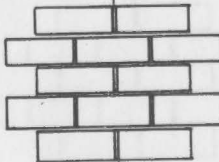
In 1972, the voters of the State of Washington adopted a proposition dealing with a wide range of government accountability questions. In 1974, three states — California, Missouri, and Oregon — followed suit when similar measures were approved at the polls.

The prominence in the news of a wide range of abuses of public trust and the public sense of urgency in seeking a remedy has led to this phenomenon of adopting an omnibus act rather than dealing with each issue separately.

The topics covered by Proposition 9 in California, Proposition 1 in Missouri, and Proposition 14 in Oregon run from reporting and

disclosure of contributions and expenditures; to open meetings; to reporting, disclosure, and regulation of the activities of lobbyists. Each proposition also established an independent commission to administer and enforce the act and to investigate complaints of violations.

Particularly noteworthy is Oregon's local option provision. On November 5, 1974, all cities and counties submitted to the voters the question of extending the provisions of the state act to cover the officials of those local governments. Local voters approved the extension in 158 cities and in 30 of the 36 counties in the state.



STATES	Require Single Campaign Treasurer	Restrictions on Campaign Contributions and Expenditures					Disclosure and Reporting			Public Subsidies		Disclosure and Reporting of Assets of Candidates and Officeholders	Enforcement Agency Created	Cite ^m
		Limits on Individual Contributions	Prohibit Corporate Contributions	Prohibit Contributions by Unions	Campaign Spending Limits	Contributions & Expenditures Applies to In-Kind Contributions	No. of Reports to be Made Before Elections	Tax Credits or Deductions for Contributions	Tax Check-Off System ⁱ					
ALABAMA														SB 388
ALASKA	x	x				x	x	2	x				x	SB 1121, 1138
ARIZONA				x	x	x	x	3				x	x	
ARKANSAS														PROP. 9
CALIFORNIA					x	x		2				x	x	SB 28; EO
COLORADO						x	x	1				j	x	SB 212, 298,
CONNECTICUT	x	x			x	x	x	4-5					x	401; HB 5469
DELAWARE		x			x	x		1						HB 822
FLORIDA												x	x	HB 3418
GEORGIA	x					x		4					x	SB 454
HAWAII														
IDAHO														
ILLINOIS						x	x	2				j	x	SB 1568; EO
INDIANA						x						x	x	SB 245
IOWA						x		4						SB 1200
KANSAS	x	x			x	x						x	x	SB 656, 689, 1020
KENTUCKY		x				x		2						HB 68, 220
LOUISIANA														
MAINE					x							k		HB 2054-X
MARYLAND		x	c		x	x	x		F				x	SB 456; HB 510
MASSACHUSETTS														
MICHIGAN	x				x	x	x	2						SB 1016
MINNESOTA					x	x	x	3	x	P		x	x	HB 951
MISSISSIPPI														
MISSOURI		x	x	x	x	x	x	2				x	x	PROP 1
MONTANA									x	F				HB 890, 1081
NEBRASKA														
NEVADA														
NEW HAMPSHIRE														

STATES	Require Single Campaign Treasurer	Restrictions on Campaign Contributions and Expenditures					Disclosure and Reporting			Public Subsidies		Disclosure and Reporting of Assets of Candidates and Officeholders	Enforcement Agency Created	Cite ^m
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NEW JERSEY		x			x	e	x							AB 1246
NEW MEXICO														
NEW YORK		x	c		x	x	x	1-4f				x		AB 12071, 12485
NORTH CAROLINA		x	x	x		x		4						SB 978
NORTH DAKOTA														
OHIO	x				x	x		1				x	x	SB 46
OKLAHOMA	x	x	x			x		2	x			x		SB 534
OREGON	xa				x							x	x	PROP 14
PENNSYLVANIA	x													HB 2219
RHODE ISLAND		b			x	e		1						HB 7829
SOUTH CAROLINA														
SOUTH DAKOTA												l	x	HB 828, 507
TENNESSEE														
TEXAS														
UTAH														
VERMONT														
VIRGINIA														
WASHINGTON														
WEST VIRGINIA														
WISCONSIN	x	x	x		x	x		g					x	SB 5
WYOMING		x	d		x	x		h						HEA 14

FOOTNOTES

- The single campaign treasurer provision of the 1973 Oregon law was voided by a circuit court judge in 1974. The decision is being appealed.
- No candidates may spend personal or family funds in excess of 10% of the overall spending limits.
- The statute limits, but does not prohibit, corporate contributions.
- Union and other membership group contributions to a candidate are limited to 5% of the overall spending limit. No contribution may be made by such a group without approval by two-thirds of the group's membership.
- Reporting of contributions, but not expenditures, is required.
- Four reports per year, with the first one to be 15-25 days before the election.
- Reports required, but no timetable is prescribed in the law.
- Reports required within 20 days after each election (i.e. special, primary, general, and run-off).
- No additional tax liability is incurred except in Maryland.
P= taxpayer may designate which political party is to receive his check-off money.
F= general fund disbursed by the state. Individual taxpayers may not make a party designation.
- Executive Branch officeholders.
- Legislators.
- Candidates for state office.
- In some cases 1974 rules or regulations were promulgated by the Governor in an Executive Order, designated below by "EO".

State

Fiscal Actions

In spite of the deepening recession at the end of the year, 1974 marked the second consecutive year of relative fiscal ease for state governments, and the tax reduction movement launched in 1973 continued.

The bright fiscal picture for the states in 1974 stemmed mainly from changes over the past decade in state tax structures. The demand for increased state services in the 1960's caused many legislatures to adopt new taxes to support those public programs. The need for adequate revenues and the public desire for equitable taxes forced states (and increasingly localities) to turn to the use of income and sales taxes, the two taxes most responsive to real and inflationary growth in the economy. The trend toward new tax adoptions was so substantial that by 1973 fully 40 states utilized broad based individual income taxes, 45 employed general sales taxes, and 36 states relied on both.

The introduction of Federal general revenue sharing dollars during the 1973-74 biennium further eased fiscal pressures on the states. During this two-year period, the Federal government transferred \$3.3-billion to state governments for their virtually unrestricted use. As a result of both the tax changes and revenue sharing, over 40 states reported surpluses for fiscal 1974.

For the states, tax reform and relief occurs more readily in times of fiscal ease, and in 1974 the states continued the tax reform efforts commenced in 1973. New actions were taken to provide relief to taxpayers and to introduce reform and greater equity into the tax systems of both state and local governments. Six states and the District of Columbia expanded property tax relief via new or amended "circuit-breaker" legislation, and several states imposed restrictions on the amounts local governments may spend or levy in taxes. The states further eased pressure on the local property tax by assuming a larger role in financing local education.

TAXES REDUCED

In 1974, for the first time in 25 years, the net result of tax changes previously enacted by state legislatures was a small cut in 50-state aggregate revenues. Still, the absolute number of state tax dollars collected in 1974 continued to increase since the voted tax cuts were more than offset by automatic revenue increases associated with inflation and real economic growth (see Table 3).

ACIR has surveyed state revenue departments each year since 1966 to determine the nature of state revenue growth. Table 4 gives the results: every year prior to 1974 was marked

by an increase in state revenues caused by both economic growth and explicit political actions to introduce new taxes, to increase the effective tax rates, or to broaden the base of a tax. In 1974, however, state political action reduced taxes by approximately \$160-million.

The discretionary tax cuts reflected in fiscal 1974 tax collections were largely the result of 1973 changes in state tax laws, primarily in individual income taxes. While the states, in toto, took political actions to increase general and selective sales tax collections by approximately

TABLE 3
State-Local Taxes: 1969-74

Fiscal Year	State-Local Taxes (millions)	Percent Change Over Previous Fiscal Year
1969	\$ 77,451	11.1%
1970	88,128	13.8
1971	94,279	7.0
1972	108,570	15.2
1973	119,508	10.1
1974	130,126	8.9

Source: U.S. Bureau of the Census, "Quarterly Summary of State and Local Tax Revenue," various issues.

TABLE 4
Sources of Increased Collections, Major State Government Taxes*

Fiscal Year	Total Increase (millions)	Amount Due to:			Amount Per Capita:			Proportion Due to:	
		Economic Growth (millions)	Political Action (millions)		Total	Economic Growth	Political Action	Economic Growth	Political Action
1966	\$ 2,700	\$ 1,800	\$ 900		\$13.96	\$ 9.31	\$ 4.65	67%	33%
1967	2,300	1,500	800		11.78	7.69	4.10	65	35
1968	4,100	1,700	2,400		20.80	8.62	12.18	41	59
1969	4,400	2,600	1,800		22.09	13.06	9.04	59	41
1970	4,900	2,200	2,700		24.29	10.91	13.38	45	55
1971	2,900	2,300	600		14.20	11.26	2.94	79	21
1972	5,700	3,400	2,300		27.61	16.47	11.14	60	40
1973	7,000	5,100	1,900		33.48	24.39	9.09	73	27
1974	5,000	5,200	-200		23.91	24.87	-0.96	104	-4

*Taxes included are general sales tax, individual income tax, corporate income tax and selective sales taxes.
Source: ACIR survey of annual state revenue growth in cooperation with state revenue departments.

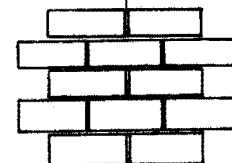


TABLE 5

Sources of Increased State Tax Collections by Major State Tax*: Fiscal 1974

	Amount Due To:		Total Increase (millions)
	Economic Growth (millions)	Political Action (millions)	
General sales tax	\$ 2,120	\$ 170	\$ 2,290
Selective sales tax	530	70	600
Individual income tax	2,040	-500	1,540
Corporate income tax	510	100	610
Total	\$ 5,200	\$ -160	\$5,040

* Taxes included are general sales tax, individual income tax, corporate income tax and selective sales taxes.
Source: ACIR survey of annual state revenue growth in cooperation with state revenue departments.

\$240-million and corporate income tax collections by \$100-million, individual income tax collections were reduced \$500-million, offsetting not only other legislated tax increases but also nearly 25 percent of the economic growth of the individual income tax (see Table 5).

In 1974, a relatively quiet year for state fiscal actions, legislative actions to cut taxes outnumbered tax increases. Only three states took actions to significantly increase one or more of the major state taxes: individual income, corporate income, general sales, and selective sales. **Arizona**, in a special session of its 1973 legislature meeting in 1974, raised its sales tax rate from 3 to 4 percent and upped the corporate income tax rates as well (HB 2001). A proposition to exempt food from the general sales tax while increasing the rate to 5 percent was rejected by voters on the November ballot. **South Dakota** (Ch. 97; SB 96) expanded the base of its sales tax by subjecting telephone and teletype services to the 4 percent general sales tax rate. **Vermont** (Ch. 202) raised its corporate income tax rate from a flat 5 percent to a graduated schedule ranging from 5 to 7.5 percent.

Numerous tax reducing measures were enacted during calendar 1974. **Connecticut** (Ch. 73) lowered its sales tax rate for the second time in two years to 6 percent, by 0.5 percent. **Iowa** (SF 1055) exempted food and prescription drugs from its sales tax. **Colorado** (HB 1056) and **Nebraska** (LB 632) increased food sales tax credits taken against income tax liabilities. **South Dakota** (Ch. 98; HB 509) and **Washington** (Ch. 185; HB 1) exempted prescription drugs. **Michigan** voters in November approved constitutional amendments that paved the way for exempting food and prescription drugs from the sales tax. The exemptions adopted by the legislature (HB 5182 and HB 5183) take effect in 1975, and will replace income tax credits that had gone into effect in 1974.

Numerous states reduced individual and corporate income taxes. **Montana** (Ch. 363; HB 211) reduced income tax liabilities by raising personal deductions from \$600 to \$650. The **Nebraska** Board of Equalization reduced individual income tax rates for calendar 1975 from 11 to 10 percent of Federal income tax liability and the corporate rate from 2.75 to 2.5 percent of Federal liability. **New**

Mexico (Ch. 88; HB 37) reduced its individual income tax rates and **Ohio** (HB 476) increased personal exemptions from \$500 to \$650 effective January 1, 1975. **Pennsylvania** (HB 1190) increased personal income tax exemptions and cut its flat rate for personal income taxes to 2 percent from 2.3 percent and from 11 to 9.5 percent for corporate income.

A BETTER FISCAL BALANCE

The trend toward a more balanced use of state and local tax sources continued in 1974. The "Big Three" revenue generators for the states and their subdivisions have been and remain general sales, individual income, and property taxes. Of the three, the state-local sector has historically utilized property taxes most extensively. Though this reliance on the property tax has steadily diminished over the past 30 years, the levy remains the single greatest state-local source, accounting for 37.5 percent of total state and local tax revenue.¹

Accordingly, general sales and individual income taxes have grown in relative importance. Over the last three years, the individual income tax and the general sales tax have

grown significantly faster than property tax revenues (see Table 6) and in 1974 accounted for 35.2 percent of all state-local tax revenues. This tendency is slightly understated in aggregate tax collection figures since numerous states finance property tax relief via income tax credits.

The movement to a more balanced utilization of revenue sources is both the cause and effect of the tax reform and relief. The increased reliance on sales and income taxes has provided states with sufficient revenues to allow them to achieve greater equity in their fiscal systems by legislating increased state assumption of local school costs, circuit-breaker property tax relief, and/or sales and income tax changes. At the same time, the continuing unpopularity of the property tax, which ACIR has documented in recent public opinion polls,² has forced legislators to turn to greater use of the sales and income taxes to finance property tax relief (see Chart 1).

PROVIDING PROPERTY TAX RELIEF

The property tax circuit-breaker has become the favored means by

1. ACIR, *Federal-State-Local Finances: Significant Features of Fiscal Federalism*, 1973-74 Edition, M-79, February 1974.

2. ACIR, *Changing Public Attitudes on Governments and Taxes*, S-3, June 1974.

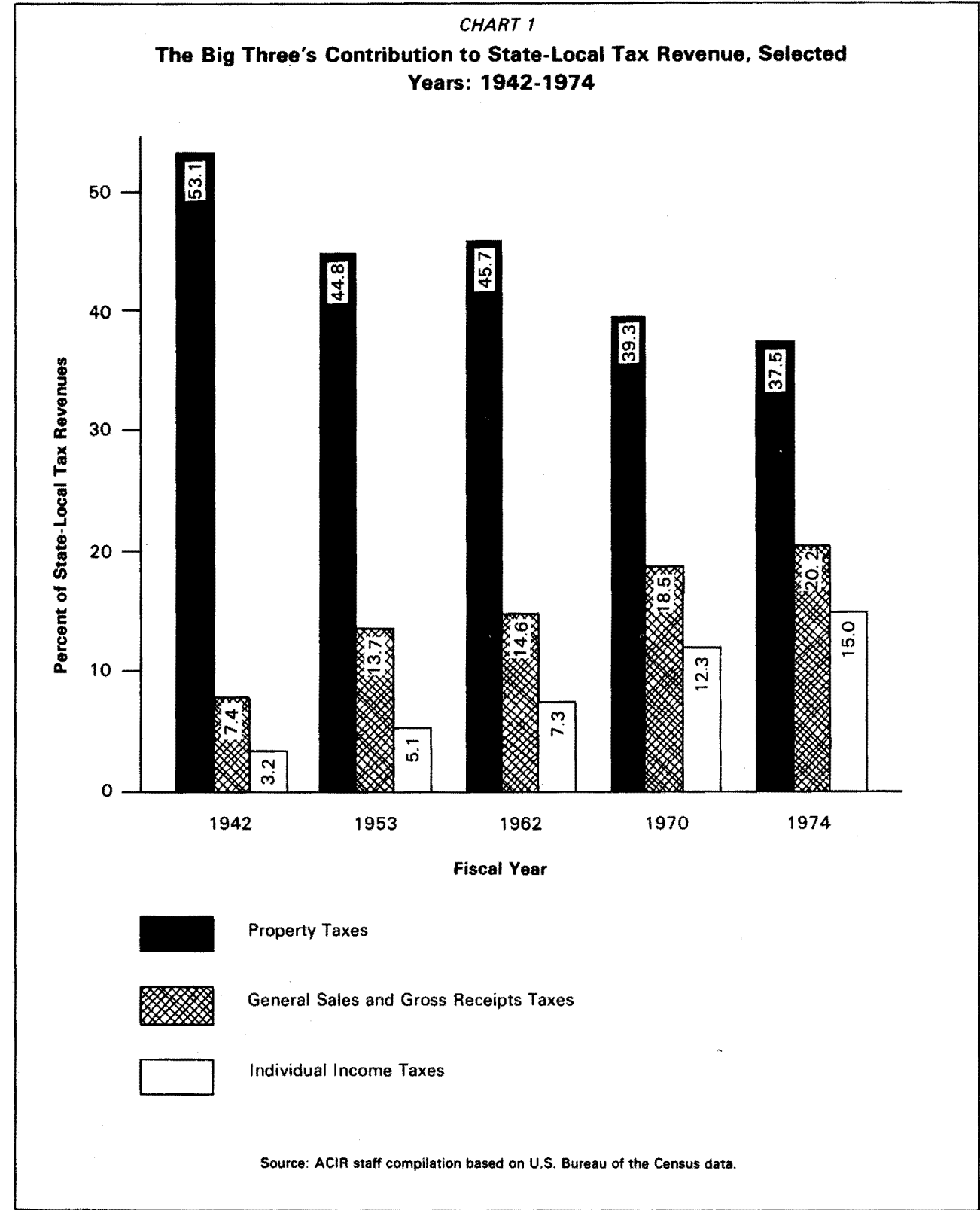
TABLE 6

Growth of the Big Three State-Local Taxes: 1971-1974

Revenue	Percentage Growth Over the Previous Fiscal Year		
	1972	1973	1974
Total Big Three	15.2%	10.1%	8.9%
Property tax	11.6	6.6	7.8
General sales tax	15.3	12.1	14.8
Individual income tax	33.5	16.6	8.8*

* The declining growth of the income tax yield reflects significant tax cuts (see Table 3) as well as property tax relief provided through income tax deductions and credits.

Source: ACIR staff compilations based on U.S. Bureau of the Census data.



which state legislatures protect families from undue property tax burdens.³ Circuit-breaker programs are designed to go into effect when the property tax bill exceeds a legislatively established percentage of household income. The actual relief usually granted is in the form of a direct reduction in the property tax bill, a refundable credit against state income tax liabilities, or a cash rebate. A number of states use a slight variant by granting tax relief equal to a given percentage of the property tax bill, no matter what its size, with the percentage depending upon the level of household income.

ACIR has long advocated the adoption of such relief⁴ and has provided policymakers with model structures to implement such programs.⁵ Though the relief is for taxes owed to local jurisdictions, in most states it is the state government that finances and administers the programs. This has the advantages of (a) not interrupting the flow of property tax funds to those units levying the tax, (b) not interfering with local property assessment practices, and (c) providing relief to residents of all jurisdictions irrespective of the community's capacity to afford such relief.

In 1973, nine states enacted new circuit-breaker programs while three additional states extensively revised already existing circuit-breaker schemes to broaden benefits to eligible recipients.⁶

In 1974, circuit-breaker legislation was adopted for the first time for the

District of Columbia (PL 93-407, Title IV), **Idaho** (Sec. 63-117 thru 63-125), **Maryland** (Ch. 750; Art. 81, Sec. 12D and 12F), and **Oklahoma** (HB 1658). In addition, **Colorado** (HB 1023), **Connecticut** (PA 74-55), **Illinois** (PA 78-1249), and **Maine** (Ch. 771) amended previously existing circuit-breaker relief programs.

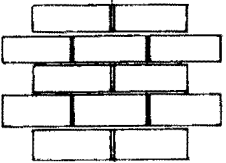
The new **District of Columbia** program provides a refundable credit against personal income tax liabilities for homeowners and renters of age 65 or more. The credit varies: from 80 percent of property tax liabilities in excess of 2 percent of household income for those households receiving an annual income of not more than \$3,000, to 60 percent of liabilities in excess of 4 percent of household income if household income is greater than \$5,000. In no event will a household whose income exceeds \$7,000 be eligible for relief.

In **Idaho**, the income ceiling for participants is \$5,000 and only homeowners at least 65 years old qualify for relief. The relief is in the form of a reduction in property tax bills where the reduction varies from the lesser of either \$200 or actual taxes for households with incomes under \$3,000, to the lesser of \$100 or actual taxes for those having incomes of not more than \$5,000.

The **Maryland** circuit-breaker makes relief available to all homeowners and renters regardless of age or income. The relief, capped at \$750, is equal to the property tax in excess of a percentage of household income. The percentage is determined on a sliding scale ranging from 3 percent of the first \$3,000 of income to 9 percent of income over \$18,000. Renters receive a cash rebate and homeowners a reduction of their property tax bills.

Actions 1973: Toward Full Partnership, M-82, January 1974, outlines these and other legislative activities.

3. For a detailed analysis of circuit-breaker theory and practice see the ACIR report, *Property Tax Circuit-Breakers: Current Status and Policy Issues*, M-87, February 1975.
 4. ACIR, *Fiscal Balance in the American Federal System*, Vol. 1, A-31, October 1967.
 5. ACIR, *The Property Tax—Reform and Relief: A Legislator's Guide*, AP-2, November 1973.
 6. Last year's publication by ACIR, *State*



Case Study

ASSESSMENT REFORM IN MARYLAND*

In 1974, Maryland continued the phased implementation of HB 531 enacted by the 1973 General Assembly. The act mandates full state assumption of responsibility for all aspects of property assessment by mid-1975. When accomplished, Maryland will be the second state (after Hawaii) to take on this task. The legislation provides that the state appoint the county supervisor of assessment from lists of five qualified applicants submitted by each of the counties and by Baltimore City. In addition to other duties, each supervisor will oversee a staff of professional assessors, all of whom are state employees. The state's financial involvement in the assessment of properties is being phased-in as follows:

1. Effective July 1, 1973, the state began to pay the annual salaries and other expenses of the supervisors of assessment in each county and Baltimore City.
2. Effective July 1, 1974, the state began to pay the annual salaries and administrative costs of the assessors of each county and Baltimore City.
3. Effective July 1, 1975, the state will pay all remaining costs relating to personnel, administration, operation, and maintenance of the assessment system of each county and Baltimore City.
4. Effective July 1, 1975, the state will pay the data processing costs relating to the assessing

functions in each county and Baltimore City.

As a companion to the state assumption of assessing costs, the State Department of Assessment and Taxation developed more rigorous hiring and training standards for new assessors in 1974. For the first time, applicants must possess bachelor's degrees. Training was expanded to 70 hours of classroom instruction followed by on-the-job training and evaluation before assessors begin to work independently. The department is also establishing and training a team of specialists to assess large commercial-industrial properties.

A comprehensive reassessment project was undertaken by the Department of Assessment and Taxation in 1974. With the exception of some parts of Baltimore City, all properties in the state were reassessed. The task was accomplished by physically inspecting one-third of the properties in each county. The remaining two-thirds were reassessed utilizing records of prior physical examinations, sales analyses, and estimates of building costs. Prior to 1974, reassessment was required only once every three years. Under the new, more vigorous program all properties will be reassessed annually, either physically or by estimate.

*For a more complete treatment of the issues of property tax administration and how the tax is applied in selected states, see ACIR, *The Property Tax in a Changing Environment—Selected State Studies*, M-83, March 1974.

The new **Oklahoma** legislation, effective January 1975 for taxes paid in 1974, is much less complicated but not as broad in coverage. Homeowners aged 65 or older and all disabled homeowners qualify for refundable income tax credits equal to property taxes paid in excess of 1 percent of household income. Relief may not exceed \$200 annually and households with income in excess of \$6,000 do not qualify for the program.

In 1974, **Colorado** liberalized relief by increasing the income ceilings for eligibility from \$5,400 to \$5,900 for single persons and from \$6,300 to \$6,900 for married couples, while the maximum rebate was raised from \$270 to \$400. Disabled persons are now also eligible for relief. **Connecticut** revised its circuit-breaker program by decreasing the coverage. The household income ceiling for eligibility was lowered from \$7,500 to \$6,000 and the maximum allowable tax credit was lowered from \$500 to \$400. **Illinois** simplified its relief formula by granting relief for property taxes paid in excess of 4 percent of all income instead of a percentage varying with household income. **Maine** removed a provision which had previously restricted eligibility to those whose net assets were less than \$20,000. It also changed its rebate formula to provide relief to low-income elderly homeowners and renters that is equal to the property tax liability in excess of 21 percent of income above \$3,000; previously, tax liabilities in excess of variable percentages of income had been rebatable.

In response to an ACIR questionnaire, 21 states revealed that for the fiscal year 1974, their state circuit-breaker programs provided a total of \$447-million in relief to 3.02-million claimants. The costs of the programs in these 21 states ranged from \$.08 per capita in **Arkansas** to \$31.78 per capita in **Oregon**. Estimates of the

participation rates (percent of eligibles claiming relief) ranged from 15 percent in **West Virginia** to 97 percent in **Vermont**.

LOCAL SCHOOL PROPERTY TAX DISPLACEMENT

The 1974 school year marked the first time ever that aggregate local revenue accounted for less than half of the aggregate receipts for the operation of local schools. The contribution of local jurisdictions to primary and secondary school expenses accounted for only 49.5 percent of all receipts, down from 51.5 percent the year before (see Table 7). The Federal share dipped slightly as well. The state share, however, increased more than it had in any other year since the National Education Association began recording such data, largely due to earlier state school finance action.

In order to improve equality of educational opportunities and to lessen the burden of the local school property tax levy, ACIR has recommended that states accept greater responsibility for the financing of educational costs.⁷

State legislatures increasingly have become the forum for the resolution of school finance issues. The **California** legislature is under a court mandated, 6-year deadline to eliminate any significant school finance disparities. That deadline is the result of the Los Angeles superior court ruling in *Serrano vs. Priest*. The 1974 California legislature was not able to agree upon an acceptable remedy.

In **Florida**, the legislature amended (Ch. 74-227; HB 3692) the state's education finance program, raising state support and lowering the local millage rate from 10 to 8. The legislature also eliminated local effort from the

7. ACIR, *State Aid to Local Government*, A-34, April 1969.

formula distribution scheme. The voters in **Florida** also passed, by a 2-to-1 margin, a measure that would earmark utility sales tax revenue to finance school capital expenditures (HJR 2289 and 2984).

Nebraska voters overturned an action of the legislature (LB 772) that would have shifted approximately 50 percent of school revenues from local property tax sources to state sales and income taxes and would have provided an equalization thrust in the distribution of the newly generated funds. Opposition to the measure was based on the fear of higher sales and income taxes dampening business activity and the fear of an erosion of local control over education due to the infusion of state funds. Supporters of the bill saw it as an opportunity to introduce greater equity into the school finance system

and to improve the quality of education without affecting local control. The **Nebraska** legislature also passed an expenditure "lid" bill (LB 984) that will limit school district expenditures through a formula based on the consumer and wholesale price indices.

Facing a December 31, 1974, court ordered deadline, the **New Jersey** legislature failed to produce a school finance program that will meet the "thorough and efficient" standards prescribed by the state constitution. The state legislature rejected two income tax proposals in 1974, one of which would have piggybacked state income taxes on Federal income tax liabilities. The proceeds would have been used largely to finance education in accordance with judicially acceptable state norms.

The **New York** legislature enacted

a bill (SB 10539-A) that increases state support to education to a level of 41 percent, the first such increase since the school year ending in 1969. **Wyoming** voters rejected a proposal (SJR 1) that would have amended the constitution to replace a 12 mill county property tax levy with a 12 mill statewide levy.

LOCAL REVENUE DIVERSIFICATION

With the benefit of a new study, ACIR revised its previous policy stand against the local use of non-property taxes to recommend the use of local sales and income taxes to underwrite the expenditure requirements of local government, provided certain safeguard conditions are met.⁸ The safeguards recommended by the Commission include: a uniform local tax base consistent with the appropriate state tax base; state collection and administration of local sales and income taxes; broad based coverage; origin rule for determining local sales tax liability, coupled with prohibition of local use taxes for in-state purchases; limits on the extent of local flexibility in setting local tax rates; and, in order to minimize local fiscal disparities, adoption of an equalizing formula to distribute local non-property tax revenues among constituent units within the local taxing authority.

The trend toward local revenue diversification has gained favor because of the desire of local officials to reduce the dominant role of the locally administered property tax, a levy that burdens some households quite heavily, taxes unrealized capital gains when assessments increase,

8. For a complete discussion regarding local revenue diversification, ACIR recommendations, and model legislation, see the ACIR report, *Local Revenue Diversification: Income, Sales Taxes, and User Charges*, A-47, October 1974.

Case Study

METROPOLITAN TAX-BASE SHARING PLAN UPHOLD IN MINNESOTA

After more than two years of litigation, the Minnesota Supreme Court upheld the constitutionality of the innovative plan to "share-the-growth" in the seven-county Twin Cities area in September 1974. Adopted as the Fiscal Disparities Act (Ch. 24; SF 10) by the state legislature in 1971, share-the-growth provides for pooling 40 percent of the growth in commercial and industrial property values. The pool is to be used as a metropolitan tax base which each general and special purpose taxing district will share. Those units with lower per capita valuation will receive proportionately greater shares of the pool.

A lower court voided the act, asserting that it violated constitutional uniformity standards because "some districts were taxed for the benefit of others." The Minnesota Supreme Court in a 4-3 decision reversed the lower court and upheld the act. The higher court used a broader interpretation of "benefit" noting that "the payment of taxes in a metropolitan area may have only slight relationships to use and enjoyment which residents make of other areas in the district. . . . The Fiscal Disparities Act recognizes that to some extent the location of commercial-industrial development may be irrelevant to the question of the cost of services which are added to a municipality's budget occasioned by the location of such a development within its boundaries." With this ruling, the act will finally be implemented in 1975.

TABLE 7
Contributions to Local Education Expense by Level of Government: 1957-74

School Year	Percent of School Revenue Derived From:		
	Federal Sources	State Sources	Local and Other Sources
1957-58	4.0%	39.4%	56.6%
1958-59	3.6	39.5	56.9
1959-60	4.4	39.1	56.5
1960-61	3.8	39.8	56.4
1961-62	4.3	38.7	56.9
1962-63	3.6	39.3	57.1
1963-64	4.4	39.3	56.4
1964-65	3.8	39.7	56.5
1965-66	7.9	39.1	53.0
1966-67	7.9	39.1	53.0
1967-68	8.8	38.5	52.7
1968-69	7.4	40.0	52.6
1969-70	8.0	39.9	52.1
1970-71	7.2	40.0	52.8
1971-72	8.0	40.2	51.8
1972-73	7.9	40.6	51.5
1973-74	7.5	43.0	49.5

Source: National Education Association, Research Division, "Estimates of School Statistics," various issues.

has only a tenuous relationship to either ability to pay or benefits received, and is often administered poorly and inequitably.

Though these criticisms have been raised repeatedly over many years, the property tax remains the single most important source of local revenue. In fiscal 1973, it accounted for 62.4 percent of local general revenue from own sources. Yet, its unpopularity plus the fact that it often does not effectively meet the revenue needs of localities, forces taxing jurisdictions to turn to other revenues. Still, local governments can adopt sales or income taxes only when permitted by state law. By 1974, 25 states permitted local sales taxes and 11 states allowed the use of local income taxes.

In 1973, **Indiana** acted to allow counties to adopt a state administered local income tax at rates of 0.5, 0.75, or 1.0 percent. Revenues are to be returned to the county and other local governments on the basis of property tax collections; part of the revenues from the income tax must be used to lower property tax bills. In 1974, five counties joined the 31 counties which had opted for the local income tax in 1973. (Fifty-six Indiana counties have not adopted the local income tax.)

In 1974, the **Utah** legislature passed a bill (HB 13) allowing local imposition of a 0.25 percent sales tax to fund "no fare" public transportation within the taxing jurisdiction, but the legislature later removed the "no fare" restriction so that the funds may now be used to finance public transportation generally (HB 2).

TAX AND EXPENDITURE CONTROLS

In attempting to come to grips with the increasing burden on those who pay the property tax, some states

have adopted programs that limit the amount of property tax that can be collected by a taxing jurisdiction rather than substituting non-property taxes for property taxes. In 1973, Kansas set a permanent ceiling on local property tax collections (not rates). Other states have developed similar plans.

In **Florida**, the 1974 legislature enacted a novel property tax lid law which acts to restrain the property tax burden as well as to put the accountability for increased property taxes with the local officials responsible for spending the money. The law (Ch. 74-234) requires the local assessor to certify a millage rate which, when applied to 95 percent of the new taxable valuation for previously existing property, will provide the same tax revenue as was raised the previous year. If the officials of a locality feel such a rate will generate insufficient revenues, the jurisdiction must place a quarter-page advertisement in a local paper of general circulation announcing a public meeting at which a higher than certified rate is to be discussed.⁹ After the initial meeting, another meeting similarly announced must be held within two weeks in order to take official action on the higher rate.

In **Arizona**, the discontent with tax levels went beyond the property tax. The state legislature passed a resolution (SCR 1012) which proposed a constitutional amendment limiting state government expenditures, and hence taxes, to 8.4 percent of Arizona's total personal income. On November 5, the electorate voted 51

9. Using only 95 percent of the newly determined taxable value of old property in calculating the certified millage allows revenue growth of just over 5 percent (in addition to any growth due to new construction and improvements) since the certified rate so calculated is then applied to 100 percent of the current tax base.

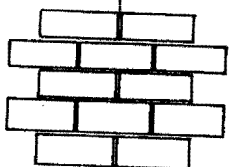
to 49 percent not to adopt the expenditure ceiling. A similar but more complicated proposition failed to carry in California a year earlier.

CLOUDS ON THE HORIZON

Though fiscal year 1974 proved more or less trouble-free for most state fiscal systems, 1975 may provide some severe shocks. To maintain a fixed level of real government services in the face of double-digit inflation, states may need to increase expenditures dramatically. Inflation results in increased wage and benefit demands by government employees

and, in those cases where wages and non-wage benefits are tied to an index of prices, personnel costs go up automatically. Non-payroll costs faced by the government sector also have risen substantially in the past few years.

Moreover, the recession and unemployment that coexists with inflation had by year-end already begun to reduce many states' revenues, push up costs for welfare and other unemployment impacted programs, and cut into surpluses. And most economists forecast that the first half of 1975 will be worse.



Energy

Many Americans ushered in 1974 while waiting in long lines to get gasoline for the family car. This symbol of a more general crisis provoked a flurry of action by the states in 1974. In general, state governments showed their flexibility and ability to adapt quickly to meet previously unknown challenges. The Governors of 15 states were granted emergency powers to deal with the problems of the energy shortage. Sixteen states responded to the dilemma of the long gas lines by instituting some form of the so-called "Oregon plan" for quasi-rationing based on license plate numbers and the date.

State actions in other energy fields were numerous and varied. Energy councils or standing legislative committees on energy were established in 24 states to monitor the state's energy demands and supplies

and to make recommendations for future action. Eighteen states appropriated funds for research for alternatives to oil based energy. Such projects call for the study of a wide range of potential alternatives from "gasoline" refined from coal, to the harnessing of solar and geothermal energy. And in recognizing the necessity to promote conservation, six states expanded the scope of their state building codes to include requirements for evaluation of the energy use of a proposed structure. Florida, for example, will require that all new homes constructed in the future be equipped for conversion to the use of solar energy.

The following table summarizes 1974 state legislative action designed to meet the energy crisis. (Policies were effected by executive order in some cases.)

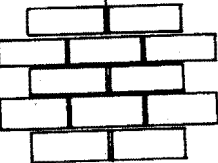
TABLE 8
State Energy Actions of 1974

STATES	Energy Council Created to Coordinate Supply and Demand ¹	State Building Codes Expanded to Include Energy Efficiency	Emergency Energy Powers Granted to Governor	Regulation and Support of Research and Development of Alternative Sources of Energy ²	State Gas Rationing Plans on Even-Odd Basis
ALABAMA	X				
ALASKA					
ARIZONA				X	
ARKANSAS	X				
CALIFORNIA	X				3
COLORADO				X	
CONNECTICUT	X				X
DELAWARE	X		X		X
FLORIDA	X	X		X	X
GEORGIA					
HAWAII	X		X	X	X
IDAHO				X	
ILLINOIS				X	
INDIANA				X	
IOWA	X		X	X	
KANSAS					
KENTUCKY	X			X	3
LOUISIANA					
MAINE	X			X	
MARYLAND		X	X		
MASSACHUSETTS					X
MICHIGAN	X		X	X	
MINNESOTA	X	X			
MISSISSIPPI					
MISSOURI					
MONTANA					
NEBRASKA				X	
NEVADA					
NEW HAMPSHIRE	X				X
NEW JERSEY	X		X		X
NEW MEXICO		X			
NEW YORK		X	X		X
NORTH CAROLINA	X				X
NORTH DAKOTA	X			X	
OHIO	X			X	
OKLAHOMA	X			X	
OREGON		X	X		X
PENNSYLVANIA	X				X
RHODE ISLAND			X		
SOUTH CAROLINA	X				X
SOUTH DAKOTA	X		X		
TENNESSEE					
TEXAS	X				
UTAH					
VERMONT			X	X	
VIRGINIA					X
WASHINGTON			X	X	X
WEST VIRGINIA	X		X	X	
WISCONSIN	X		X		
WYOMING			X		

¹ E.g., state energy commission, standing legislative committee, cabinet post, position on Governor's staff, etc. (in some cases the energy regulation and coordination tasks were given to an already-existing state agency).

² E.G., solar energy, geothermal energy, coal gassification, grain alcohol in motor fuels, etc.

³ Rationing used in only some areas of the state.



Environment, Land Use, and Growth

The character of state enactments in the environmental field slowed during 1974. Most states had already adopted basic minimum guidelines for environmental pollution and had created administrative structures to monitor and meet state goals. And many states were particularly concerned in 1974 with spending and conserving energy, objectives which sometimes compete with environmental goals. Thus, while several states created councils of environmental quality, most states dealt with environmental matters of special interest within the state, such as strip mining, protection of beaches, or urban open space rehabilitation legislation.

Also noteworthy was the general confirmation by the states of an appropriate local role in both land use planning and in achieving compliance with state environmental guidelines.

A new **Alaska** law (SCS CSHB 804) requires that any real property of the state which is sold, leased, or transferred for private use must meet local planning and zoning ordinances and regulations if those local standards are higher than those of the state.

In **Arizona** a program requiring inspections of motor vehicle emissions under the direction of the State Department of Health Services was established by HB 2319.

The **California** Supreme Court ruled on June 27 that requirements for antismog devices on automobiles cannot be delayed in order to save fuel. The decision overturned a one-year postponement of the statewide installation of smog controls on 1966-70 automobiles. The devices had been ordered in December 1973 by the State Air Resources Board.

The **Colorado** legislature granted land use control powers to local governments (HB 1034). Under the act, local governments will be given \$2-million by the state to develop comprehensive plans with goals ranging from the preservation of areas of archaeological importance, to the planned and orderly use of land to protect the environment. Local governments are encouraged to cooperate and contract with other units of government for land use planning and control purposes.

A related new **Colorado** law (HB 1041) declares that local governments may designate certain areas of state land use interest which they wish to administer. Some examples of areas of state interest which a local government may designate are mineral resource areas, natural hazard areas, site selection of airports and rapid or mass transit terminals. The local governments are permitted to administer such areas as long as they respect guidelines set forth in the act. The

state will lend technical assistance to local governments in identifying and managing land use problems pursuant to the administration of the act. Back-up power is also given to the state to force local governments to deal with land use problems.

In response to the widespread interest in developing **Colorado's** vast shale oil deposits to help alleviate the energy crisis, Governor Vanderhoof stressed that the new land use controls would be used to prevent the indiscriminate development of western slope oil shale lands. Similar scrutiny will be applied to any housing and commercial development designed to serve the anticipated influx of oil shale workers.

Connecticut has strengthened the State Council on Environmental Protection by expanding its staff and requiring it to make an annual report to the Governor evaluating the progress of existing environmental programs (PA 271). In the annual report, the council will also be responsible for making recommendations for new programs. Beginning in 1975, the state CEP will be charged with the task of reviewing environmental impact statements.

To encourage industrial investment in pollution abatement facilities, **Connecticut** now requires the commissioner of environmental protection to determine the portion of such expenditures which shall be exempt from the state sales and use tax. Moreover, the state's commissioner of environmental protection now is required to develop and enforce a comprehensive program of noise regulations for the state according to a law enacted in 1974 (PA 328).

The **Connecticut** legislature also repealed the ban on the sale of phosphate detergents in the state. However, the act (PA 311) requires manufacturers of detergents to submit information regarding the use and weight of the ingredients in their

products to the commissioner of environmental protection. The commissioner will then be authorized to ban or restrict the sale or use of any detergent in the state, or in any particular area of the state, in order to protect the quality of the state's waters.

The **Delaware** legislature authorized the Department of Natural Resources and Environmental Control to expend funds for extending approved watershed projects into an adjoining state when such work is required for the effective functioning of Delaware projects (HR 829). The legislature also enacted HB 968 which authorizes the establishment of an Office of Environmental Protection. The office is charged with the task of specifying the powers, duties, and responsibilities of the state's environmental protection officers.

In Executive Order No. 48 (June 19, 1974), **Delaware** Governor Tribbitt created the "Delaware Tomorrow Commission." The commission will be formulating a comprehensive state development policy after considering the interests and recommendations of representatives of government, business, industry, labor, environmental groups, and the people of Delaware. The commission is to report its recommendations, including draft legislation to implement its findings, to the General Assembly by June 1, 1975. In creating the 27-member commission, the Governor said that citizen input would be the most important aspect of the project.

A general policy for future development was set forth by the **Florida** legislature in HCR 2800. The resolution established guidelines for potential future legislative action in six areas by stating that: (1) it is not the state's policy to stimulate further growth generally, but to plan for and distribute what growth may develop; (2) the modernization of local government is to be encouraged; (3) the im-

pack of new residents is to be reviewed regarding the equitable allocation of tax charges and revenues; (4) comprehensive land use planning is to be encouraged; (5) a balanced, statewide transportation system is to be developed on a priority by needs basis; and (6) the coordination of state government and other efforts is to be sought in order to maintain a high quality of life.

The **Florida** Governor and cabinet are authorized to set out development principles in newly designated areas of critical state concern according to the provisions of HB 3767. The principles are to apply prior to the adop-

tion of formal land development regulations for the area. The act also makes detailed changes in the procedures relating to the determination of proposed developments with a regional impact.

A new council was created by the **Florida** legislature (HB 2837 and 2280) to advise the Department of Pollution Control in the development of guidelines for the collection, transportation, storage, processing, recycling, and disposal of solid waste throughout the state. The acts further require local units of government to develop economically practical recycling plans within the next two

years. Local governments are pre-empted from passing ordinances on non-returnable containers.

Another new **Florida** law (HB 3365) requires that the Department of Pollution Control, in cooperation with the Department of Highway Safety and Motor Vehicles, develop regulations providing test procedures with a new schedule of vehicle noise level limits. In a further effort to control noise pollution, the Department of Transportation is directed by a new law (HB 584) to utilize vegetative noise control barriers (tree, shrubs, etc.) along new highways which border urban or residential developments.

The **Hawaii** Department of Planning and Economic Development prepared a series of recommendations that would reduce in-migration, slow growth encouraging facilities, and direct new growth from Oahu to the smaller neighboring islands.

The **Hawaii** legislature enacted a law (HB 2067) creating an Environmental Quality Commission. The commission is directed to establish and administer a system of environmental impact statements. The preparation of the statements and their review by county governments and the commission are required before public or private actions which would significantly affect the quality of the environment can proceed.

Another new **Hawaii** law (SB 1397) calls for the State Environmental Quality Commission to monitor the progress of state, county, and Federal agencies in achieving the environmental goals and policies of the state. The commission must also submit to the Governor, the legislature, and the public, an annual report with recommendations for improvement in efforts to protect the environment.

Increased strip mining acreage fees in **Indiana** are to be deposited in a reclamation fund within the Department of Natural Resources under the

provisions of SB 66. The legislature also created a rural development fund with money available to cities and towns with a population of less than 10,000.

In 1974, **Iowa** citizens had a chance to participate in a long range planning project for the state. The goals of the program were to create a statewide awareness of the factors, trends, and problems affecting the future and to determine strategies for improving the future. The discussions centered around four major themes — economic development, energy, life enhancement, and natural resources. About 50,000 people participated in the local, regional, and state wide meetings.

The **Kentucky** legislature took actions requiring a new council to compile data on land use. Another new law requires environmental impact statements prior to the construction of new power plants. The legislature (HB 121) also assigned to the commissioner of the Department of Natural Resources and Environmental Protection the task of establishing a comprehensive statewide program of noise regulations. The law further permits local governments to establish their own noise controls.

A new **Maryland** statute (SB 870) directs the Department of Health and Mental Hygiene to develop environmental noise standards.

The **Maryland** legislature also enacted a bill (HB 807) which requires local subdivisions to designate areas of critical state concern as part of comprehensive plans submitted to the secretary of state planning. The act also authorizes the Department of State Planning to intervene as a party in administrative and judicial proceedings under certain circumstances.

The **Maryland** court of special appeals upheld a 1972 ban on strip-mining on state owned land. Two companies which had been mining on state owned land before the law took

Case Study

WASHINGTON CITIZENS PLAN FOR THE FUTURE

The citizens of the state of Washington are taking an active part in a grass-roots effort to plan the future of their state. This lesson in participatory democracy, called the "Alternatives for Washington Program in 1974," is expected to involve input from 250,000 citizens.

During the spring a broad based, 150-member task force consisting of housewives, students, laborers, and corporate executives met to identify the problems of the state's future and to formulate policy alternatives in response.

The opinions of the task force were supplemented by the circulation of a questionnaire to several thousand more Washingtonians.

Nine public meetings were held across the state in June, July, and August. About 100 to 150 people participated in each meeting, discussing and refining the task force's policy options.

The mass media of Washington

conducted a statewide information campaign during the fall to inform the state's citizens of the policy options which had been formulated throughout the nearly year-long process. Polls were then taken to assess public reaction to the various alternatives. During October, the public television stations solicited further citizen comment by conducting a series of phone-in programs.

This extensive effort will culminate in the implementation of the policy options in 1975 through gubernatorial and legislative initiatives.

The anticipated result will be a development and growth policy for the state. The method used to formulate those options — a 20th century "town meeting" — has given the average citizen frequent opportunities to participate in making the decisions which will affect the future quality of his life.

effect were ordered to abandon the mines.

The scope of a **Massachusetts** special commission studying the effect of present growth patterns on the quality of life has been expanded by the legislature to include land use planning and related matters (H 5935).

Also in **Massachusetts**, the "Martha's Vineyard Land Use Bill" (H 6513) was enacted to create a 21-member Martha's Vineyard Commission. The commission is directed to regulate any development which affects more than one community in such a way as to protect the areas of that island most threatened by development. In signing the law, Governor Sargent called it a prototype for land use across the state.

To help check growth which retires valuable farm land, the **Michigan** legislature passed a law granting tax subsidies to farmers who sign a ten-year agreement to limit development on their property strictly to farming related structures and improvement.

The State Department of Natural Resources prepared a report which identified **Michigan's** major land use problems as a tool for resolving competing land use objectives.

The **Montana** Natural Areas Act acknowledges the existence of and need to protect natural areas. Another new act requires the submission of surety bonds and reclamation plans before the issuance of a permit to operate a strip mine. According to a third 1974 law, local governments must adopt regulations requiring subdividers to provide or conduct a survey and an environmental assessment.

The **New Hampshire** legislature enacted a law (HB 18) which requires local approval in the siting of oil refineries.

New Jersey voters approved a "Green Acres" bond issue at the November 5, 1974, general election. The

funds will be split between the state and local governments to purchase farm and other rural land and to develop such areas for recreational use. Under two similar bond issues passed since 1961, the state has spent \$138,063,000 to develop 148,087 acres of recreational land. The latest bond issue provides \$275,197,000 for the purchase and development of an additional 180,855 acres.

A **New Jersey** superior court voided a 1973 ban on the dumping of out-of-state garbage in New Jersey. The ban was struck down on the grounds that it is an unlawful interference with interstate commerce.

In order to provide for the orderly development of mineral resources and to promote environmental management practices, the **New York** legislature voted to require that all major mining activities initiated or continued after April 1, 1975, obtain a permit from the Department of Environmental Conservation.

A new emphasis will be placed on controlling beach erosion in **North Carolina**. Current state aid for beach erosion control will be halted in undeveloped coastal areas and in developed areas with erosion problems so serious that structural techniques would be inadequate. Rather, the Environmental Management Commission will rely increasingly on land use controls rather than structural methods to reduce property damage from erosion.

The State Environmental Quality Commission of **Oregon** has adopted regulations that generally limit allowable industrial and commercial noise.

The **Oregon** state court of appeals found that the ban on non-returnable beverage containers is a valid exercise of the state's police power.

Legislative action in **South Carolina** has broadened the definition of pollution to encompass the environment as a whole instead of just air and water.

The sale of non-returnable beverage containers in **South Dakota** will be prohibited after July, 1976. A comprehensive state litter control program is established, environmental impact statements are required for state projects, and counties are to prepare land use plans by 1976 in accordance with the provisions of the new law (HB 501). Moreover, a special legislative research committee is to study state land use planning legislation.

In 1974, the **Utah** legislature voted to adopt a land use act (SB 23) creating a State Land Use Commission. Given the legislation's controversial nature, the act was placed on the November 5 ballot, and the voters overturned the legislature and defeated the act. The proposed law would have required the designation of critical areas of more than local concern within prescribed time limits, as well as the development of a comprehensive state land use plan.

After defeating a proposed land use bill, the **Vermont** legislature created a special committee composed of legislators and members from environmental and planning commissions to prepare a new bill for the next session of the legislature.

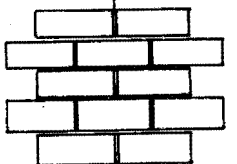
A new **Virginia** statute (HB 664) re-

quires that the State Corporation Commission take local comprehensive plans into account when considering the environmental impact of proposed electrical utility facilities. Also in Virginia, the Condominium Act (HB 46) provides a strong set of controls over the development and management of condominiums. Cities, towns, and counties may require that the use of condominiums comply with local zoning, land use, and site plan regulations.

The **Washington** Department of Ecology is empowered by a new law (SB 2906) to adopt maximum permissible noise levels. The department also is authorized to adopt rules for noise abatement and control in order to achieve compliance with the new standards.

A Council on Environmental Policy, created by the **Washington** legislature (SB 3277), is to formulate a state environmental policy. When the council has finished its work on June 30, 1976, the powers and duties of the council will be transferred to the Department of Ecology.

A new **West Virginia** law authorizes county courts (commissions) to establish and operate garbage and refuse collection and disposal services (S 367).



Transportation

The states responded to the energy crisis in 1974 not only through direct programs to increase supply, improve distribution, and promote conservation, but also by looking anew at one of the major kinds of energy use — transportation. The outgrowth of this review was substantial state action in the transportation field. Most action centered around questions of mass transportation. Encouraging were the number of states which took action promoting transportation planning or operations on a regionwide and in some cases, interstate basis.

At the primary election on June 4, **California** voters approved a proposal to permit some state gasoline tax revenue to be used for the development of mass transit systems.

The **California** legislature also enacted a law (SB 2411) which authorizes counties to operate public transit services in unincorporated areas or, with the consent of a city, within that city.

The **Connecticut** Transportation Institute will be established at the University of Connecticut under the provisions of a 1974 law (PA 323). The purpose of the institute will be to provide training in transportation technology and to formulate recommendations for the participation of the other New England states in transportation projects.

The **Florida** legislature, by passage of HCR 2562, created a select legislative committee to study present and future transportation needs of the "Florida east coast transportation corridor." The committee is to study and recommend appropriate action as to the necessity and feasibility of a rapid transit system along any or all of the corridor.

Idaho Governor Andrus invited 100 government, business, and community leaders to participate in a discussion to help determine what kind of rail passenger service would best help the state, and to study how such service could be maintained without a serious financial loss.

A comprehensive operating subsidy program for existing and new mass transit systems in rural areas was approved by the **Illinois** legislature (HB 2722). (See the case study for details.)

A new **Indiana** law (SB 90) creates a Mass Transportation Study Commission to develop recommendations for a comprehensive state mass transportation policy.

The **Iowa** legislature created a new Department of Transportation (SF 1141). (See the section on **State Government Reorganization** for details.)

Kentucky law (HB 469) authorizes the Department of Human Resources to contract with local boards of education for the use of school buses to transport eligible elderly, handi-

capped, and other designated persons for transportation services at times when the buses are not needed to transport students to or from school or school events. Another new law (HB 392) authorizes cities of the first three classes to obtain certificates to operate city owned bus systems.

Also in **Kentucky**, the Legislative Research Commission will study the financing and support of the Road Fund and the state transportation system of highways, mass transit, air service, railways, and water transportation (HJR 41).

Michigan took action on several transportation matters during 1974. A new statute (SB 1364) allows the Department of State Highways and Transportation to set aside special

highway lanes for use by buses and car pool vehicles with three or more passengers in them. An emergency transit law provided \$1.75-million to assist cities in rehabilitating older buses, buying used buses, and running park-and-ride programs. Governor Milliken sponsored a series of fact finding meetings in ten communities to help establish possible routes for new or expanded air commuter service in northern Michigan. State assistance made possible the inauguration of Amtrak service between Niles and Kalamazoo, as well as "Dial-A-Ride" systems in Alpena, Midland, and Houghton.

Two transportation proposals were on the general election ballot in **Michigan**, but both were defeated.

Case Study

THE NEW LAW IN ILLINOIS

Mass Transit System (East St. Louis)—the state will cover the deficit.

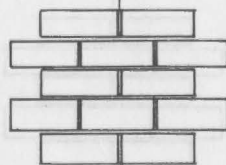
In addition to covering operating deficits of existing systems, the act provides \$1-million to establish new rural transit projects. Those new projects will be required to offer reduced or free fares for the elderly, disabled, and handicapped. (Earlier in the year, legislation was approved which earmarked \$2-million in state funds to cover the cost of half-fare arrangements for students and the elderly.)

The state will also be encouraging the use of an untapped transportation resource in rural areas — school buses which are now idle for long periods of each day.

In signing the new law, the Governor echoed a feeling which has grown markedly in recent years — "that public transportation is an essential service of government."

The Illinois legislature passed, and Governor Walker signed a significant transportation bill in 1974 (HB 2722) which is applicable to the entire state except for the six-county area of metropolitan Chicago. That area is currently served by a new Regional Transportation Authority. The new law establishes an extensive program of operating subsidies for existing mass transit systems. The law will also create a new program for public transportation in rural areas which presently have no service.

The new program provides \$6-million in state funds to cover two-thirds of the estimated 1975 operating deficits of existing public transportation systems. Local governments will be required to cover the other one-third of the deficits. The one exception to this formula is that no matching local funds will be required in the Bi-State



One of the proposals would have authorized the state to issue \$1.1-billion in bonds to finance public transportation projects in all parts of the state. The other would have placed a limit on the amount of gasoline tax revenues that could be diverted from road building to public transportation.

Michigan and **New York** agreed to share the costs of reviving Amtrak service between Detroit and New York City.

A new **Missouri** law permits cities with a population of 500 or more to levy an additional ½ cent sales tax to fund buses or other transportation.

A Public Utilities Commission was created by the **New Hampshire** legislature. The commission was granted the power to acquire railroad properties within the state which are deemed to be necessary for continued and future railroad operations. The 1974 State Constitutional Convention defeated proposals to permit the diversion of highway-user tax revenues to projects other than road building. New Hampshire law (HB 7) now permits municipalities to establish, acquire, and operate public transportation facilities in cooperation with governmental units of adjoining states.

New Mexico action in 1974 allows local school districts to operate school buses for general public transportation, with certain limitations. The local school district must receive permission from the State Corporation Commission, and the operation of the buses may occur only during a public transportation emergency and must not adversely affect existing transportation systems (SB 42).

Rail passenger service from New York City to Montreal was made possible with \$30-million from the new "Essential Rail Services Fund" created in 1974 by the **New York** legislature.

New York enacted a \$100-million state subsidy for mass transportation

which is expected to produce a total aid program of \$400-million when matched by local and federal aid. On November 5, the voters also approved a \$250-million transportation bond issue.

A new **Oregon** law (SB 967) provides for the organization of transportation districts and authorizes them to develop and operate public transportation systems. The districts are authorized to assume by contract certain functions of cities and counties within the district. Voters rejected a referendum proposal that would have allowed gas tax revenues to be diverted to mass transportation systems.

A comprehensive transportation assistance program for employers was started in **Rhode Island** in 1974. The program includes the implementation of car pool/bus pool locator systems, review of existing public transit routes and schedules, investigation of van pool type operations, and other transportation service improvements. The program is designed to provide employers with a computer analysis of their company's existing commuting characteristics and, wherever possible, to make specific recommendations on how conditions can be improved.

The **Utah** legislature authorized counties within a transit district to impose an additional sales tax levy of .25 percent to finance a no fare transportation system. The levy must be approved by the local voters (HB 13).

Another new **Utah** law permits counties to levy up to two mills in property taxes for public transportation upon voter approval, and mandates that \$1-million from state liquor profits will be used on a per capita basis to finance transit districts in cities and counties.

Virginia counties which are not members of a transportation district are now permitted to create and op-

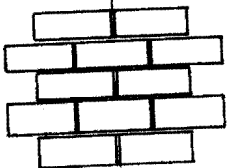
erate a public transportation system (SB 335). Counties operating such systems may contract with any contiguous locality to provide continuous service between the localities.

Another new **Virginia** law (HB 667) changes the State Highway Commission to the State Highway and Transportation Commission with the responsibility of developing and coordinating a balanced transportation system. Certain lanes of state highways in the state were designated as commuter lanes for the exclusive use of buses and other multiple-occupant vehicles.

Washington law (SB 3338) permits the designation of exclusive bus and car pool lanes.

Washington counties in which no metropolitan municipal corporation is operating a transit system may create a county transit authority to provide public transportation (HB 670).

In addition to these state actions, one particularly significant local innovation occurred during the year. Nashville-Davidson County, **Tennessee**, inaugurated RUSH (Rapid Urban Short Hop), a free downtown loop bus serving a 60-block loop in the city. During the trial period of three months, ridership increased 400 percent. The service is being used mostly by shoppers, persons parking on the fringe of the business area, and attorneys with business in both the Metro and Federal courthouses.



The Rights of Citizens

State action to protect citizens' rights focused in nearly every state on one or more of three categories of citizens: consumers, women, and the mentally ill. Specific legislation to combat discrimination on the basis of race and age were conspicuous topics in 1974.

Consumer legislation was most frequently designed to protect the citizen from false advertising promises, to clarify landlord-tenant relations, to regulate condominiums, and to ease the problems of the purchaser of pharmaceuticals.

As in 1973, much legislation was passed to protect against sex discrimination. In many instances, the new laws apply comprehensively to prohibit discrimination on the basis of sex, age, or national origin. Most new laws in this field dealt with the extension of credit, home ownership, or employment.

Many states passed laws expanding or defining the rights of the mentally ill. This development, when coupled with similar action of the past couple of years, reinforces the view that the states are revising their long standing views with regard to treatment of the mentally ill.

EQUAL OPPORTUNITY, EQUAL PROTECTION

In **Alaska** a new statute (SB 168) prohibits any advertising relating to

employment which directly expresses a limitation, specification, or discrimination based on sex, age, religion, color, or national origin unless based upon a bona fide occupational qualification. Another new act (SCS CS HB 226) revised the law governing tenant-landlord relations.

The **Arizona** legislature enacted a bill which establishes stringent new mental commitment procedures and which spells out the civil and legal rights of mentally ill patients.

Colorado Governor Vanderhoof created a Task Force on Mental Health Service Standards in Health Care Facilities to develop coordinated state standards and programs in the provision of mental health services.

A **Connecticut** enactment (HB 5778) prohibits discrimination, segregation, or separation in the use of public facilities for reasons of marital status. Two other new laws prohibit the deprivation of any constitutional or legal rights, privileges, or immunities of any individual on the basis of sex (HR 5700) and require that all contracts with the state contain a clause prohibiting discrimination on the basis of sex (HR 5666).

The **Delaware** legislature enacted a bill of rights for patients in hospitals for the mentally ill (HB 854).

In another action, the **Delaware** legislature enacted a law regulating insurance trade practices to pro-

hibit unfair age discrimination in health insurance, group health insurance, and health service corporation contracts (HB 402).

An amendment to the **Florida** constitution was adopted in November which makes it illegal to discriminate against the physically handicapped.

A new **Florida** statute (HB 2155) establishes a bill of rights for condominium owners and buyers. The legislature also made it illegal to discriminate against the blind in employment practices or in housing accommodations (HB 3016). In other actions designed to protect the consumer, the legislature passed a law (HB 2802) that permits a pharmacist to substitute a less expensive generic or brand name drug in lieu of a prescribed drug under certain circumstances. Pharmacies are required to post signs indicating that a less expensive drug may be available. Yet another 1974 law (SB 77) requires the public schools to conduct a consumer education program for all students.

Hawaii prohibited the sale of any consumer commodity which is misrepresented or misbranded (HB 135). Another new law removes the restrictions on prescription drug advertising, making it possible for the elderly and chronically ill to shop for drugs by phone.

Idaho enacted a law providing for equality between the husband and wife over the management of community property. The state legislature defeated a resolution to rescind its earlier ratification of the Equal Rights Amendment to the U.S. Constitution.

Through a series of statutory enactments, **Iowa** prohibited discrimination on the basis of sex in the selling, renting, or leasing of property (SF 487). The legislature also removed the prohibition against conscientious objectors' being employed under the classified service of a city

civil service system (HR 4); and provided that landlords must hold all security deposits in a trust account (SF 1004).

The **Kentucky** legislature enacted a law (HB 529) which prohibits discrimination based on sex in credit and housing transactions, and repealed a law which prohibited serving alcoholic beverages by or to females at bars (HB 31). Another new law mandates that high schools which maintain basketball teams for boys must also offer basketball for girls.

The Equal Rights Amendment to the U.S. Constitution was approved by the **Maine** legislature. A resolution to ratify the amendment had failed in 1973.

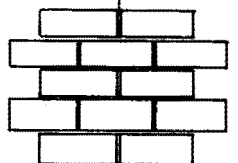
Maine also enacted a controversial new consumer credit code to give consumers more protection when they borrow money or buy goods or services on time. The act establishes a Bureau of Consumer Protection within the Department of Business Protection.

Maryland prohibited discrimination in housing on the basis of marital status or sex (HB 390). Another new statute (SB 277) provides protection for tenants in the negotiation of leases with landlords.

The **Massachusetts** legislature banned discrimination because of sex or marital status in providing credit or services.

The **Michigan** legislature passed a new state mental health code (HB 5684) which lists a bill of rights for the mentally ill and mentally retarded. The law is the result of nearly five years of study and research by the Mental Health Program and Statute Review Commission.

A new **Michigan** law prohibits discrimination based on sex, marital status, physical handicap, race, color, religion, or national origin in extending credit, granting a loan, or rating a person's credit worthiness (HB 4639). In another move to pro-



tect the consumer, a new law (HB 5047) requires all auto repair facilities to be registered with the secretary of state. The act requires written estimates before repairs are begun and provides that the repairs not exceed the estimate unless approved by the customer. The act also gives the customer the right to look at all parts which were repaired.

Other new **Michigan** legislation permits pharmacists to substitute generically equivalent drug products for brand-name products. The act (HB 4145) also requires pharmacies to post a list of the prices of the 100 most frequently prescribed drugs at each counter over which drugs are sold. And Governor Milliken urged prosecutors to create consumer protection units within their offices.

The 1974 session of the **Minnesota** legislature enacted new housing laws to provide tough new absentee landlord regulations.

Missouri law prohibits discrimination on the basis of sex in retail credit matters. Another new statute gives consumers three days to cancel at-home sales, while a third new law gives a consumer 90 days to return defective goods. The legislature defeated a resolution to ratify the U.S. Equal Rights Amendment.

A new **Montana** law establishes the rights and obligations of landlords and tenants in security deposits (HB 672).

In January the **Montana** legislature ratified the U.S. Equal Rights Amendment after having declined to do so in 1973. An initiative petition to rescind that ratification gathered enough signatures to place the measure on the November ballot. However, the Montana Supreme Court ordered the measure off the ballot on the grounds that a public expression of opinion could not affect the legislature's ratification of an amendment to the U.S. Constitution. The opinion also stated that even if the state's

ratification were rescinded, Congress would not recognize the nullification.

The **Nebraska** legislature (LB 292) enacted extensive new definitions of landlord-tenant relations.

A bill passed by the **New Jersey** legislature prohibits discrimination on the basis of sex in jury selection.

In **New Mexico** the legislature created a State Commission on the status of Women to consist of 15 members, the majority women, appointed by the Governor (HB 22).

New York prohibited discrimination on the basis of sex in the extension of credit. The act permits the compilation of statistics for the purpose of establishing and evaluating "objective criteria of credit worthiness." It also requires that creditors furnish a rejected applicant, upon request, with a statement of the specific reason for rejection of a credit application (AB 9359).

Another 1974 **New York** statute allows the election of tenant representatives on municipal housing authorities.

A new law in **North Carolina** prohibits discrimination on the basis of sex in credit extension (H 1873).

Ohio law (SB 103) defines the legal rights of both landlords and tenants. A series of other new laws prohibits discrimination on the basis of sex in jobs, pay, and housing.

The **Oklahoma** legislature passed a bill (HB 1507) which prohibits discrimination on the basis of sex or marital status in the extension of credit.

Tennessee action prohibits pay discrimination on the basis of sex (HB 1452), and makes it illegal for creditors or credit card issuers to discriminate against an individual because of sex or marital status (HB 1371).

The **Tennessee** legislature also became the second to vote to rescind its earlier passage of the Equal Rights Amendment.

A new **Virginia** statute (HB 813) prohibits any employer from paying a lesser wage to an employee on the basis of sex alone. Any such money withheld is to be considered unpaid wages and the employee may recover twice the amount.

Virginia passed a law which enables cities and counties to establish a local office of consumer affairs to receive and investigate citizen complaints (HB 706).

The **Virginia** legislature also established minimum conditions to be met by both parties in any rental agreement. The act (HB 220) sets a ceiling on the amount of money that can be required as a security deposit, requires the payment of 3 percent interest on all security deposits held more than 13 months, protects against arbitrary eviction,

and sets rules governing access to dwellings. Another new law (HB 46) spells out rules governing the sale of condominium units. Landlords must give prospective buyers a detailed list of the operating expenses, provide warranties covering major items which come with the property, and give tenants at least 90 days notice before conversion from rental to ownership units.

Washington (SB 2226) provided rules governing the landlord-tenant relationship, with disputes between landlords and tenants to be settled by arbitration.

The **West Virginia** legislature passed a bill which will phase out the holder in due course doctrine, increase warranty protection, and restructure interest rates.

Case Study

CONNECTICUT: EDUCATIONAL FINANCE AND EQUAL PROTECTION

One of the major recent developments in state government has been a series of court decisions relating to the equitable financing of public schools. With the support of education coming primarily from property tax revenues, the cases have centered on the equity questions involved in educational financing differences between rich and poor school districts.

In 1971, the California Supreme Court ruled that the students (and their parents) in districts with lower property values were deprived of the equal protection of laws guaranteed by both the California and U.S. Constitutions (*Serrano v. Priest*).

Educational financing formulae were challenged in court in more than 30 other states. Following

closely on the heels of the *Serrano* decision, courts invalidated the educational finance systems of Texas, Minnesota, Kansas, New Jersey, Arizona, and Michigan. In only two states—New York and Indiana—did the courts uphold contested existing school finance statutes.

On December 26, 1974, a superior court in Connecticut ruled that the state's method for financing public education was in violation of both the education and the equal protection clauses of the state constitution. The decision (*Horton v. Meskill*) differed from most of its predecessors in other states, however, in that the court made only slight reference to quantitative inequalities in expenditures and services among

districts. The decision stated that education is a fundamental right guaranteed by the state constitution, and that the disparities inherent in the present financing method therefore denied equal protection. Quoting from the decision,

The complaint about the present system is that the amount of money presently available for educating public school pupils in Connecticut is determined significantly by the town's grant list, which is totally unrelated to either the needs or wants of those pupils. . . . To the extent that lack of local property tax money imposes . . . deficiencies [in educational programs] upon the pupils in one town to a substantially greater degree than upon the pupils in another town, the pupils in the former are being denied these educational advantages, not because the present method of raising funds to provide for their education is not related to either their educational

needs or their wants. . . . The evidence in this case is that, as a result of [the state delegated duty to one Connecticut town] without regard to [its] financial capabilities, pupils in [that town] receive an education that is in a substantial degree lower in both breadth and quality than that received by pupils in municipalities with a greater financial capability, even though there is no difference between the constitutional duty of the state to the children in [the town] and the constitutional duty of the state to the children in other towns. . . .

Thus, at year's end the state was faced with the task of devising a new method for financing public education. The state is appealing the decision to the State Supreme Court. A special commission on educational finance which was appointed by Governor Meskill was scheduled to submit its findings and recommendations during the opening days of the 1975 state legislative session.

Criminal Justice

The judicial system of the country has often been criticized as being slow, inefficient, and directed more toward punishment than rehabilitation of criminal offenders.

In the past decade many groups have urged that structural and procedural changes be made to improve the criminal justice system.

ACIR has recommended several reforms. To take politics out of the court room, the Commission recommended the adoption of the "Missouri Plan" under which judges are appointed solely on the basis of merit. Forty-one states have adopted procedures for judicial appointments under a merit system.

ACIR suggested that states adopt a simple unified court system composed of trial and appellate courts and a State Supreme Court in order to help the judicial system run more smoothly. Thirteen states have adopted such systems, and 17 others have some elements of it.

Other ACIR recommendations flow from the Commission's view that the criminal justice system should be viewed as an integrated system involving police, prosecutor, courts, and corrections. Similarly, many of the elements of the Commission's recommendations on substate regionalism apply to the criminal justice field — regional correctional fa-

cilities may be more economical, regional police forces may avoid duplication of effort and thus promote efficiency.

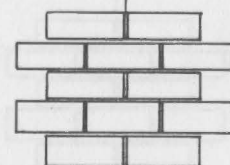
But beyond these structural and efficiency questions, many states have taken action to assure due process, to rehabilitate rather than just punish, and to assure that indigent persons are adequately represented in judicial hearings.

The actions described below reflect the wide range of criminal justice questions. Included are programs to ease the post-imprisonment problems of convicts, to assure a speedy trial, and to guarantee adequate legal aid for low-income persons. For a discussion of 1974 actions dealing with structural reforms in the criminal justice system, see the **State Government Modernization** section.

A new **Arizona** statute increases the amount of time a prisoner must serve before becoming eligible for parole. The law also requires that inmates be released under supervision for at least 180 days before absolute release.

Colorado has established a program for the evaluation of sentenced criminals to determine appropriate programs for maximum rehabilitation and preparation for post-imprisonment employment (SB 11).

The State Department of Institu-



tions and local governments in **Colorado** are authorized to establish, maintain, and operate community correctional facilities for offenders who are deemed by the department to have potential for rehabilitation justifying assignment to such a facility (SB 55). The legislature enacted another law (HB 1123) which allows a defendant who is appealing his conviction to stay his sentence and remain in a county jail pending the outcome of his appeal. He would be entitled to receive good time credits for such time.

The **Connecticut** legislature enacted a law (PA 71) which extends the power of police participating in regional crime squads by allowing them to act in any municipality with an organized police department rather than limiting their activities to those municipalities participating in the regional crime squad.

The **Florida** legislature passed a "bill of rights" for law enforcement officers. The act establishes a separate set of rights and privileges for all law enforcement officers at the time of any investigation or interrogation involving complaints or disciplinary action. The act also requires the creation of a "complaint review board."

The **Florida** legislature also has charged the Department of Health and Rehabilitative Services and the Parole and Probation Commission with the task of developing a detailed plan for the operation of a state correctional system. The plan is to emphasize, among other things, the decentralization of correctional facilities by implementing regional facilities (SB 215).

A 1974 **Georgia** law seeks greater uniformity in sentencing convicted persons by requiring judges rather than juries to sentence persons convicted of crimes other than capital felonies. The act also establishes a three-judge committee to review each

sentence which exceeds five years. The board may affirm or reduce sentences, but it may not increase them.

Also in **Georgia**, county sheriffs are now authorized to contract with any municipal corporation within their county to provide law enforcement services to that corporation (HB 1425).

A new **Iowa** statute (SF 182) allows a county board of supervisors to abolish the office of public defender by resolution, deleting a previous provision that such an action require a vote of the people.

A new **Maine** law (Sec. 2161-A, Title 15) provides for the nullification of the criminal records of pardoned offenders. For all purposes the pardoned person is to be considered as never having been arrested or convicted of the offense for which he was pardoned.

The **Minnesota** legislature completed the regionalization of state correctional juvenile institutions. The act (SF 1174) also provides that the regional facilities may perform any required psychiatric diagnoses of juvenile offenders.

In **Mississippi** a new law allows certain counties to join together for the purpose of remodeling and expanding jails (HB 302).

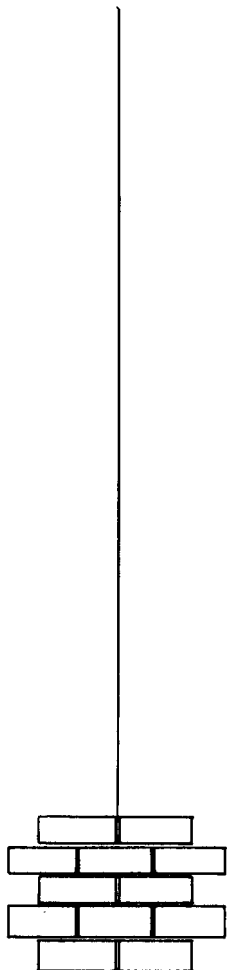
The 1974 **New Mexico** "Criminal Offender Employment Act" removes some of the barriers to the employment of criminal offenders. The act provides that the state or its political subdivisions may take into consideration an applicant's criminal conviction in determining his eligibility for employment or the granting of a license. However, a conviction may not be an automatic bar to public employment or license to practice in a trade, business, or profession.

The **New York** legislature amended the criminal procedure law to provide for the release of a defendant upon the failure of timely grand jury action (AB 19767).

A new "shock treatment" plan was initiated in **Ohio** in 1974. Criminals are being sent to prison for short periods of time in the hope that this will provide enough of an emotional shock to induce an offender to abandon crime. It is also thought that a criminal imprisoned for the shorter time will be less likely to turn into a hardened criminal. Early evaluation of the plan revealed a recidivism rate

of about 10 percent, much lower than the normal.

Governor Moore announced the establishment of a state legal aid program in **West Virginia**. Under the new procedures, a person who qualifies for state legal assistance chooses his own attorney. The standards for the assistance are essentially the same as those for receiving state medical assistance.



Human Services

In order to improve the quality of all their citizens, the states have in recent years taken an active role in the area of social and protective services. States have adopted minimum statewide building codes to assure safe housing; they have enacted programs for financial assistance to guarantee that low-income persons can live in decent homes; they have developed manpower programs to assist local governments in integrating employment and social service needs; and they have taken action to guarantee adequate health care services to all.

Though there were perhaps fewer such actions in 1974 than in other recent years, some innovations were made. Many of the year's laws are aimed at promoting efficiency by empowering local governments to take necessary actions independent of the state. Similarly, many state directed programs were changed to be administered on a regional basis. Both types of action reflect ACIR's view that, to a point, decentralization is desirable because it puts the administration of human service programs closer to the people who are supposed to benefit from them.

The **Connecticut** commissioner of mental health is now required to designate mental health service regions within the state and to appoint a regional mental health services di-

rector for each region (PA 224).

Another new **Connecticut** law (PA 305) establishes a regional system for the delivery of emergency medical services throughout the state.

A **Florida** law enacted in 1974 (HB 3231) creates the Board of Building Codes and Standards within the Department of Community Affairs. The board will be responsible for the adoption and enforcement of state minimum building codes.

Another **Florida** statute (HB 2894) creates a State Manpower Services Council within the Department of Commerce to develop overall state manpower policies. The act establishes regional manpower planning districts to coordinate manpower planning with related social services, to identify regional needs, and to develop a regional manpower plan.

The **Hawaii** legislature passed a law (HB 92) which encourages the development and construction of low-income housing. The act grants counties the same powers as the state regarding housing project provisions. Specifically, the new law gives counties the authority to acquire necessary land to develop and construct dwelling units and to provide assistance and aid to a person or public agency in developing or rehabilitating housing for persons with low incomes.

Hawaii also created an advisory

council to establish state assisted areawide health planning councils. (SB 1658).

Idaho enacted SB 1296, authorizing the formation of regional library systems.

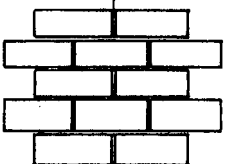
In **Minnesota** a new law (HF 2950) provides financial support for persons who might not otherwise be able to afford to bring their homes up to code specifications. The act also empowers the Minnesota Housing Agency to establish standards for rural areas where there are presently no housing codes.

The nation's first statewide urban homesteading plan was established by the 1974 **Minnesota** legislature (SF 3068). Under the act, communities may acquire vacant substandard properties by eminent domain and then resell them at prices varying from market value to \$1.00. The purchasers must have either the financial ability or the building trades skills to assure that the houses are brought into conformance with housing codes.

Ten public jurisdictions in the Salt Lake City, **Utah**, area created an intergovernmental personnel agency. Job opportunities with each participating government, including the state and federal governments, are listed in the joint job bank.

Washington passed the State Building Code Act (SB 2634). The law allows each local government to amend the state code as it applies within its jurisdiction so long as the local regulations are consistent with the standards and objectives of the state act.

A new regional approach to medical education was begun in **West Virginia** in 1974. \$150,000 of Appalachian Regional Commission funds will be spent to fund the Marshall University Medical School Demonstration Project. Rather than building extensive new medical facilities, the university program will utilize existing community hospital facilities for instruction. The hospitals, in turn, will serve as regional health care facilities.



State Government Modernization

The efficient operation of the federal system depends to a great extent upon the effective performance of the legislative, executive, and judicial functions of state governments.

As recently as the mid-1960's, the structures of many state governments were woefully outdated. Most executive branches were mazes of departments, agencies, and commissions, sometimes numbering in the hundreds. Governors had no effective way of administering their own executive branches. Most legislators were low paid, part time, understaffed — therefore hindered in handling increasingly complex problems of the state. State judicial systems were fragmented, frequently run by part time amateurs. In too many cases the role of the local courts was that of raising revenues rather than of impartially administering justice. To treat some of these basic ills, ACIR has suggested that the modernization of state governments take place in four main areas.

First, the office of the Governor should be strengthened. This would be accomplished by lengthening his term, by permitting him to succeed himself, and by giving him the authority to reorganize the executive branch subject to legislative veto.

Second, ACIR suggests that the streamlining of the state executive

branch be accomplished by shortening the ballot. This would also increase the accountability of the Governor by having the cabinet appointed rather than independently elected. The state agencies, commissions, and departments would be restructured to establish clear lines of authority and to prevent duplication and waste.

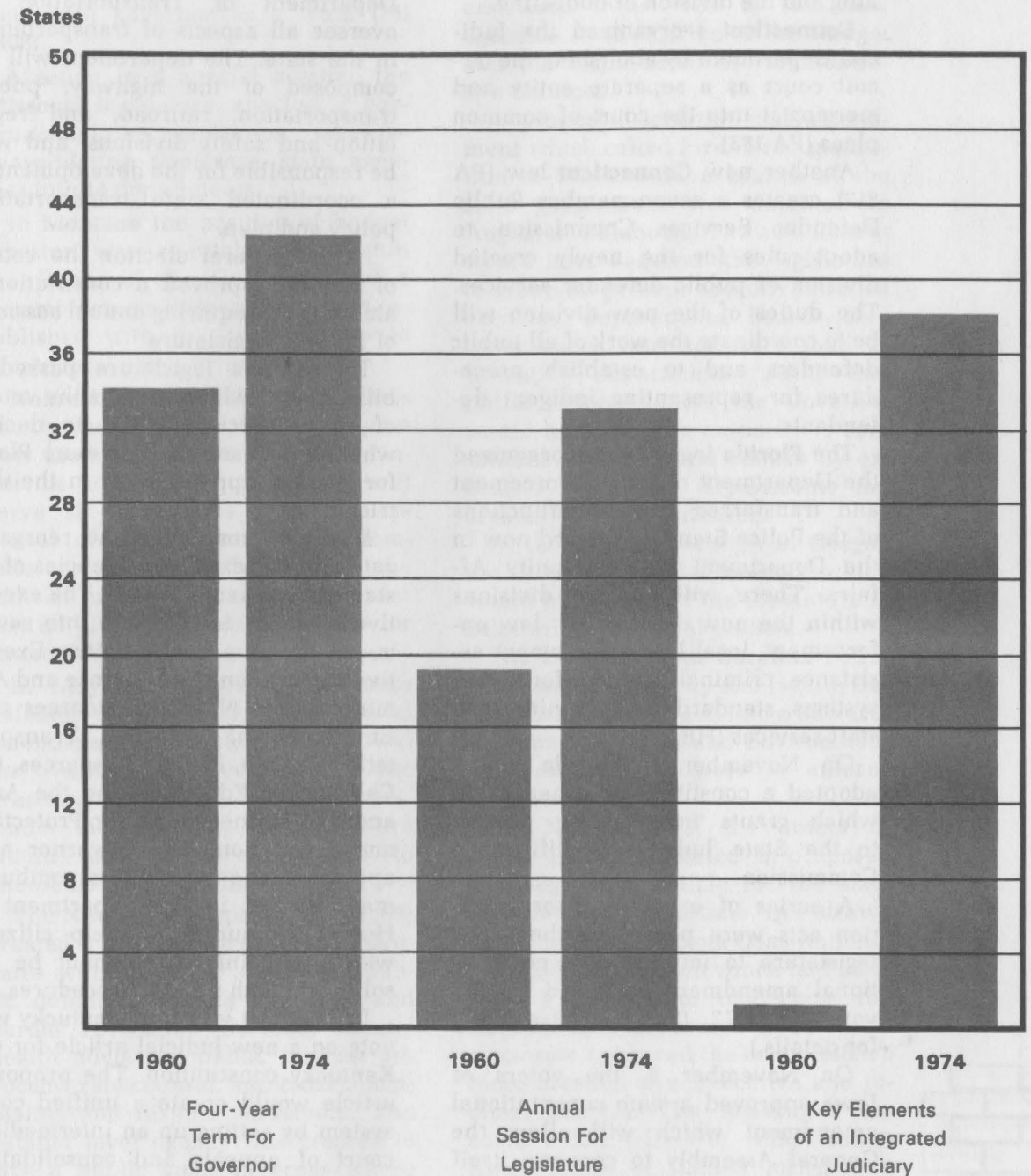
Legislative modernization, the third component of the package, would be partially achieved by providing for annual sessions and funding legislative staff on a year-round basis.

Fourth, a state judicial system should be reorganized into a unified court system, the overall administration of which would be placed in the office of the chief justice of the state supreme court. ACIR has also recommended that judicial selections be made by using the "Missouri Plan." That plan calls for a judicial nominating commission to recommend candidates for appointment to vacancies. Those recommendations would be based solely on merit.

The movement toward state government reorganization has been dramatic in recent years. Chart 2 shows how significant those changes have been.

Over the past dozen years most states have made substantial strides toward reorganization. In 1974 the movement to reorganize continued.

CHART 2
Modernizing State Government



Following is a summary of the year's major reorganization and modernization actions.

A 1974 **Colorado** law (SB 22) creates an Office of State Planning and Budgeting as a new principal department in the executive branch. The department is to be composed of two divisions, the division of state planning and the division of budgeting.

Connecticut reorganized the Judicial Department by abolishing the circuit court as a separate entity and merging it into the court of common pleas (PA 183).

Another new **Connecticut** law (PA 317) creates a seven-member Public Defender Services Commission to adopt rules for the newly created division of public defender services. The duties of the new division will be to coordinate the work of all public defenders and to establish procedures for representing indigent defendants.

The **Florida** legislature reorganized the Department of Law Enforcement and transferred to it the functions of the Police Standards Board now in the Department of Community Affairs. There will be five divisions within the new department: law enforcement, local law enforcement assistance, criminal justice information systems, standards and training, and staff services (HB 3740).

On November 5, **Florida** voters adopted a constitutional amendment which grants investigatory powers to the State Judicial Qualifications Commission.

A series of executive reorganization acts were passed by the **Idaho** legislature to implement a constitutional amendment approved by the voters in 1972. (See the case study for details.)

On November 5, the voters of **Iowa** approved a state constitutional amendment which will allow the General Assembly to convene itself in special session upon the written

request of two-thirds of the members of each house. Also on November 5, the voters elected a Governor to a four-year term, implementing a constitutional amendment adopted in 1972. Previously, the Governor's term was two years.

The **Iowa** legislature enacted a bill (SF 1141) which creates a new Department of Transportation to oversee all aspects of transportation in the state. The department will be composed of the highway, public transportation, railroad, and regulation and safety divisions, and will be responsible for the development of a coordinated state transportation policy and plan.

At the general election the voters of **Kansas** approved a constitutional amendment requiring annual sessions of the state legislature.

The **Kansas** legislature passed a bill (SB 946) which permits the voters of each judicial district to decide whether to use the "Missouri Plan" for judicial appointments in the district.

Kentucky completed the reorganization of the executive agencies of its state government (SB 112). The executive agencies are divided into seven major program cabinets: the Executive Departments for Finance and Administration, Natural Resources and Environmental Protection, Transportation, Justice, Human Resources, the Cabinet for Education and the Arts, and the Cabinet for Public Protection and Regulation. The Governor also appointed the state's first ombudsman, located in the Department of Human Resources, to help citizens with complaints that cannot be resolved through normal procedures.

In 1975, the voters of **Kentucky** will vote on a new judicial article for the Kentucky constitution. The proposed article would create a unified court system by setting up an intermediate court of appeals and consolidating the lower court system (SB 183).

After the failure of the **Michigan** legislature to pass legislation creating a Department of Human Services, Governor Milliken issued an executive order creating the position of executive assistant for human services within his personal office.

Minnesota now provides for the election of the Governor and the lieutenant governor as a team (SB 3408).

Meeting in a special session, the **Missouri** legislature enacted a governmental reorganization measure consolidating numerous state agencies into 14 departments.

In **Montana** the position of budget director was re-established within the Office of the Governor, and a Commission on Human Rights was established with the authorization to create local commissions.

Nebraska law (LB 785) places county judges under the merit plan now used for the district judges. Under the new plan, county judges will serve six-year terms with the approval of the electorate. The commissions that presently serves as the judicial nominating commission for district judges will also nominate for county judgeships.

In May, the voters of **Nebraska** defeated a proposed constitutional amendment that would have removed the lieutenant governor as the presiding officer of the legislature. Under the proposal, the legislature would have been empowered to choose its own presiding officer.

The **New Jersey** legislature (A 1409) created a Department of Public Advocates with six major divisions—public defender, inmate advocacy and parole revocation defense, mental health advocacy, public interest advocacy, rate counsel, and citizen complaints and dispute settlement. The cabinet level agency was created to give a public voice in areas where there have been none and to seek

answers for citizens who are trapped in bureaucratic red tape.

In May, voters in **Ohio** approved a measure to provide for annual sessions of the legislature.

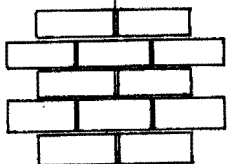
Under an executive reorganization measure, the **Ohio** Departments of Finance, Public Works, and State Personnel were eliminated. Their powers were transferred to two new agencies—the Office of the Budget and the Department of Administrative Services.

A proposed constitutional amendment which called for the reorganization of the executive branch of the state government was defeated in August in **Oklahoma**. The amendment would have required the legislature to group all present executive branch agencies, departments, boards, and commissions into not more than 20 executive departments. After that initial reorganization, the Governor would have had the authority to consolidate, transfer, and abolish by executive order the departments not created by the constitution.

At the primary election in **Oregon** the voters defeated a measure which would have allowed the legislature to call itself into special session.

The existing **South Carolina** Pollution Control Authority and Health Department were merged into a new Department of Health and Environment with expanded powers to enforce pollution laws.

On November 5, the voters of **South Dakota** defeated a proposed new legislative article for the state constitution. The article was drawn up by the South Dakota Constitutional Revision Commission which had been created in 1969 to modernize the state's 1889 constitution. In 1972, the electorate approved the commission's recommended new executive and judicial articles. The legislature enacted a bill (HB 679) which establishes courts of limited jurisdiction in conformity with the judicial re-



organization article of the state constitution. In August, a circuit court ruled that the 1972 constitutional amendment authorizing executive reorganization was invalid.

A new Tennessee law (HB 230) repeals the "Missouri Plan" for appointments to the State Supreme Court.

The voters of Utah defeated a proposed constitutional amendment which would have called for the lieutenant governor to be jointly elected with the Governor. The amendment would also have deleted the office of secretary of state as an elected constitutional office.

Case Study

IDAHO MODERNIZES ITS EXECUTIVE BRANCH AND LIMITS USE OF ADVISORY COUNCILS

In 1972, Idaho's voters approved a constitutional amendment calling for the reorganization of the executive branch of the state government. In response to that amendment, the 1974 session of the legislature set up the machinery to effect the change.

The new section of the state constitution (Article IV Section 20) limits the number of state executive departments to 20 and calls for the reorganization and consolidation of existing departments and agencies.

The legislature passed several laws which took effect July 1, 1974. Under the provisions of those new laws, more than 260 state agencies and boards were consolidated into 19 executive agencies. An Executive Office of the Governor was also created. The reorganization plan to implement the constitutional amendment was drawn up by the Governor and a bipartisan commission.

Stating in September that "it is our responsibility to see that the new structure is such that proliferation in government agencies cannot occur in the future," Governor Andrus issued strict guide-

lines regarding the creation of advisory councils.

Under the guidelines, advisory councils may be created only with the Governor's approval and with that, may exist for no more than two years without an explicit extension by the Governor. If an advisory council is approved, it is placed under the purview of the director of an existing department. Those directors are to be held accountable for the actions of the councils.

Advisory groups are to be staffed by existing departmental personnel in order to limit the hiring of new employees.

The director of each department is to be the final authority for policy, funding, and administration.

In issuing the new guidelines, Governor Andrus pointed out that advisory councils can serve the worthwhile purpose of providing citizen input in establishing policy. But at the same time the Governor restated the objectives of reorganization — reducing the size of government — and stressed that advisory councils must not be allowed to become extensions of the state bureaucracy.

Local Government Modernization

States and local governments have acted to provide more and better public services in response to an increase in public expectation over the past decade. This increase in service delivery, the accompanying increase in spending, and the geographical rigidities of most local governments have, too often, led to the creation of special districts, substate regions, and public authorities. This proliferation of new governments must be rationalized while existing governments modernize themselves in order to minimize the need for new governments.

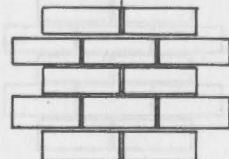
To help local governments respond to this challenge, The Advisory Commission on Intergovernmental Relations has recommended that the states adopt a two-pronged strategy — modernization of county governments and creation of umbrella multijurisdictional organizations (UMJOs).^{*} Because of the importance of these issues, a table presenting the status of county powers under current state laws is presented (see Table

9). A summary of 1974 actions follows the comprehensive table.

COUNTY MODERNIZATION

The ACIR recommendations for the modernization of county governments are based on the observation that most of the governmental responses to the demand for more services have overlooked the county, despite the fact that it is ideally suited to perform many tasks. Many counties have the geographic scope, the tax base, and the potential authority to provide the needed services, and to provide them economically on an areawide basis. Yet despite this great potential, the powers of too many counties are limited. Either because of these limits or their own inaction, many counties remain structurally stagnant, fiscally dependent on a regressive tax source, and functionally

^{*}See ACIR publications A-41, A-43, A-43a, A-44, A-45, A-46, *Substate Regionalism and the Federal System*, 1973-74.



unable to respond to the challenges of service provision.

Residual Powers. Local governments are creatures of the states. Traditionally, in the absence of a residual powers or home rule provision, local governments have been permitted to exercise only those powers which are affirmatively conferred by their state's constitution or statutes. The home rule movement of recent years has resulted in the easing of these limitations on many municipalities. But, by and large, similar home rule grants have not been forthcoming for counties — the counties are still frequently seen as little more than administrative arms of the state. As a result, those problems which could often be solved by the local governments result in the formation of special districts or authorities or are dealt with by the states. This diffusion of responsibility results in unnecessary diseconomies in service delivery and a loss of control by local general purpose governments.

Optional Forms of County Government. The commission or plural executive form of government is the structure still used by the overwhelming majority of counties in the country. Such a structure, however, diffuses executive authority and responsibility and makes the supervision and provision of regional or urban-type services difficult. ACIR recommends that states permit two alternatives to the commission form of government: the council-manager (appointed professional) and the council-elected executive. Under the council-manager form the elected county commissioners would appoint a county manager solely on the basis of training and experience. The council-elected executive form would put the administrative responsibilities

in the office of the county executive, who would be elected by the voters of the county.

Constitutional Protection of County Offices/Consolidation of Offices. A streamlined government structure would have little impact, however, if the county government were still run by an excessive number of elected officers in positions established by the state constitution. ACIR recommends giving counties flexibility in this area through two steps. The first is the elimination of the constitutional protection of county offices other than those of the governing body. This would give the legislature and the county commission a role in deciding what offices a county needs rather than having the decision mandated in the state constitution.

The second step in this ACIR proposal would be to permit the consolidation of county offices. It is both uneconomical and inefficient for sparsely settled, relatively small rural counties to maintain a full range of county offices. The ACIR draft bill would permit a county to consolidate functionally similar offices. Further, two or more counties could consolidate identical or similar offices.

Local Government Consolidation. In some cases it is desirable to go beyond consolidation of county offices and to consolidate local governments. This could be either city-county or county-county consolidation. City-county consolidation is particularly appropriate in metropolitan areas. While about 100 of the nation's 250 metropolitan areas are within one county, the others have grown beyond the boundaries of their original

county, expanding to include a patchwork of several counties and cities. In such cases city-county or county-county consolidations would create a new government encompassing the majority of the population of the metropolitan area, bringing some order to the chaos. Such consolidations would likely offer the advantage of strengthening executive management coordination, allowing more effective use of tax money, and making possible a higher level of public services. Experiments at city-county metropolitan governments are working in such places as Lexington, Kentucky; Nashville, Tennessee; Jacksonville, Florida; and Indianapolis, Indiana.

The consolidation of two or more counties also has special relevance in small, rural, sparsely populated counties. These counties may lack the fiscal resources necessary to do more than support the traditional county services mandated by the state. A merged county would have a broader tax base while supporting only one government. And even more so than in the case of city-county consolidation, the consolidated counties would have the geographic scope to handle regional problems.

Transfer of Functions. In addition to these authorizations for local governments to make structural changes, one other method of meeting changing patterns of demands for local services and of dealing with certain problems would be to authorize counties and cities to transfer functions between and among themselves. If such an approach were taken, responsibility for the provision of services could be adjusted to assure that the appropriate units of government—close to the people where the source of problems lies, yet with the requisite geographic scope, adminis-

trative structure, and resources to achieve economical and effective service delivery—perform each function.

UMBRELLA MULTIJURISDICTIONAL ORGANIZATIONS

While the adoption of these ACIR recommendations for local government reorganization would greatly enhance the ability of counties to provide needed services, the Commission has noted that there are several types of problems that extend beyond county boundaries. These problems call for solutions on a regional basis.

ACIR has noted four objectives in reducing the costly fragmentation that results from several localities' trying to cope with regional problems: to coordinate areawide agencies and reduce their proliferation; to develop a framework for responsive decision making at the areawide level; to curb special districts; and to establish an environment of cooperation between regional agencies and local governments that will facilitate long range local government modernization and reorganization.

An encouraging development of recent years is the creation of substate districting systems. Forty-four states have been officially divided into state planning districts; 20 of the state systems have been created by legislation and 24 by executive order of the Governor.

ACIR has pointed out the potential of these substate districting systems, but much of that potential remains unrealized: 25 percent of the districts have not been organized with a governing body and staff to carry out functions assigned by the state, and most of the substate districts continue to function only as planning agencies.

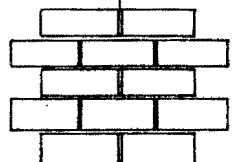


TABLE 9

Powers of County Governments in the States

State	Residual Powers	Number Optional Forms of Government	Number Constitutionally Protected Offices	Consolidation of County Offices	Local Government Consolidation City-County County-County	General Authorization for Transfer of Functions	1974 County Modernization Efforts					
							Number County Charter Com-missions	Number County Charter Referenda	Number New Charters Adopted	Areas Consid-ering Consoli-dation	Number Consoli-dation Referenda ^k	Number Consoli-dations Approved
Alabama			1							3		
Alaska	X	2			X	X	X					
Arizona		2	6				1					
Arkansas		a.	3									
California		b.		g.	X	X	X	1		1	1	0
Colorado			8				1			1		
Connecticut												
Delaware			6									
Florida		3	6 ^e		X		X	4	1	1	1	
Georgia		1	1	h.		X		1		6		
Hawaii		1				X						
Idaho			5									
Illinois		1	3			X	X	1				
Indiana		1	6							1	1	0
Iowa										1		
Kansas	X						1					
Kentucky	X	a.	9		X	X	1			2		
Louisiana		b.				X						
Maine			1									
Maryland		1,b.	3				1					
Massachusetts												
Michigan		2	4			X	X					
Minnesota		5				X		3				
Mississippi			5			X						
Missouri		b.			X	X						

Montana		3			X	X						
Nebraska		c.		i.		X				1		
Nevada		1								1		
New Hampshire			5									
New Jersey		5					9	8 ^j	4			
New Mexico		1			X		1					
New York		b.	4 ^f				1	2	0	1		
North Carolina		1	2		X	X	1			4	1	0
North Dakota		2	7	h.		X				1		
Ohio		b.					X					
Oklahoma			8									
Oregon		b.			X		5	1	0	1	1	0
Pennsylvania		b.	9		X	X	11	7	0			
Rhode Island												
South Carolina		5				X	1			1	1	0
South Dakota	X	b.	7			X	1					
Tennessee		1	5		X		X					
Texas	X		5									
Utah		12					3			1		
Vermont			3				X					
Virginia		5	5		X	X	X					
Washington		d.	2		X	X				3		
West Virginia			5							1		
Wisconsin		2				X	X					
Wyoming												

- a. None available, but county judge may serve as weak executive in some cases.
- b. Adoption of optional forms permitted, though none are specifically designated in statutes.
- c. No specific optional forms, but county commission may hire administrative assistant.
- d. Optional forms available only by adoption of county charter.
- e. Office of County Court Clerk is protected except where otherwise provided by charter.
- f. County offices may be abolished by voter approval of optional form of county government.
- g. Permitted, but must be approved by legislature.
- h. County Superintendent of Schools only.
- i. Charter counties only.
- j. Nine charter commissions conducted studies during 1974, but one commission recommended no changes from the existing form of government.
- k. All consolidation proposals were city-county.

1974 ACTION

Actions to deal with these problems of local government powers took place at two levels within the states during 1974: at the state level through legislative or executive action, and at the local level through the work of county charter and study commissions. Forty-eight county charter commissions presented 19 proposals to the voters in referenda, and five were adopted. City-county consolidation proposals were being discussed or actively studied in 33 areas. All five consolidation plans which went to a referendum were defeated (Portland, Oregon; Sacramento, California; Durham, North Carolina; Evansville, Indiana; and Charleston, South Carolina).

States also acted to promote or clarify regional organization of specific functional programs in such areas as land use, manpower, energy, criminal justice, transportation, health care, and libraries, as indicated in earlier sections of this report.

State legislative action on the general issues of local government powers and regionalism was more extensive. The significance and scope of that activity can be seen in the following state-by-state summary.

A constitutional amendment approved by the voters of **Arkansas** on November 5 extends residual home rule powers to the counties. The county quorum court (county commission) has the power to consolidate county offices subject to voter approval. In addition, the county judge serves as an elected executive with general administrative duties and veto powers over the actions of the quorum court. The residual powers provisions of this amendment will take effect on January 1, 1977.

A new **California** statute (AB 4270) established procedures for the con-

solidation of two or more counties. Such consolidations may be initiated by a petition of the electorate or by resolution of the respective county boards of supervisors.

On November 5, **California** voters approved Proposition 2 which permits cities and counties to amend their charters without having to get approval of the changes by the legislature. However, on the negative side, another 1974 action provides that, if a local government assumes responsibility through government reorganization for providing a program or service it did not previously provide, the maximum property tax rate must remain the same as it was prior to the reorganization (AB 3670).

By executive order, a new **Colorado** state planning system based on the 13 existing planning and management regions was developed to decentralize state government. The Governor expects to develop centers for state government activities in many of the regions. As an example of state use of the regions, plans were developed for a coordinated statewide career information system to provide Colorado citizens with a single source of accurate and current job opportunity information and to prevent duplication of effort and data by various agencies and educational institutions. Computer terminals are to be placed in the 13 state planning regions to provide easy access to the needed information.

In **Florida** the legislature enacted a law (HB 3378) which provides that a county charter may prescribe one of three optional forms of county government (county executive, county manager, or county chairman-administrator). The act also allows non-charter counties to adopt the county administrator form of government by ordinance. Another new law further authorized counties to establish subordinate service areas in unincorporated areas (HB 3280). The

municipal services provided to those areas will be financed by service charges, special assessments, or ad valorem taxes imposed only within

Two or more cities in **Florida** may now merge by adoption of a concurrent ordinance by the governing bodies and by a majority vote of the electors of each municipality (HB 3266).

A newly enacted **Georgia** law (SB 120) permits any county board of commissioners to create the office of county manager without the need for legislative action or voter approval. The act does not apply to counties with a population of more than 40,000, nor to counties which have consolidated with all their municipalities.

In **Kansas** the legislature passed a law which grants counties the power of home rule, subject to eight limitations (SF 175). Another 1974 law (SB 59) authorizes two or more local governmental units to consolidate or jointly perform any administrative procedures or functions. Any one local governmental unit may consolidate administrative operations within the governmental unit itself. Only if the proposed consolidation involves the elimination of an elective office must it be approved by the voters. A petition procedure provides that 10 percent of the qualified electors may initiate any such consolidation.

A new **Kentucky** law permits urban county governments to exercise county home rule statutory powers. The act also defines what constitutes a conflict between state statutes and urban county ordinances (HB 800). A separate statute (HB 633) authorizes urban county governments to create separate taxing and service districts.

Also in **Kentucky** (HB 634), the chief executives of counties are required to notify affected property owners of any intentions to extend

urban services if such an extension is likely to result in a tax increase. Further, an urban county government may not increase taxes in any district unless it has expanded services so as to justify such an increase.

The **Massachusetts** legislature enacted a bill (HB 5489) which authorizes cities and towns to purchase services collectively.

Michigan now allows a city located in two or more counties to place on the ballot the question of adjusting county boundaries to include the entire city within one county (SB 387).

Nebraska law (LB 744) provides that county attorneys must be full time. Two or more counties may agree by resolution to hire a full time county attorney for all of the area. To consolidate the office, however, the counties must be contiguous and have a combined population of over 20,000.

The **New York** legislature amended the state's village law to allow the adoption of a village manager form of government (AB 11418).

The **South Dakota** legislature expanded the powers and duties of the Local Government Study Commission to include the collection and dissemination of material and information on home rule charters (SB 31). Companion legislation (SB 32) established procedures for the adoption of home rule charters.

The **South Dakota** Joint Exercise of Government Powers Act was expanded to include adjacent political subdivisions of another state (HB 651).

A consolidation of two cities took place in **Virginia** in 1974. The cities of Suffolk and Nansemond merged into one new city named Suffolk.

A new **West Virginia** law gives county courts (commissions) the authority to employ a county administrator (S 258).

A **Wyoming** statute (SEA #8) empowers local units of government to

enter into agreements for the cooperative provision of urban services. Joint powers boards will be created

to govern these joint activities where a separate governmental unit is not created.

Case Study

NEW JERSEY VOTERS ADOPT COUNTY CHARTERS

On November 5, the voters of eight New Jersey counties voted for the first time on proposed charters containing optional forms of county government.

Nine county charter commissions had conducted studies in 1974. Of these, only one — the Essex County Charter Commission — did not recommend any changes from the present form of government.

Of the eight proposed new charters, four recommended the elected county executive form of government, three recommended the council-manager form, and one recommended a council-board president form.

Voters in Atlantic, Hudson, and Mercer Counties approved the elected county executive form. That form was turned down in Bergen County. The council-manager form was adopted in Union County, and defeated in Camden and Middlesex Counties. A council-board president form proposed for Passaic County was not approved.

Atlantic County's charter enjoyed the biggest margin of victory. The new charter was approved by nearly 70 percent of

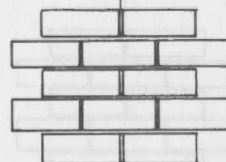
the voters. Both political parties, all of the county's newspapers, and the entire study commission had endorsed the charter.

These new charters in New Jersey were the first proposed in the state since legislation permitting optional forms of county government was passed in 1972.

While New Jersey was the most visibly active state on this front in 1974, there were other charter proposals on ballots in 18 counties around the nation. However, the only other charter approved calls for Broward County, Florida, to switch to the council-elected executive plan.

Sixty-five counties in the United States have now adopted home rule charters. Thirty-eight of them have a county-executive form of government, 24 a county-manager form, and three have retained the commission plan.

In total, 58 counties in 20 states have adopted the council-elected executive form of government. The population of those counties totals nearly 30-million. And about 500 counties in 30 states have a council-manager form of government. Of those, 45 percent have a population of less than 50,000 people.



what is acir?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, State and local government and the public.

Of the 26 Commission members, nine represent the Federal government, 14 represent State and local governments and three represent the general public. Twenty members are appointed by the President. He names three private citizens and three Federal executive officials directly and selects four governors, three State legislators, four mayors and three elected county officials from slates nominated, respectively, by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The other six are Members of Congress—three Senators appointed by the President of the Senate and three Representatives appointed by the Speaker of the House. Commission members serve two-year terms and may be reappointed. The Commission names an Executive Director who heads the small professional staff.

After selecting specific intergovernmental issues for investigation, ACIR follows a multi-step procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts and interested groups. The Commission then debates each issue and formulates its policy positions. Commission findings and recommendations are published and draft bills and executive orders are developed to assist in implementing ACIR policies.



To the extent that its resources permit, the ACIR staff works with State officials to encourage consideration of Commission proposals.

On proposals for administrative change affecting intergovernmental relations, the Commission cooperates fully with the Executive Office of the President, the Office of Management and Budget and other Federal departments and agencies.

A summary of the Commission's current recommendations follows, arranged according to subject. The Commission report in which each recommendation appeared is identified. The Commission's recommendations catalogued here were developed over time; they reflect the judgment of many different Commission members. Proposals that have been modified or superseded by later Commission action do not appear in the summary.

Action by the Federal Government on ACIR recommendations is noted in the text; State action—much more difficult to assess—is reflected in a concluding portion of this summary.

SUMMARY OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS RECOMMENDATIONS

I. GOVERNMENT STRUCTURE AND PROCESSES—GENERAL

THE LEGISLATIVE BRANCH

State Legislatures—General

Restrictions on annual sessions of State legislatures should be removed and legislators be paid on an annual basis commensurate with demands on their time.¹ (*Report A-31, 1967*)

States should provide year-round professional staffing of major legislative committees. (*Report A-31, 1967*)

State legislatures should consider following closely the development of Federal legislation and, after appropriate consultation with State executive officials, presenting views to congressional committees. (*Report A-31, 1967*)

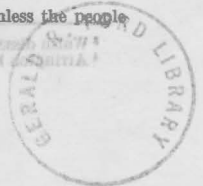
State legislators should be eligible to receive Federal research grants under specified conditions. (Implemented by BOB Memo., December 22, 1969)

Apportionment

State constitutions should specify clearly legislative apportionment provisions; provide for apportionment based on population;² spell out a clear formula and specify the body to apportion seats; permit the people the opportunity to react to the formula at the polls; grant State courts jurisdiction to deal with apportionment; and specify the frequency of reapportionment. Courts should insure that nonjudicial bodies produce reasonable apportionment rather than apportion by decree. (*Report A-15, 1962*)

¹ Dempsey dissent.

² Smylie, Anderson, Hollings, Donnenwirth, Newell, Hummel would add phrase, "Unless the people directly determine otherwise."



Jurisdiction

Federal agencies should cede to States legislative jurisdiction over Federal government-owned properties as rapidly and extensively as consistent with their programs. The States should adopt legislation enabling them to accept jurisdiction (recommended by Council of State governments). The President and the Governors should encourage early action and implementation of these measures. (*Report A-6, 1962*)

THE EXECUTIVE BRANCH

General

State constitutions should be amended to reduce greatly the number of separately elected State officials. (*Report A-31, 1967*)

States should develop a strong planning capability in their executive branches. (*Report A-31, 1967*)

Congress should enact a Uniform Time Act. (Implemented by PL 89-387).

Governors

Governors should be permitted to succeed themselves; be given responsibility to submit to the legislature, a budget covering all estimated State income and expenditures; and be empowered to reorganize the administrative structure of State government subject to a veto of either legislative house within a specified time period. (*Report A-31, 1967*)

Governors should have the discretionary authority to use their good offices to resolve disputes among local units of government where appropriate. (*Report A-5, 1961*)

Public Personnel (see also Individual Subject Heads)

State-local personnel systems should be strengthened through improved extended use of the merit system, improved personnel management and more in-service training programs.

States should empower all classes of municipalities to appoint all city officers other than mayor and council members. (*Report A-12, 1962*)

States should keep to a minimum the mandating of terms of local government employment which is properly the subject of discussion between employers and employees.³ Congress should desist from mandating working conditions of State and local government employees.⁴ (*Report A-35, 1969*)

States should separate the administration of service functions from tax administrative functions and lodge responsibility for appointment, tenure, salary of officials in general units of government. (*Report A-12, 1962*)

State government should provide technical assistance on personnel administration at the request of localities. (*Report A-12, 1962*)

³ Walsh dissent.

⁴ Arrington had additional view.

State procedures should be established to facilitate gathering of relevant public personnel data and assure its exchange among employing agencies and employee organizations. (*Report A-35, 1969*)

Units of government should consider extending social security to their employees. (*Report A-16, 1963*)

States should enact basic public labor relations laws, establishing relationships between State and local employers and employees and their organizations. Of two general routes—"meet and confer" and "collective negotiations"—the Commission prefers "meet and confer."⁵ The legislation should recognize the right of employees freely to join or not join employee organizations and should grant full meet and confer rights by formal recognition of such organizations with majority support. (*Report A-35, 1969*)

State labor relations laws should prohibit all public employees from engaging in strikes.⁶ (*Report A-35, 1969*)

States should provide appropriate machinery to resolve recognition and representation disputes, assure adherence by all parties to the law and provide the means of facilitating the resolution of controversies. State law should provide procedures for mediation and other machinery to resolve disputes at the request of either party. (*Report A-35, 1969*)

States should bar recognition of any public employee organization whose governing requirements fail to assure internal democracy and fiscal integrity. The organizations should file with a State agency financial reports which should be made public. The State legislation should prohibit restraint or coercion of employees in their guaranteed rights. (*Report A-35, 1969*)

Managerial and supervisory personnel, elected and top management appointive officials, and certain categories of confidential employees should be excluded from coverage of public labor relations laws. (*Report A-35, 1969*)

Treatment accorded State and local employees under the legislation, should be generally uniform. Appropriate arrangements should be made for meeting and conferring on a regional basis. (*Report A-35, 1969*)

Agreements resulting from public employer-employee discussions should be governed by pertinent laws, including merit system rules and regulations. (*A-35, 1969*)

State legislation should permit dues checkoff on the voluntary written authorization of the employee. (*Report A-35, 1969*)

Staff retirement coverage should be available to employees of all units at all levels of government; States should consider merging numerous retirement systems and should provide

⁵ Knowles, Michaelian, Shafer, Muskie, Mayor, Rockefeller dissent in favor of collective negotiations.

⁶ Arrington, Fountain, Knowles, Michaelian, Roos dissent, all for penalties for striking.

continuity of retirement credits for employees who transfer between units of government within a State. Employee benefits should be vested after completion of no more than five years in the system and employees should be permitted a deferred annuity. (*Report A-16, 1963*)

THE JUDICIAL BRANCH (see also Law Enforcement)

Courts

States should establish simplified, unified court systems consisting of a supreme court, intermediate courts of appeal, general trial courts and special subdivisions of general trial courts performing duties of courts of limited jurisdiction; should abolish the office of justice-of-peace or substantially overhaul it. (*Report A-38, 1971*)

The State Supreme Court should provide overall supervision for the court system, using uniform rules of practice and procedure; all States should provide for an administrative office of the State courts, headed by professional administrators; and should encourage establishment of administrative offices for general trial courts of large urban areas. (*Report A-38, 1971*)

States should assume full responsibility for financing State and local courts. (*Report A-38, 1971*)

State-Federal Judicial Councils should be established to explore problems of joint concern, including review of post conviction petitions. (*Report A-38, 1971*)

Judges

States and local governments should use the Missouri "Merit Plan" to select judges; States should establish California-type Commissions on Judicial Qualifications for their discipline and removal; and States and localities should require judges to retire at age 70. (*Report A-38, 1971*)

States should require all judges to be licensed to practice law in the State and devote full time to their judicial duties. (*Report A-38, 1971*)

Assignment of judges should be flexible to make maximum use of their time. (*Report A-38, 1971*)

MULTI-STATE REGIONALISM

Federal-multistate regional instrumentalities created pursuant to the Appalachian Regional Development Act, Title V of the Public Works and Economic Development Act of 1965, Title II of the Water Resources Planning Act of 1965 and the Delaware and Susquehanna River Basin Compacts should be retained pending further experience and study.⁷ (*Report A-39, 1972*)

The States should continue to initiate and Congress consent to interstate compacts. In the drafting stages of new compacts, States should consider expanding their scope to avoid proliferation. (*Report A-39, 1972*)

⁷ Hearnes dissents; Muskie concurs in separate statement.

The Federal government, the States and localities should agree on boundaries of interstate metropolitan areas and establish a single umbrella multi-jurisdictional organization in each one. (*Report A-43, 1973*)

Congress should give advance approval to compacts creating interstate planning agencies.⁸ (*Report A-5, 1961*)

FEDERAL-LOCAL RELATIONS

Financial Emergencies

The Federal government should act in local financial emergencies that include interstate considerations requiring the use of the Federal Bankruptcy Laws, which should be updated and clarified to: define "creditor" to specify the classes of creditors within the scope of the statute; permit involuntary filings under certain specified conditions; and require continuous supervision of a local governments' compliance with the final court ruling. (*Report A-42, 1973*)

STATE-LOCAL RELATIONS (see also Subject Heads)

State ACIR

States should provide for a broadly representative permanent Advisory Commission on Intergovernmental Relations to study and report on the current pattern of local government structure; the powers and functions of local governments and substate regional bodies; intergovernmental relations in the State; allocation of State local fiscal resources; role of the State as the creator of local government and substate regional systems; special problems in interstate areas. (*Report A-44, 1974*)

Federal Role

The Federal government should adopt policies which accommodate State and local actions to reorganize governments at the substate regional and local levels. (*Report A-44, 1974*)

Assignment of Functions

States should establish an on-going policy for a more reasoned and systematic assignment of functions between and among State, local and areawide units of government. It should authorize the State Advisory Commission on Intergovernmental Relations, or similar agency, to: formulate general criteria for assigning new public services and reassigning established or expanded ones; develop specific functional classification standards for determining the State, areawide or local nature of a function; prepare an intergovernmental impact statement concerning any State or locally developed assignment or Federal proposal affecting State or local delivery systems; recommend appropriate action for the assignment of new functions or reassignment of established or expanded functions. The Federal Government should recognize these

⁸ Ribicoff no position.

assignments for all Federal aid. OMB should modify A-95 to take into account intergovernmental impact statements pursuant to assignment or reassignment of functions within a State. (*Report A-45, 1974*)

States should establish a comprehensive local government structure and functions policy that:

- (a) sets specific standards for assessing the structural functional, fiscal and geographic viability of all existing and proposed local governments; and for governing the orderly and equitable extension of municipal boundaries to embrace unincorporated territory;
- (b) establish a broadly representative local government boundary commission at the State and/or local level with powers to: order the dissolution or consolidation of local units within metropolitan areas; amend joint use of inter-local contracts if they promote fractionalization of the tax base without overriding compensation; and amend State aid formulas to eliminate or reduce allotments to some nonviable units.⁹ (*Report A-31, 1967*) And, in addition, to oversee implementation of statutory standards; recommend modification of substate district boundaries or individual county boundaries; monitor and facilitate municipal annexations of adjacent unincorporated areas; develop "spheres of influence" or "staged expansion limits" that delimit ultimate boundaries of existing municipalities. (*Report A-44, 1947*) (Incorporates and modifies (*Reports A-5, 1961; A-11, 1962; A-12, 1962*))

State legislation should set specific criteria for political and economic viability of all local governments, general units and special districts, including factors of fiscal capacity, economic mix, minimum geographic and population size. (*Report A-34, 1969*)

Data facilities should be established to measure the comparative performance levels of individual local units of government in the major urban functions. (*Report A-31, 1967*)

Community Affairs

States should establish a specific agency for community and urban affairs. (*Report A-5, 1961*)

Congress should amend Title IX of PL 89-754, Demonstration Cities and Metropolitan Development Act of 1966, to remove the population ceiling on local government served by State information centers. (*Report A-31, 1967*)

Financial Emergencies

States should designate or establish a single state agency responsible for improvement of local financial management functions and charged with the early detection of financial problems to

⁹ Rockefeller and Rhodes dissent.

prevent crises. State laws should regulate local short-term operating debt; should regulate locally administered retirement systems, or consolidate them into a single State-administered system; and should establish guidelines to determine when local financial conditions necessitate State intervention and set forth procedures for carrying out remedial action. (*Report A-42, 1973*)

SUBSTATE REGIONALISM (see also Special Districts)

The Federal government should enunciate a comprehensive policy for all Federal grant programs with substate regional planning, administrative and districting components. The policy should, at a minimum:

- (a) rely on official umbrella multi-jurisdictional organizations (UMJOs) for all Federal grants with an areawide component (OMB to designate the body if other methods fail);¹⁰
- (b) encourage all States to adopt a substate districting system;
- (c) enact legislation that consolidates all areawide planning requirements to make use of UMJOs, focus on substate districts and link comprehensive and functional planning;
- (d) enact a consolidated aid program for UMJOs with bonus for States that buy into it;
- (e) amend the Intergovernmental Cooperation Act of 1968 to name UMJOs the A-95 review agency and to require that all major capital facilities projects with an areawide impact be consistent with UMJO plans.¹¹ (*Report A-43, 1973*)

States should enact a consistent policy for substate districting which should:¹²

- (a) establish a formal procedure for delineating substate regional boundaries, which involves the participation of general purpose local governments. The governor should designate a single umbrella multi-jurisdictional organization (UMJO) in each region;
- (b) require all State agencies to use the officially designated UMJO when substate regions are called for;
- (c) provide for a membership formula requiring that all local units in the region belong to the UMJO, that at least 60 percent of the membership be elected local officials and that the State have some representation on the body;
- (d) establish a dual voting formula applying the one-government, one-vote principle in most matters, but permitting any local constituent jurisdiction to bring

¹⁰ Evans dissents on bracketed portion.

¹¹ Evans dissents in part.

¹² Weinberger abstained.

about a proportionate or population-weighted voting procedure on certain issues;

- (e) authorize each UMJO to: adopt and publish regional plans and a program for their implementation; make systematic inputs into State planning and budgeting; act as the A-95 clearinghouse; review and resolve inconsistencies between adopted regional policies and proposed major intra-regional State capital facilities projects to be undertaken within the district and between regional policies and major locally-funded capital facility projects having an areawide impact; exert a policy-controlling role over the operations of special districts and authorities with multi-jurisdictional impact within the area; and promote mutual problem solving by serving as the administrator of inter-local contracts;
- (f) authorize the UMJO to assume operating responsibility subject to approval of a majority of member units of general local government representing at least 60 percent of the area's population;¹³
- (g) provide for ongoing financial assistance to UMJOs; and
- (h) authorize the governor to veto actions of an UMJO which conflict with officially adopted State plans or those of another UMJO. (*Report A-43, 1973*)

Cities and counties should support the establishment of umbrella multi-jurisdictional organizations and participate in their activities; provide financial contributions; use UMJOs in interlocal contracting; use UMJO plans as a guideline in local planning; and require their representatives on the boards of any multi-jurisdictional special district or authority to seek designation of the UMJO as the policy board of such district or authority. (*Report A-43, 1973*)

If a State fails to develop a comprehensive substate regional policy but a majority of counties and cities accounting for a majority of the population within a substate region petition for the establishment of an umbrella multi-jurisdictional organization, with the approval of the governor, Congress and the President such organization should be treated as an UMJO by the Federal government. (*Report A-43, 1973*)

States should permit, subject to referendum, the establishment of governmental units capable of providing areawide services, including multi-county consolidation; city-county consolidation; the modernized county; conversion of an UMJO to a general purpose government; the right to create a regional service operation subsuming all existing and proposed areawide special districts. Regional home rule referenda could be initiated by: resolution of one or more units of general local government; petition; direct action by the State legislature. (*Report A-44, 1974*)

¹³ Sen. Brown, Kurfess, Lugar dissent to extraordinary majority.

INTERLOCAL RELATIONS (see also Urban Development)

Assuring Local Viability

States should authorize units of local government to contract with each other to render governmental services and to exercise jointly or cooperatively any power possessed by any of the units.¹⁴ (*Report A-5, 1961*)

States as well as Congress and appropriate executive agencies should encourage joint undertakings by political subdivisions with common program objectives in urban areas where political boundaries overlap. (*Report A-20, 1964*)

(Implemented by the Intergovernmental Cooperation Act of 1968, PL 90-577)

Local governments in metropolitan areas should use cost-benefit studies in negotiating sharing of costs for areawide urban services. The States and Federal Government should develop standards to measure such areawide costs and benefits. (*Report A-25, 1965*)

State government should make its "good offices" available in disputes over interlocal contracts. (*Report A-11, 1962*)

States should require counties with unincorporated territories or municipalities contiguous to such areas within a specified time to develop effective planning, zoning and subdivision regulations or the State should assume the responsibility. (*Report A-44, 1974*)

States should establish a program of State technical and fiscal assistance to counties and municipalities for management feasibility studies on transferring and consolidating functions; and extraordinary initial costs incurred in action transfers of consolidations. (*Report A-44, 1974*)

Metropolitan Areas

Where effective county planning, zoning and subdivision regulations is nonexistent in fringe areas, States should make extra-territorial regulation of unincorporated areas available to municipalities, providing residents of the unincorporated areas have a voice in the imposition of the regulations. (*Report A-11, 1962*)

Continuing Federal financial aid should be provided on a matching basis for metropolitan area planning agencies.¹⁷ (*Report A-5, 1961*) Federal technical assistance should be provided on an adequate and sustained basis to State and metropolitan planning agencies.

[Through administrative action of Commissioner, Urban Renewal Administration continued financial support, August 1963; technical assistance was provided by Housing Act of 1961, PL 87-70, and Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754.]

¹⁴ Ribicoff no position.

¹⁵ Ribicoff no position, Michaelian and Burton dissent.

¹⁶ Ribicoff no position.

¹⁷ Ribicoff no position.

COUNTIES (see also Law Enforcement)

States should provide a complete package of county structural reforms options, that includes:

- (a) permission for counties to adopt by simple petition or referendum procedure, optional forms of county government (*Report A-12, 1962*);
- (b) the requirement that any county embracing the predominant portion of a metropolitan area's location shall have a full-time chief executive officer, either appointed by the county board or popularly elected;
- (c) placing county officers on a statutory rather than a constitutional basis;
- (d) empowering the governing bodies of contiguous counties within substate regions to consolidate identical or compare county offices and functions;
- (e) Authorizing the governing bodies of contiguous counties within substate regions to execute a multi-county consolidation, subject to a simple concurrent majority of the votes in a referendum in each of the counties encompassed in the proposed merger;
- (f) requiring that in instances where counties undertake functions already provided by their constituent municipalities, such counties either enhance the quality or scope of the services or make proportionate payments to their municipalities;
- (g) a delineation of uniform procedures for transferring functions between and among municipalities, counties and multi-county regional bodies including officially designated umbrella multi-jurisdictional organizations. (*Report A-44, 1974*), incorporates and modifies recommendations from (*Report A-5, 1961; Report A-12, 1962*)

States should authorize counties to establish subordinate taxing areas to enable them to provide and finance services in one portion of the county. (*Report A-22, 1964*)

MUNICIPALITIES

State constitutions should grant to selected units of local government all functional powers not expressly reserved, pre-empted or restricted by the legislature.¹⁸ (*Report A-12, 1962*)

States should permit all classes of municipalities to adopt by ordinance or simple petition or referendum, optional forms of municipal government including strong mayor and council-manager systems. The States should make technical assistance available on request, for this endeavor. (*Report A-12, 1962*) Notwithstanding the affirmed desirability for freedom of action by municipalities, certain limitations should be placed on home-

¹⁸ Hummel dissent.

rule for political units in metropolitan areas to assure that local governments in those areas meet the best interests of the people as a whole.¹⁹ (*Report A-5, 1961*)

States should authorize establishment of metropolitan area commissions on local government structure and services of constituent localities.²⁰ (*Report A-5, 1961*)

NEIGHBORHOODS

States should authorize large cities and county government in metropolitan areas to establish neighborhood subunits of government with limited powers of taxation and local self-government, which the city or county governing body could dissolve at any time.²¹ (*Report A-31, 1967*)

Neighborhood information centers should be established and financed to provide information and referral services for residents and migrants to urban areas on the demands and responsibilities of an urban society. (*Report A-31, 1967*)

SPECIAL DISTRICTS (see Substate Regionalism)

All States should survey all governmental entities to determine the number, types, functions and financing of special districts within their borders. (*Report A-22, 1964*)

Before any new special district is created: it should be approved by a State agency or an agency of city and county representatives within whose territory it would fall; a procedure should be followed to determine if the same service can be performed by a city or county or an existing special district that is contiguous to the proposed one. (*Report A-22, 1964*)

To assure coordination of special district activities with those of the general government, all proposed acquisitions of lands should be submitted for approval—and proposed capital improvements should be submitted for comment—to the appropriate State agency or general unit of local government. Budgets and accounts of special districts should be formulated and maintained according to uniform State procedures and audited by a State agency. All service charges or tolls levied by special districts should be reviewed and approved by a local general governing body or an appropriate State agency. (*Report A-22, 1964*)

States should provide a simple procedure for consolidation of special districts performing similar functions and permitting general government units to assume responsibility for the special district's function. A State agency should be permitted to require consolidation or dissolution of special districts which are no longer needed or whose services can be performed by a unit of general government. (*Report A-22, 1964*)

¹⁹ Ribicoff abstain.

²⁰ Ribicoff no position.

²¹ Rhodes and Rockefeller dissent.

Counties and municipalities should itemize special district property taxes on individual property owners' tax bills from urban development legislation. (*Report A-22, 1964*)

Counties and Federal executive agencies should remove all provisions that promote or require special districts to the disadvantage of general purpose units of government and should favor general purpose government over special districts, other factors being equal. Special purpose recipients should be required to coordinate their aided activities with general units of government.

[Implemented by Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, and Intergovernmental Cooperation Act of 1968, PL 90-577.]

II. TAXATION AND FINANCE—GENERAL

TAXATION

General Administration (see also Grants-in-Aid, Data Needs)

To achieve a more equitable, diversified and productive State-local tax system, States should require and enforce effective local use of property tax, equip themselves with a productive and broad-based tax system capable of underwriting a major portion of expanding State-local expenditure requirements, and shield basic family income from undue burdens imposed by sales and property taxes. (*Report A-31, 1967*)

States should authorize the use of taxing powers by responsible areawide metropolitan service agencies carrying on functions not solely financed by user charges. (*Report A-25, 1965*)

States should consider authorizing counties and cities over 25,000 population to levy sales and/or income tax provided that the States insure the creation of a coordinated system, by:

- (a) Providing a uniform local tax base conforming to that of the State if the State imposes the levy;
- (b) collecting and administering the local income or sales tax;
- (c) encouraging universal or widespread coverage by giving first option to adopt the tax to the local government of widest jurisdictional reach;
- (d) using the point of sale rule for determining sales tax liability and prohibiting local use taxes on in-State purchases;
- (e) permitting local flexibility by specifying a range of tax rates;
- (f) minimizing local fiscal disparities by adopting an equalizing formula for the distribution of local nonproperty tax revenue within a county and using State general support for equalizing among counties;
- (g) specifying arrangements for sharing taxes on earned income by nonresidents between tax levying jurisdictions of residence and employment. (*Report A-47, 1974*)

States should take into consideration the following guidelines for coordinating nonproperty taxing power of local governments:

- (a) Because most local governments are smaller than their economic area, they should use nonproperty taxes only where property tax cannot be equitably and effectively used.
- (b) Authority for local use of nonproperty taxes should be statutory rather than constitutional, should be specific as to the kinds of taxes and governments authorized, should limit local governments to the most productive taxes, and should provide the electorate the authority to initiate by petition a vote on proposals for new taxes. The case for most nonproperty taxes is strongest in the large urban places.
- (c) States can provide technical assistance to localities by serving as a clearinghouse of tax information, furnishing model legislation, promulgating standards and regulations, providing local access to State records, training local personnel and providing sanctions against State taxpayers who fail to comply with local requirements. States can provide coordinative aid: when both the State and its localities use the same tax, the localities could use a local tax supplement to the State tax; where many localities use a tax but the State does not, the State agency could administer the tax.

States should standardize apportionment formulas to determine taxes for multistate businesses. (Resolution of Commission, 1966)

[Included in proposed Interstate Taxation Act of 1971 (S.1883)]

States should establish enforceable physical presence rules that are as uniform as possible to govern the reach of their income and sale tax administrators. (*Report A-30, 1967*)

Procedures should be initiated for admittance of State and local tax enforcement personnel to Internal Revenue Service's training program. (*Report A-7, 1961*)

[Implemented by 1962 Amendments to Internal Revenue Code of 1954, PL 87-870.]

Property (see also Education: Financing)

The property tax should be treated as an integral part of overall State and local financial planning and be studied as consistently as other major sources of State-local revenue. (*Report A-17, 1963*)

Outright grants, supported by appropriations, should be used in preference to tax exemptions because they are more in keeping with sound public policy and financial management, more equitable and more economical. States should reimburse localities for losses due to mandatory tax exemptions extended to individuals for such purposes as personal welfare and public esteem. (*Report A-17, 1963*)

States should rid their property tax laws of features that are impossible to administer, whose effective administration would be economically intolerable, which force administrators to condone evasion, and which encourage taxpayer dishonesty. No new changes in property tax should be adopted without weighing the effect on facility of administration. (*Report A-17, 1963*)

States should remove constitutional and statutory limitations on local authority to raise property tax revenues. (*Report A-14, 1962*) If it is impractical to remove all limitations, various steps might be taken such as:

- (a) Providing statutory limitations rather than constitutional limits;
- (b) expressing tax rate limitations in terms of the value of taxable property equalized to full market value rather than fractional assessed value;
- (c) setting broad limitations rather than limits on individual, specific functions;
- (d) restricting limitations to financing of operation and maintenance rather than requirements for servicing capital improvement debt and pay-as-you-go.
- (e) providing relief administratively by a State agency and by reference to the electorate; providing authority to the electorate to initiate a vote on property tax lines to exceed prescribed limitations.
- (f) extending limits to embrace all overlapping local taxing jurisdictions;
- (g) exempting home rule charters from limitations. (*Report A-14, 1962*)

States should retain responsibility for shaping policies dealing with general property tax relief and intrastate school finance equalization. A massive Federal effort to cut residential property substantially and to encourage States to assume most of the cost for financing local schools is neither necessary nor desirable.²² (*Report A-40, 1973*)

States should use grants to equalize local property tax loads within metropolitan areas (*Report A-25, 1965*); and States should help localities finance the cost of relieving any undue local property tax burden on low income families. (*Report A-31, 1967*); reaffirmed by (*Report A-40, 1973*)

States should carefully review and recodify assessment laws to remove ambiguities, inconsistencies and other weaknesses. They should make a thorough re-evaluation of all regulatory and partial tax exemption provisions with an eye toward consistency with sound policy. Unless a local assessor has adequate means to audit self-assessed personal property, the States should assess it or the tax should be abolished. States should eliminate all constitutional and statutory requirements for fixed assessment levels except for specifying a minimum assessment ratio (in relation to market value) below which "assessment" may not drop.

²² Muskie, Percy, Knep, Schultz dissent.

For equalization and measurement, State supervisory agencies should conduct an annual assessment ratio study to determine an average level of assessment in each assessment district to provide the basis for tax equalization; and to use market value figures as the basis for all regulatory and partial tax exemption provisions. States should establish, minimum assessment performance standards and provide—at district expense—State assessment in districts that do not meet the minimum. (*Report A-17, 1963*²³; reaffirmed by *Report A-40, 1973*)

States should conduct and publish the results of comprehensive annual assessment ratio studies as to the average level and degree of uniformity of property taxes for all major classes in all districts. They should require regular assessment of all tax exempt property and compile and publish the results. And a central States supervisory agency should require assessors and other local officials to report data on assessed valuation and other features of the property tax. The State agency should publish digests of the information. (*Report A-17, 1963*)

States should improve and standardize their own collection, compilation and analysis of essential data on the property tax to facilitate this function of the Census Bureau. (*Report A-17, 1963*)

States should centralize assessment administration and should vest the State's share in joint State-local assessment administration in a single agency lodged in a central department, professionally organized and equipped for the job. States should evaluate the structure, powers, facilities and competence of their agencies for supervising assessment, equip them to perform functions deemed necessary, and provide for continuing systematic review. (*Report A-17, 1963*)

The division of assessment jurisdiction between State and local agencies should be clear to taxpayers and assessors. Local assessment districts should be reorganized to encompass a large enough geographic area to promote efficient assessment. Overlapping should be eliminated. States should assess all property that lies in more than one district, that requires appraisal specialists beyond local scope, and which can be done more readily by a central agency. (*Report A-17, 1963*)

All assessors should be appointed to indefinite terms of office—subject to removal for good cause including incompetence—by the governing agency of the district. The State supervisory agency should establish professional qualifications and certify candidates as to fitness. No one should be permitted to hold office who is not certified. But States should not set or place limits on salaries for assessors and appraisers. The States should set minimum professional staffing requirements in all local assessment districts. (*Report A-17, 1963*)

²³ Muskie dissent on minimum standards recommendation.

State agencies supervising assessors and appraisers should cooperate with educational institutions to plan and conduct pre-entry courses of study and regular internship training programs. (*Report A-17, 1963*)

States should review administrative-judicial procedures for assessment review and appeal to assure taxpayers of all the remedies to which they are entitled. The machinery should be two-level—local and State—and should serve in an appellate capacity only. Appeals on questions of law should go to the State Supreme Court.

States should publish findings of annual assessment ratio studies and permit taxpayers to introduce them as evidence to prove discrimination in assessment. (*Report A-17, 1963*)

Income

States should consider adopting personal income taxes.²⁴ (*Report A-27, 1965*)

Congress should amend the Internal Revenue Code to permit a substantial portion of State income tax payments as credit against Federal income tax.²⁵ (*Report A-27, 1965*)

[Various bills introduced in Congress to provide tax credits.]

States should bring their income tax laws into harmony with the Federal definition of adjusted gross income, with modifications.²⁶ (*Report A-27, 1965*)

Congress should authorize the Internal Revenue Service to enter into agreements with States for Federal collection of State income tax.²⁷ (*Report A-27, 1965*)

[Implemented by State and Local Fiscal Assistance Act of 1972 (PL 92-512).]

Congress should enact legislation requiring the Federal government at the request of the local government to withhold local income tax payments from Federal employees who either reside in or commute to a local jurisdiction within the State. (*Report A-47, 1974*)

[Implemented by PL 93-340]

States should allow credit to residents who pay personal income taxes to other States, and repeal non-resident income tax credits.²⁸ (*Report A-27, 1965*)

States should adopt as the definition of "residence": "A resident individual means an individual: (a) who is domiciled in this State, unless he maintains no permanent place of abode in this State, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than 30 days of the taxable year in this State; or (b) who is not domiciled in this State but maintains a permanent place of abode in this State

²⁴ Ervin, Mundt, Dempsey, Dwyer, Fountain dissent.

²⁵ Fowler expresses reservation; Dempsey abstains.

²⁶ Dempsey abstains.

²⁷ Dempsey abstains.

²⁸ Dempsey abstains.

and spends in the aggregate more than 183 days of the taxable year in this State." The State tax agency should be authorized to enter into reciprocal agreements to avoid potential double taxation.²⁹ (*Report A-27, 1965*)

Sales

Congress should enact legislation explicitly authorizing State governments to impose a sales tax on firms making sales in States where they maintain no place of business. The tax should be equal to the State rate plus a single local rate. States should adopt a formula to distribute the local sales tax portion, among local governments. (*Reports A-47, 1974*)

States should shield low income families from undue tax burdens on food and drugs under general sales taxes. (*Report A-31, 1967*)

Business

States should eliminate the tax on business inventory and either tax business personalty (machines and equipment) at the State level or closely supervise local tax administration to assure uniformity.³⁰ States should reimburse local governments for attendant loss in revenue. (*Report A-30, 1967*)

States should avoid providing special tax advantages or concessions to select groups of business firms but provide general benefits in order to preclude a self-defeating cycle of competitive undercutting. (*Report A-30, 1967*)

States should provide adequate technical assistance and supervision in local assessment of new industrial property to insure uniformity of treatment. (*Report A-30, 1967*)

Estate and Gift

The President and Congress should coordinate State and national inheritance and estate taxes.³¹ (*Report A-1, 1961*)

Congress should replace the Federal estate tax credit for taxes paid to States (Section 2011 of 1954 IRS Code) with a two-bracket credit to earmark for the States a large share of Federal tax liabilities in the lower tax brackets and a small share in higher brackets. The new formulation should be expressed in terms of an independent schedule. But legislation should make the new credit available to taxpayers only if the governor certifies to the Secretary of the Treasury that the State has raised death taxes by the amount of the credits and that State taxes remain at the higher rate for five years. The Federal estate tax credit should be limited to estate-type taxes rather than inheritance taxes. (*Report A-1, 1961*)

States should be given the option to forego independent death taxes in favor of a share of Federal estate tax collections.³² (*Report A-1, 1961*)

²⁹ Dempsey abstains.

³⁰ Daniel dissent, stating recommendation not broad enough.

³¹ Burton and Hollings additional comment.

³² Anderson expresses reservation.

The tax credit should not be extended to gift taxes, but credit for inheritance and estate taxes should be fixed at a higher level to enable most States to forego gift taxes. (*Report A-1, 1961*)

Tobacco

State tax policy officials, the Treasury Department and the Internal Revenue Service should explore with representatives of the tobacco industry placing cigarette taxes on a return basis at the manufacturing level in such a way as to minimize the burden on the industry.³³ (*Report A-24, 1964*)

Real Estate Transfer

Congress should amend Chapter 34 of Internal Revenue Code to repeal the stamp tax on conveyances.³⁴ When the stamp tax is repealed, States without real estate transfer taxes should enact them at either State or local level. Local officials that record transfers should be required to verify that tax has been paid. (*Report A-23, 1964*)

[Partially implemented by the Excise Tax Reduction Act of 1965, PL 89-44.]

User Charges

States should have an affirmative policy regarding user charges when specific beneficiaries of particular government services can be readily or approximately identified. States should authorize and encourage local governments to adjust fees and user charges annually to reflect at least changes in financial costs; and should provide technical assistance and consultation as to appropriate areas, methods and rates of charges. (*Report A-47, 1974*)

Value-Added Tax

The Federal Government should not enact a Federal value-added tax to provide revenue for property tax relief and to ameliorate intra-state fiscal disparities among school districts because it is not needed. (*Report A-40, 1973*)

GRANTS-IN-AID (see also Under Specific Subject Headings)

Federal-General Administration

To assure the greatest flexibility, the Federal Government should authorize a combination of grants-in-aid: categorical grants, to meet specific needs of national concern; block grants to provide greater flexibility in broad functional areas; and per capita general support (revenue sharing) to enable States and localities to meet their own unique needs. Provision should be made to assure that general support grants are not for programs in conflict with existing comprehensive State plans.³⁵ (*Report A-31, 1967*)

³³ Fountain makes clarifying statement.

³⁴ Dillon abstains.

³⁵ Bryant dissent, Fowler reservation, Naftalin not concur in last sentence.

[General revenue-sharing implemented in State and Local Fiscal Assistance Act of 1972 PL 92-512; Block grants contained in Manpower Special Revenue Sharing (PL 93-203; Housing Act PL 93-383 Elementary and Secondary Education Act of 1974 PL 93-380).]

Congress should establish and follow a specific timetable for processing annual authorizations and appropriations for capital facility grants. For certain State-local programs involving long-term capital financing, Federal aid legislation should provide for multi-year advance budgeting, direct the President to include specific multi-year plans for these programs in his budget, and provide for advance obligational authority for each year in the advance budget plan. (*Report A-37, 1970*)

[Implemented in part by Congressional Budget Reform Act, PL 93-344.]

Coordination

The President and Congress should improve coordination and management of grants-in-aid. The President should appoint a cabinet-level official to supervise the effort and provide liaison with States and local government. The Office of Management and Budget should sustain a vigorous program of interagency coordination. States and local governments should provide adequate staff and funds to improve coordination of Federal grants-in-aid but Federal grant funds should not be used for staff or facilities in the immediate office of governor, county executive or mayor. (*Report A-31, 1967*)

[Partially implemented by Intergovernmental Cooperation Act of 1968, PL 90-577, through OMB Circular A-95 and Presidential directives.]

Federal decision-making in the administration of grant programs should be decentralized to directors of regional offices. The regional boundaries and headquarters of Federal field offices should be brought into conformity. The Office of Management and Budget should be given a field staff to increase coordination. This could be accomplished in part by strengthening Federal Executive Boards. (*Report A-31, 1967*)

[Partially implemented by directive of President Nixon, March 27, 1969, and by Presidential Memorandum, August 13, 1969.]

Congress should enact legislation to authorize single applications for interrelated projects and joint funding of projects with components from several sources. States should enact similar legislation for their grant programs. (*Report A-31, 1967*)

[Included in proposed Intergovernmental Cooperation Act Amendments.]

Federal grants for urban development should be channeled through the States if the State provides the appropriate administrative machinery and puts up a significant portion of the matching funds.³⁶ (*Report A-20, 1964*) Congress should in-

³⁶ Weaver, Hummel, Tucker, Blaisdell, Naftalin dissent, Muskie makes further comment.

crease Federal matching for community development projects which the States "buy into" and revise allocation formulas to this end. (*Report A-37, 1970*)

All applications for grants-in-aid for specific functions in metropolitan areas should be reviewed first by a metropolitan planning agency.³⁷ (*Report A-5, 1961*)

[Partially implemented by Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754; further implemented by Intergovernmental Cooperation Act of 1968, PL 90-577.]

Consolidation and Simplification

Congress and the President should drastically reduce the number of separate grant-in-aid authorizations, beginning with vocational education and water and sewer construction. Congress should authorize the President to submit grant consolidation plans which would become effective unless rejected by either house within 90 days. (*Report A-31, 1967*)

[Aspects of consolidation, Presidential authority included in proposed Joint Funding Simplification Act and Intergovernmental Cooperation Act Amendments. Demonstration in joint funding through Integrated Grant Administration.]

Congress should enact a general statute providing for periodical Congressional review of Federal grants-in-aid to assure that all programs meet current needs.³⁸ Executive agencies should periodically assess grant-in-aid programs to determine whether they are accomplishing their objectives or whether alternate methods are advisable. (*Report A-8, 1961*)

[Implemented by Intergovernmental Cooperation Act of 1968, PL 90-577.]

The Office of Management and Budget should initiate an aggressive program to simplify and systemize the matching and apportionment formulas for existing Federal grant-in-aid programs. (*Report A-31, 1967*)

Congress should consolidate as far as possible into a single enactment a set of planning requirements to be applicable to Federal grant programs especially those affecting urban development. (*Report A-31, 1967*)

Congress should authorize States—with the approval of the head of the Federal department or agency—to modify single State agency requirements. (*Report A-31, 1967*)

[Implemented by Intergovernmental Cooperation Act of 1968, PL 90-577.]

Congress should enact general legislation providing for the Comptroller General to study State accounting and auditing systems and—if they meet standards of adequacy and integrity—certify those systems to audit their Federal grants and for the ad-

³⁷ Ribicoff no position.

³⁸ Cutler dissent.

ministering agency to accept the State audits. This authorization might be extended to local governments receiving direct Federal grants. (*Report A-31, 1967*)

[Included in proposed Intergovernmental Cooperation Act Amendments; interagency-intergovernmental task force developing audit standards for States.]

Equalization

Distribution of Federal grants, with certain exceptions, should take into account relative inequalities in the fiscal capacities of State and local government. However, the equalizing aim of grant distributions should be limited to the functions and services specifically related to national objectives and only to the minimum service levels. It should aim for a relatively uniform level of minimum program performance in every State. Equalization is inappropriate in several categories of grants—planning and demonstration, stimulation, funds for localized emergencies, and those which cover all program costs. Excluding these categories, if any part of a grant program is “equalized”, all should be. Departments and agencies that administer such programs should periodically reassess the adequacy of their equalization provisions. And grant programs distributing funds directly to localities should examine the feasibility and necessity of equalization. (*Report A-19, 1964*)

State Aid

Each State should codify all State aid plans, review aid programs periodically to determine their capacity to meet objectives, develop an information system with respect to local fiscal needs and resources, and evaluate Federal aid programs in terms of their compatibility with State programs. (*Report A-34, 1969*)

Each State should eliminate from its aid programs all features that aggravate differences in local fiscal capacity to meet service requirements in metropolitan areas and that encourage proliferation of local governments in those areas. (*Report A-25, 1965*)

State grant-in-aid legislation should establish performance standards in addition to accounting, auditing and financial reporting standards. State programs should require aided facilities and activities to conform to local, regional and area-wide plans. (*Report A-34, 1969*)

FISCAL-MANAGEMENT

General

As a necessary first step, policymakers at all levels should support effective anti-inflationary action in order to reduce the cost of borrowed money and increase its availability to State and local governments. (*Report A-37, 1970*)

The President, in cooperation with the governors, should establish procedures for voluntary State action to cut back or

accelerate State and local capital expenditures as a counter-cyclical move, rather than relying exclusively on Federal aid fund cutbacks for this purpose. (*Report A-37, 1970*)

Congress should favor the lump sum payment approach over the debt service grant to finance future Federal aid commitments, to ease the pressure on an overburdened State and local bond market. However, where there are multi-year Federal aid commitments, Congress should authorize Federal administrators to enter into prefinancing contracts which pledge the Federal Government to reimburse State and local government for payments made in advance to cover the Federal share. Such contracts should provide restrictions to limit the prefinancing entitlement of any one State. (*Report A-37, 1970*)

States should provide greater flexibility in their constitutions for long-range State financing programs. (*Report A-31, 1967*)

States should remove prohibitions against investment of State and local funds—at least idle operating funds—in interest bearing deposits with insured institutions and in obligations of the State or the United States.³⁹ Further, States and localities should facilitate temporary transfers among separate funds for investment purposes and for effective cash management, taking care that the credit of the governmental unit is not impaired. (*Report A-3, 1961*)

To test the ability of a federally subsidized lending operation to broaden State and local access to the capital market, Congress should establish a pilot operation of lending funds to appropriate jurisdictions to cover their share of financing waste treatment construction. This environmental financing program should be designed to supplement, not supplant, tax exempt bonds. (*Report A-37, 1970*)

State Restrictions on Local Debt

States should change restrictions on local government borrowing to relate any State regulation of local debt more realistically to the ability of local governments to service debt. State provisions on local government indebtedness should recognize all forms of local borrowing and debt, and should facilitate rather than hamper intelligent choice among suitable alternative forms of borrowing. Local governing bodies should be legally authorized to issue bonds, with participation available to all eligible voters and results determined by a simple majority vote on the question. (*Report A-10, 1961*)

States should repeal limits on local government debt or debt service by reference to the local base for property taxation.⁴⁰ They should consider regulating long-term borrowing by reference to the net interest cost of prospective bond issues in relation to the currently prevailing interest rate on high quality municipal securities.⁴¹ (*Report A-10, 1961*)

³⁹ Celebrezze dissent.

⁴⁰ Michaelian, Burton dissent.

⁴¹ Cutler, Clinton, Burton dissent, Dillon reservation.

State Technical Assistance

States should make available to local governments technical assistance on long-term debt. The State agency responsible for for this function should be empowered to prescribe minimum content of official statements in connection with local issuances. (*Report A-10, 1961*)

States should have a technical assistance program for local governments with respect to the investment of idle funds. The U.S. Treasury, in cooperation with State and local officials and the investment community, should develop an information program regarding U.S. obligations as investment possibilities for State and local funds. (*Report A-3, 1961*)

[Information program implemented by administrative action of U.S. Treasury in brochure, "Interest Bearing U.S. Government Securities Available for Investment of Short-Term Cash Balances of State and Local Government", September 1963]

Industrial Bonds

The Commission neither endorses nor recommends the use of industrial development bonds as they tend to impair tax equities, competitive business relationships and conventional financing institutions. But, if States are going to use them, they should enact some safeguards, including:⁴²

- (a) legislative definition of precise conditions and requirements for undertaking these activities;
- (b) requirement that all such bonds issued by political subdivisions be approved by an appropriate State agency;
- (c) authority be restricted to general units of government;
- (d) priority be given to governmental units with a surplus of labor and which are outside regular conventional credit and property leasing facilities;
- (e) the total volume of such bonds be limited according to meaningful criteria, such as personal income of population;
- (f) approval of bonds be conditioned on a contract with a responsible tenant and provisions to safeguard the interest of the community;
- (g) the public be given an opportunity to understand proposals and the right to initiate referenda on them;
- (h) programs restricted to urban and industrialized areas be adopted to minimize competition with conventional financial institutions. (*Report A-18, 1963*)

Congress should amend the Internal Revenue Code of 1954 to terminate the financing of industrial facilities with tax exempt securities if the bonds are directly or indirectly held by the lessee. (*Report A-18, 1963*)

[Implemented by Revenue and Expenditure Control Act of 1968, PL 90-364.]

⁴² Muskie, Lowman dissent.

Data Needs (see also Under Specific Subjects—Social Welfare, Urban Development)

The President should establish a computerized system to retrieve information essential for the administration of grants-in-aid, formulation of Federal-State-local fiscal policies and other purposes. Congress should establish such a system for review of grant-in-aid programs. This data should be available to State and local government. (*Report A-31, 1967*)

[Partially implemented by Intergovernmental Cooperation Act of 1968, PL 90-577, through OMB Circular A-98.]

The Executive Office of the President should develop means to improve measurement of relative State fiscal capacity and tax effort on a government-wide basis and collect and tabulate it. (*Report A-19, 1964*)

An ad hoc committee of Federal and State officials should be established to analyze State-by-State information available in State and local governmental records potentially useful in the administration of Federal taxes. The Council of State Governments should survey the adequacy of legislative authority in the States for exchange of tax information and draft appropriate enabling legislation. (*Report A-7, 1961*) (See also Taxation, General Administration)

[Largely implemented by administrative action at Federal and local levels.]

Congress should authorize the Internal Revenue Service to perform statistical and related services for the States on a reimbursement basis (*Report A-7, 1961*), and the Internal Revenue Service should expand its reporting of income statistics for SMSAs to provide data for the units of general local government within these areas. (*Report A-31, 1967*)

[Statistical service implemented by 1962 amendments to Internal Revenue Code, PL 87-870; expansion of statistics implemented by administrative action of the Internal Revenue Service, by tabulating adjusted gross income of individuals by postal zip code.]

III. MAJOR GOVERNMENTAL PROGRAMS

EDUCATION

Administration

State educational agencies should make available on a multi-district basis a specialized educational capability—including special personnel—to the children of the district. The States should provide appropriate financial incentives for the creation of such multi-district facilities. The Elementary and Secondary Education Act of 1965 should be amended to provide Federal incentives.⁴³ (*Report A-31, 1967*)

Finance

States are responsible for reducing fiscal disparities among school districts within their boundaries. (*Report A-40, 1973*)

⁴³ Fountain dissent.

States should adopt as a long-range objective, assumption of substantially all fiscal responsibility for financing local schools with opportunity for financial enrichment at the local level. Localities should be assured retention of appropriate policymaking authority.⁴⁴ (*Report A-34, 1969*)

[Proposed State Financing of Public School Costs Act (to amend Elementary and Secondary Education Act) would provide Federal incentives for State takeover of public education costs.]

States that have not assumed substantially full responsibility for financing education should devise and fund a school equalization program to extend additional aid to those districts handicapped in raising sufficient revenue. (*Report A-34, 1969*)

States should make a critical review of their present school grant formulas to make sure they provide a minimum educational level and to assure that local tax effort and community requirements are measured as accurately as possible. (*Report A-25, 1965*) States should add to their aid formulas appropriate factors reflecting high costs per pupil among disadvantaged children in areas of high population density. The Elementary and Secondary Education Act of 1965 should be amended to provide incentive grants for this purpose. (*Report A-31, 1967*)

Where school financing has not already been placed on a county-wide or regional basis, States should mandate the establishment of county or regional school property taxing districts.⁴⁵ The Elementary and Secondary Education Act of 1965 should be amended to authorize Federal incentive grants for the establishment of county or regional school taxing districts and other areawide educational arrangements to assist in equalizing fiscal resources.⁴⁶ (*Report A-31, 1967*)

HEALTH

A Uniform allotment and matching formula should be established for Federal grants-in-aid to States for health programs.⁴⁷ (*Report A-2, 1961*)

[Implemented by Health Planning and Services Act of 1966, PL 89-749.]

States should make greater use of equalization in terms of fiscal capacity, need and tax effort in distributing State aid for public health and hospital programs. (*Report A-34, 1969*)

States should eliminate constitutional and legislative barriers to the establishment of prepaid group practice of health care. (*Report A-33, 1968*)

The President should direct the Secretaries of Interior and Health, Education and Welfare to prepare and submit a joint report and recommendations to clarify the relationship between Medicaid and medical services provided Indians, Eskimos and other indigenous groups. (*Report A-33, 1968*)

⁴⁴ Daniel, Fountain, McDonald, Ullman dissent; Mundt abstain.

⁴⁵ Rockefeller dissent.

⁴⁶ Fountain dissent.

⁴⁷ Fleming dissent.

HOUSING (see also Urban Growth)

Discrimination and Diversification

Federal and State agencies should accelerate adoption of cooperative agreements for enforcing Federal and State laws and regulations forbidding discrimination in housing. (*Report A-25, 1965*)

Federal and State housing legislation should be amended to: facilitate purchase, rehabilitation and lease of existing private housing by local public housing authorities; authorize subsidizing of rents of low income families in existing private, housing;⁴⁸ and permit financial assistance to private, nonprofit organizations to enable them to provide subsidized housing for low income families. (*Report A-25, 1965*)

[Implemented by the Housing Act of 1965, PL 89-117, and subsequent amendments to that act.]

States should restrict zoning authority in metropolitan areas to larger municipalities and county governments and should require any zoning authority to permit a wide range of housing prices within the area covered. Metropolitan planning agencies should prepare plans and ordinances for adoption by individual local governments in the area; such plans should provide for a wide range of housing prices. (*Report A-25, 1965*)

Urban Renewal

Congress should remove limitations on nonresidential renewal from the Federal urban renewal program. (*Report A-25, 1965*)

States should authorize and help counties in metropolitan areas provide urban renewal and public housing services to unincorporated areas and small municipalities. (*Report A-25, 1965*)

Building Technology

Congress should authorize and finance a cooperative public and private program to develop national performance criteria and standards and testing procedures for building construction. There should be a continuing national program of building research; the President should direct Federal agencies with policy or program responsibilities for construction, urban development and renewal to cooperate in this endeavor. (*Report A-28, 1966*)⁴⁹

[Section 1010 of Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, provides for a national program of building research.]

States and institutions of higher education should establish programs for research in building construction and provide appropriate technical information services for public officials and private business. (*Report A-28, 1966*)⁴⁹

⁴⁷ Fleming dissent.

⁴⁸ Anderson, Wilcox, Goldner dissent.

⁴⁹ Ervin, Mundt, Crank and DeStefano disagreed with Commission taking action on the report A-28 *Building Codes: A Program for Intergovernmental Reform*, at that time. (January 1966)

Building Codes

The President should instruct all Federal, State and local agencies with direct responsibility for building construction or with responsibility for establishing construction standards, to develop and set a common set of standards. (*Report A-28, [Proposed Building Sciences Act would establish National Institute of Building Sciences to develop and maintain "national relationship between building codes and related regulatory requirements and building technology" and facilitate cost saving innovations.]*)

States should enable their local jurisdictions to adopt the recognized uniform building code by reference and adopt future changes by administrative rather than legislative action. (*Report A-28, 1966*)⁴⁹

States should establish a building construction review agency at State level to provide uniform interpretation of standards in considering appeals from decisions of local government. (*Report A-28, 1966*)⁴⁹

Building Inspectors

State agencies should be empowered to establish professional qualifications for building inspectors and license candidates. States may wish to supplement the salary of local building code inspectors to compensate for higher salary requirements that would result.⁵¹ States should establish minimum staffing requirements for building inspection, authorize interlocal agreements for inspection services to meet minimum requirements and empower a State agency to provide direct and reimbursable inspection services. On-site construction inspection should be centralized.⁵² (*Report A-28, 1966*)⁴⁷

States should authorize and support programs for training building inspectors. Grants available under Title VIII of the Housing Act of 1964 should be used for this purpose. (*Report A-28, 1966*)⁴⁹

Relocation

Congress should establish a uniform relocation policy for payments and advisory assistance for persons and business displaced by direct Federal and federally aided programs. Each State should establish a uniform policy for State and local programs. (*Report A-26, 1965*)

[Federal aspect implemented by Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, PL 91-646.]

Congress and State legislatures should assign responsibility to administrative agencies for determining the amount of relocation payments. Federal, State and local governments causing displacement should centralize in a single agency in each major urban jurisdiction responsibility for relocation. Cities in

⁴⁹ Ervin, Mundt, Crank and DeStefano disagreed with Commission taking action on the report A-28, *Building Codes: A Program for Intergovernmental Reform*, at that time. (January 1966)

⁵⁰ Crank dissent.

⁵¹ DeStefano and Goldner dissent.

⁵² Goldner dissent.

metropolitan areas with relocation staff and experience should contract to provide areawide relocation services and studies. (*Report A-26, 1965*)

[Implemented in part by Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, PL 91-646.]

The President should appoint a representative group to draft a model building code. The group should recommend machinery to keep the code revised and updated ⁴⁹ (*Report A-28, 1966*) ⁴⁹

The States should authorize the adoption and use by local governments of uniform housing, building, zoning and platting codes within metropolitan areas. (*Report A-25, 1965*) The States should prepare and promulgate comprehensive building codes, with a permissive procedure for products approval. Local jurisdictions should not have the authority to alter the code except on specific approval of the State agency. To the extent possible State model codes should adhere to nationally recognized models. State and local government should use 701 funds for this purpose. States should consider a uniform policy of construction loans and grants to local governments upon conformance of aided projects to the State model code. (*Report A-28, 1966*) ⁴⁹

States and regional organizations should assist local governments in planning for relocation. Where States make urban renewal capital grants, advances should be provided for relocation planning. (*Report A-26, 1965*)

Federal and State legislation should require that before governments proceed with any property acquisition, they assure the availability of at least comparatively standard housing for the displaced. Federal and State governments should require their agencies causing displacement to give advance notice of impending construction programs at the earliest practicable time. (*Report A-26, 1965*)

[Implemented by Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, PL 91-646.]

The Federal Government should finance the full cost of relocating families and up to \$25,000 for relocating business displaced under Federal grant-in-aid programs. Additional costs for businesses should be on the basis of cost-sharing formula. States should share in the cost of relocation for programs which receive State grants or State contributions to Federal grants. (*Report A-26, 1965*)

[The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, PL 91-646, provides full federal reimbursement until July 1, 1972, after which time the cost is to be shared with States and localities on a project formula basis. Proposed Uniform Relocation Act Amendments would remove cutoff date.]

⁴⁹ Ervin, Mundt, Crank and DeStefano disagreed with Commission taking action on the report A-28, *Building Codes: A Program for Intergovernmental Reform*, at that time. (January 1966)

The Small Business Administration should be authorized to provide disaster loans to small businesses suffering substantial economic injury as a result of State and local construction programs, including those adversely affected but not actually displaced. The Manpower Development and Training Act of 1962 should be amended to make widow and widower owners of displaced firms eligible for retraining. (*Report A-26, 1965*)

[Disaster loans recommendation implemented in part by Federal Aid Highway Act of 1968, PL 90-495; retraining eligibility provided by Manpower Training Act of 1965, PL 89-15.]

LAW ENFORCEMENT (see also Judicial Branch)

General Administration

States should retain and strengthen regional law enforcement planning districts. (*Report A-36, 1970*) Local criminal justice coordinating councils led by local chief executives should be established in jurisdictions with substantial responsibility for at least two of the major components of the criminal justice system. Regional criminal justice planning agencies should be required to coordinate with these local councils. State and regional criminal justice planning agencies and local coordinating councils should take primary responsibility for improving interfunctional cooperation in the State-local criminal justice system. (*Report A-38, 1971*)

The Omnibus Crime Control and Safe Streets Act of 1968 should be administered by a Director (rather than the three-member Administration) under the general authority of the Attorney General. (*Report A-36, 1970*)

[Implemented by the Omnibus Crime Control Act of 1970. PL 91-644.]

The block grant approach in the Omnibus Crime Control and Safe Streets Act of 1968 should be retained. No changes should be made in the Act to funnel additional Federal funds into high-crime urban and suburban areas except that LEAA should find that adequate allocation is made to such areas before it approves any State plan. States should give greater attention to improving all components of the criminal justice system, but the act should not be changed to funnel more money to court and corrections because that would dilute the block grant approach. (*Report A-36, 1970*)

[Omnibus Crime Control Act of 1970, PL 91-644, retained block grant approach but modified it by earmarking 20 percent of action funds for corrections; Act directed LEAA not to approve State comprehensive plans unless adequate assistance is given areas of high crime incidence.]

The Omnibus Crime Control and Safe Streets Act of 1968 should retain provisions for balanced representation of interests on supervisory boards of State Law enforcement planning agencies. (*Report A-36, 1970*)

[Implemented by Omnibus Crime Control Act of 1970, PL 91-644.]

The Law Enforcement Assistance Administration should be authorized to waive the ceiling on grants for personnel compensation under Title I of the Omnibus Crime Control and Safe Streets Act of 1968.⁵³ (*Report A-36, 1970*)

Police

Basic police services (patrol and preliminary investigation) should be provided throughout all metropolitan areas directly by localities, through intergovernmental cooperation, either voluntarily through contracts or by assumption of the overlying government if localities fail to provide it.⁵⁴ Counties should be empowered to perform specialized, staff and auxiliary supportive police services in single county metropolitan areas. Appropriate areawide instrumentalities should be encouraged to provide these services. States should encourage specialized police task forces to operate throughout multi-county and interstate metropolitan areas to deal with extra-local and organized crime. (*Report A-38, 1971*)

Localities should be given carefully circumscribed extraterritorial police powers relating to "close pursuit." States should clarify governmental responsibility for liability insurance for police officers engaged in lawful extraterritorial police activity. (*Report A-38, 1971*)

Unincorporated portions of metropolitan areas should be required to pay full cost of police services provided by the county. (*Report T-38, 1971*) States should improve the capabilities of rural police systems, by methods such as supplying trained State personnel or providing incentive grants to encourage consolidation of subcounty police forces.⁵⁵ (*Report A-38, 1971*)

States should consider providing the full range of law enforcement powers and services statewide and removing geographic limitations on the appropriate statewide law enforcement agencies. (*Report A-38, 1971*)

States should have Councils on Police Standards, composed of State, local and public members, to develop and recommend minimum standards for police selection and basic training. States should enact mandatory minimum standards and meet the full cost of training programs to achieve them; and should encourage private and public institutions of higher education to offer appropriate training programs and encourage incentive pay plans to further police training. (*Report A-38, 1971*)

States should revise their criminal codes to define better the scope of discretionary police activities and provide comprehensive governmental tort liability to protect police that make legitimate use of such power. State laws that restrict local chief executives from appointing their police chiefs should be modified along with veterans' preference and other civil service regulations that limit the selection and promotion of local policemen. (*Report A-38, 1971*)

⁵³ Fountain, Mayo, Roos dissent.

⁵⁴ Reagan dissent.

⁵⁵ Reagan, Maltester dissent.

Local governments should substantially increase their efforts to involve citizens in the law enforcement and criminal justice process through the installment of police community relations machinery and programs. (*Report A-38, 1971*)

Sheriff, Constable, Coroner

The office of sheriff should be a statutory rather than constitutional position. States should give metropolitan counties the option of assigning basic responsibility for countrywide police services to an "independent" county police force under the control of the chief county executive, compensated by salary with civil service coverage and adequate retirement benefits. If countrywide police service is assigned to the sheriff's department, court and jail duties should be reassigned to appropriate court and correctional agencies and tenure limitations should be removed from the sheriff. (*Report A-38, 1971*)

The office of constable should be abolished and its duties transferred to appropriate lower court systems. (*Report A-38, 1971*)

The office of coroner should be abolished, his medical function transferred to an appointed local medical examiner and judicial functions exercised by the local prosecuting attorney. Official records regarding certification of death should be a matter of public record. (*Report A-38, 1971*)

Prosecution and Defense

States should strengthen State responsibility for prosecution by enhancing the authority of the attorney general to oversee and assist the work of local prosecutors. One method would be through State Councils of Prosecutors, convened by the attorney general. States should centralize the local prosecution function in a single office, responsible for all criminal prosecutions and require prosecuting attorneys to be full-time, redrawing their districts to encompass a large enough territory to require a full-time official. The State Supreme Court should be authorized to remove local prosecutors. States should pay at least 50 percent of the costs of local prosecuting attorney's offices. (*Report A-38, 1971*)

States should authorize prosecutors to bring indictments through either grand jury or information procedures. Grand juries should be used primarily in cases of alleged official corruption, but when used, they should be empaneled on a frequent enough basis to prevent unnecessary court delay. Nothing in the recommendation is intended to modify the traditional investigative powers of grand juries. (*Report T-38, 1971*)

States should establish and finance a statewide system for defense of the indigent, making a public defender or coordinated assigned counsel service readily available in every area of the State. (*Report A-38, 1971*)

Corrections

It is essential that greater public attention, funds, and policy focus be directed to corrections, the step-child of the criminal justice system, and that basic reforms be undertaken. As a matter of general public policy, State and local officials should give a high priority to upgrading correctional institutions and rehabilitation services to help reduce crime rates. (*Report A-38, 1971*)

States should vest all responsibility for corrections excluding the adjudicatory functions of parole and pardons, in one State department directly accountable to the governor. States should assume full financial, administrative and operational responsibility for juvenile and long-term adult correctional institutions, parole, juvenile aftercare and adult probation. Local government should retain operational and a share of the fiscal responsibility for short-term adult institutions and jails, detention facilities, misdemeanor and juvenile probation, but the States should establish and monitor minimum standards of service, and furnish planning and technical assistance and a reasonable share of the costs. (*Report A-38, 1971*)

Adequately financed, staffed and supervised community-based treatment programs can be more effective than institutional custody in rehabilitating most offenders. States and localities should authorize work-release programs and use regional or community institutions for prisoners who might benefit from such programs. State and local governments should upgrade academic and vocational training programs for inmates of juvenile and adult institutions. (*Report A-38, 1971*)

States and local governments should plan and develop adequate adult and juvenile detention services and facilities which related to the processes of the court system. Short-term penal institutions should be administered by appropriately trained correctional personnel. Local governments should be encouraged to agree to the joint establishment and operation of regional jails and institutions. (*Report A-38, 1971*)

States and localities should improve recruitment, compensation, training and promotion practices to attract sufficient numbers of high quality personnel to the corrections system. States should establish minimum qualifications standards for correctional personnel. Volunteers and paraprofessionals, including ex-offenders other than former police officers, should be used in correctional programs. States and localities should train such personnel to meet appropriate standards. (*Report A-38, 1971*)

NATURAL RESOURCES AND THE ENVIRONMENT (see also Interlocal Cooperation, Fiscal Management)

Planning

States should vest the responsibility for overall water resource planning, policy-making and program coordination in a single agency which would give urgent consideration to the needs of

urban areas. (*Report A-13, 1962*) Each metropolitan area should undertake comprehensive water utility planning on a metropolitan, watershed and drainage basin basis to integrate the provision of water and sewer service with other metropolitan functions, insure economies of scale, and promote sound overall patterns of development. Federal grants for sewage treatment plants should be consistent with comprehensive drainage basin and metropolitan area planning. (*Report A-13, 1962*)

Federal water resources planning and development activities should give equal attention to urban needs as to the water requirements of navigation, power production, industry, agricultural use and recreation. (*Report A-13, 1962*)

[Implemented by Water Resources Planning Act of 1965 and Senate Document No. 97, 87th Congress, 2nd Session.]

Central cities, counties or other jurisdictions that provide water or sewer service to their units of government on a contract basis should assume the responsibility for comprehensive area-wide facility planning and should encourage the most economical development of service lines to the contracting areas. (*Report A-13, 1962*)

Congress should amend the appropriate acts to discourage fragmentation and short-term anticipation of needs in community water supply systems for the use of individual water and sewage systems.⁵⁶ (*Report A-13, 1962*)

[Implemented by the Housing Act of 1964, PL 88-560, and the Housing Act of 1965, PL 89-117.]

Assistance

Dollar ceiling for Federal construction grants to large cities for sewage treatment should be increased. (*Report A-13, 1962*)

[Implemented by Water Quality Act of 1965, PL 89-234.]

States should provide financial and technical assistance and incentives for comprehensive development of facilities planning and construction. Public officials in urban areas should make greater efforts to increase public investments in urban water utilities, particularly sewage treatment. (*Report A-13, 1962*)

Enforcement

Federal agencies should take strong action through enforcement powers and financial incentives to achieve industrial pollution abatement. (*Report A-13, 1962*)

[Partially implemented by Water Quality Improvement Act of 1970, PL 91-512; Clean Air Amendments of 1970, PL 91-604.]

States should enforce water pollution abatement with greater vigor and thoroughness through stronger legislation, more vigorous administration, and greater regulatory authority. (*Report A-13, 1962*)

⁵⁶ Dillon abstain.

SOCIAL WELFARE

The Federal Government should assume full financial responsibility for the provision of public assistance (including general assistance and Medicaid) but the States and local governments should continue to administer public assistance programs.⁵⁷ (*Report A-34, 1969*)

Partially implemented by State and Local Fiscal Assistance Act of 1972, PL 92-512, under which Federal government took over adult categories.]

Employment Services

The governors and the Secretary of Labor should assure that public employment services are provided to all job applicants and employees within each metropolitan area labor market regardless of State lines. (*Report A-25, 1965*)

[Implemented by administrative order of Secretary of Labor February 1970.]

The Economic Opportunity Council should establish the necessary machinery to assure integrated planning at State and Federal levels of the anti-poverty impact of job-creation and job-training programs. The Office of Economic Opportunity should take positive steps to interest States in acting as prime or supporting contractors for Job Corps facilities. (*Report A-29, 1966*)

[Recommendation moot; Job Corps discontinued.]

Poverty Program

General units of local government are preferable to private nonprofit groups for organizing community action agencies except where they have refrained from undertaking anti-poverty programs where there is a clear need.

"Maximum feasible participation" of the poor should be retained. EOE should require Community Action Agencies to initiate comprehensive plans to guide anti-poverty programs as a condition of Community Action Program funding. (*Report A-29, 1966*)

OEO should encourage Community Action Agencies in metropolitan areas to conduct community action planning and other services on a joint basis to take advantage of economies of scale, pooled leadership resources and a proper interrelationship among the various social-economic factors in the areas. (*Report A-29, 1966*)

Concept not working well in a number of metropolitan areas where tried; recommendation should be considered rejected through experience.]

OEO should accelerate efforts to achieve cooperation of Federal departments in implementing Section 612 preference provision. (*Report A-29, 1966*) The Economic Opportunity Act should be amended to retain 10 percent non-Federal matching for

⁵⁷ Fountain, Ullman, Knowles, McDonald dissent. Mundt, Finch, Romney, Mayo abstain.

Community Action, Neighborhood Youth Corps, and Adult Basic Education.⁵⁸ The States should dully utilize grants available from OEO to undertake broad programs of technical assistance. (*Report A-29, 1966*)

[Section 612 preference provision dropped by Congress; Economic Opportunity Amendments of 1967, PL 90-222, increased non-Federal share to 20 percent for the community action program and Neighborhood Youth Corps and to 30 percent for Adult Basic Education roll effective July 1, 1967.]

Provisions which permit the director of OEO to override a governor's veto of Community Action, Neighborhood Youth Corps and Adult Basic Education programs should be retained.⁵⁹ OEO and other Federal departments involved should establish uniform procedures for notifying governors regarding status of applications and for fulfilling gubernatorial and veto requirements. (*Report A-29, 1966*)

[Partially implemented by Economic Opportunity Amendments of 1967, PL 90-222.]

OEO, State technical assistance agencies, the Council of State Governments and its affiliates in cooperation with IRAC staff should study State administrative and legislative barriers to anti-poverty programs and develop model State legislation as needed. Steps should be accelerated to collect and make available new and more current data relating to the incidence of poverty and anti-poverty resources being applied. (*Report A-29, 1966*)

Implemented through OEO publication of catalog of assistance programs in human resources field by county.]

TRANSPORTATION (see also Interlocal Relations, Fiscal Management)

Mass Transportation

States should develop mass transportation plans, and provide technical and financial assistance to metropolitan areas for planning and implementation. (*Report A-34, 1969*) Congress should provide grants to States and localities to develop mass transportation plans for urban areas and underwrite demonstration projects for innovative facilities, and initiate long-term low interest rate loans for mass transportation. The special demonstration projects should be restricted to those undertaken at the initiative of the administering agency.⁶⁰ (*Report A-4, 1961*)

[Implemented by Housing Act of 1961, PL 87-60.]

Congress should give advance consent to interstate compacts to be responsible for mass transportation planning in interstate metropolitan areas.⁶¹ (*Report A-4, 1961*) States should authorize local governments in metropolitan areas to establish areawide

⁵⁸ Fountain dissent.

⁵⁹ Blaisdell, Naftalin, Walters dissent, calling for abolition of governor's veto.

⁶⁰ Ribicoff no position, Muskie and Fountain reserve positions, Burton not concur.

⁶¹ Ribicoff no position.

metropolitan transportation facilities.⁶² The States should provide technical and financial aid for mass transportation planning in these areas.⁶³ (*Report A-4, 1961*)

Highways

States should allow the flexible use of State highway-user revenue especially in large urban areas, in order to achieve balance among transportation modes. (*Report A-34, 1969*)

The Federal-Aid Highway Act should be revised to replace the existing primary, secondary and urban extension program with a system aiding development of State highways, urban major streets and highway networks, and rural secondary systems, and for coordinating this development with mass transportation. States should structure their formulas for allocating the proceeds of highway-user taxes to insure proper balance between urban and rural highway requirements. (*Report A-34, 1969*)

[Partially implemented by Highway Act of 1973, PL 93-87, which permits more flexible use of trust fund.]

URBAN GROWTH AND DEVELOPMENT (see also Housing)

National Urban Growth Policy

The President and Congress should direct an appropriate executive agency—in consultation with State and local governments—to develop a national urban growth policy incorporating social, economic and other considerations to guide specific decisions at the national level. Implementation of the national urban growth policy could include: Federal financial incentives for business and industrial location in certain areas; placement of Federal procurement contracts and construction projects to foster urban growth; Federal policies and programs to influence the mobility of people, to neutralize factors producing continued excessive population concentrations and to encourage alternative location choices; strengthen existing voluntary Federal-State programs of family planning information; and Federal involvement and assistance under certain conditions for large-scale urban and new community development. To facilitate development and implementation of the national policy, the policies and structures of existing and proposed multistate economic planning and development agencies should be reassessed. Such agencies should take national policies into account in the formation of their regional programs. (*Report A-32, 1968*) Congress should establish the principle of Federal interagency coordination in the full range of programs affecting urban development (*Report A-20, 1964*). The Federal Government should coordinate and interrelate the various programs which impact upon orderly planning and development within large urban areas.⁶⁴ (*Report A-5, 1961*).

⁶² Ribicoff no position.

⁶³ Ribicoff no position.

⁶⁴ Ribicoff no position.

[Title VII of the Housing and Urban Development Act of 1970, PL 91-609 incorporates several essential elements of ACIR's recommended national urban growth policy. The Act directs the President to submit biennial reports to Congress—beginning in February 1972—that include assessment of Federal, State and local policies affecting urban growth, analyses of future needs resulting from urbanization and steps being taken to meet these needs; and recommendations for programs to carry out a national growth policy. In addition, the Act declares that new communities must be established to meet an estimated 75 million increase in the nation's population by the year 2000 and provides a growth of financial assistance to new communities, including Federal guarantees of bonds, planning grants to new community developers, loans to new community developers to help them meet interest payments and supplementary grants to States and localities to build public facilities in support of new communities, the ICA of 1968, PL 90-577 established the principle of Federal interagency coordination in programs affecting urban development. To encourage the consideration of alternative locations by business and industry, the Census Bureau publishes the Census of Manufacturing, a detailed geographical information on industrial location trends, including a breakdown among central city, suburban and rural portions of SMSA's.]

State Urban Growth Policy

States should develop State urban growth policies and implement them by assigning coordination to a State agency, by making State programs conform, and by reviewing State and Federal programs for conformance. Legislatures should establish study committees to review State urban growth policies. National and local views should be taken into account in the process. In implementing urban growth policy, a State should consider: establishing State and regional industrial credit agencies to stimulate business and industrial location; placing State and local procurement contracts and construction projects to foster urban growth; establishing State and State-chartered local land development agencies and State property tax deferral for new community development; regulating development along highways where no effective local control exists; delegating appropriate governmental authority to urban counties; authorizing local government to adopt new and strengthened land use and development ordinances and regulations. (*Report A-32, 1968*)

States should provide financial and technical assistance to metropolitan areas for urban planning, urban renewal, building code modernization and local government organization and finance. States and local government should be able to acquire conservation easements and rights in real property for the purpose of preserving open areas.⁶⁵ (*Report A-5, 1961*)

⁶⁵ Ribicoff no position.

Planning

The Federal Government should require effective planning at the local level. Section 701 of the Housing Act should be broadened to include all municipalities and counties over 50,000 population undergoing rapid urbanization. (*Report A-20, 1964*) Federal agencies should use the multi-county planning districts established by the States. (*Report A-29, 1965*).

[Effective planning recommendation implemented by Intergovernmental Cooperation Act of 1968, PL 90-577; broadening of Section 701 implemented in part (for counties) by Housing Act of 1964, PL 88-560; Federal use of State multi-county planning districts implemented by Presidential Memorandum, September 1966.]

Section 701 and other planning assistance programs should specifically authorize and encourage economic and social policy planning for the community as a basic justification for physical planning. (*Report A-25, 1965*) The States should provide financial incentives for multi-purpose regional public agencies in non-metropolitan areas to undertake physical, economic and human resources planning and development (*Report A-29, 1965*)

A National system to collect, analyze and disseminate social statistics should be developed with special emphasis on sub-state areas. (*Report A-31, 1967*) (See also Data Needs)

Private Enterprise

Constitutional and statutory barriers should be removed to involve private enterprise in enlarging and revitalizing economic and fiscal base of major cities. (*Report A-31, 1967*)

STATE ACTION ON ACIR RECOMMENDATIONS

Over the years since its creation the Advisory Commission on Intergovernmental Relations has directed over 200 specific recommendations to State government. Recommendations for State action are translated into draft bill language. These draft bills constitute ACIR's "State Legislative Program." It is brought to the attention of key legislative and executive officials of all the States, as well as local government officials and other interested groups and influential individuals.

A precise assessment of State action on ACIR recommendations is difficult to compile. Information on State legislative action is likely to be somewhat incomplete. Each biennium the fifty State legislatures consider an estimated 150,000 separate pieces of legislation in their regular and special sessions. Usually about one-third of the bills introduced are enacted into law. A detailed analysis of these enactments by ACIR is not feasible. Rather, the Commission must rely heavily on secondary sources of information such as legislative service agencies, State municipal leagues, the Council of State Governments and other groups that prepare summaries of State legislative action.

Moreover, the Commission recognizes that its recommendations should not be construed as the sole motivating force behind all enactments of State legislation that do in fact implement ACIR recommendations.



AMERICAN FEDERALISM: INTO THE THIRD CENTURY

Its Agenda

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

WASHINGTON, D.C. * MAY 1974

M-85





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Robert E. Merrigan
Chairman

Acknowledgements

This document was written by Rachelle L. Stanfield and edited by William G. Quinn, who supervised its preparation. It was prepared for Federalism Seventy-Six under a grant from the American Revolution Bicentennial Commission to the Advisory Commission on Intergovernmental Relations. The copy was reviewed for Federalism Seventy-Six by Carl F. Snow, Daniel R. Chertow, Valerie Earle, James Ferguson, Thomas J. Green, Gary L. Jones, William R. MacDougall and Bruce W. Rolander.

William R. MacDougall
Executive Director

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
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Preface

The shifting sands of American governmental actions alternately form solid dunes of accomplishment only to be blown into endless deserts of mediocrity. The alternate ebb and flow of these sands has been the subject of intense wonder in the rest of the world—and with reason.

The truth is that this country has established the most significant governmental system yet erected—a Federal system of divided responsibilities in fact as well as theory. A strong national government, with an ever stronger presidency, still has the ability to survive even while pausing in mid-course in a great, rending national debate on the very right of the President to remain in office. At the same time state governors and legislatures, often considered weak and unresponsive, rise to the occasion by exercising strong leadership, with urban affairs and public accountability leading the way. Local governments with all their limitations continue to deliver essential services—some extremely well.

The Advisory Commission on Intergovernmental Relations is the first official “federal” body created since the Constitutional Convention itself. Lacking the action mandate of that great body, the ACIR nevertheless has over the years forged an important agenda as we move into the third century of this vast American experiment. The purpose of this brief summary is to highlight the ACIR agenda, hopefully as a guide to help in unravelling our terribly complex system, and as a help in sorting out our often confused thinking about it.

Robert E. Merriam
Chairman

Acknowledgements

This document was written by Rochelle L. Stanfield and edited by William G. Colman, who supervised its preparation. It was prepared for Federalism Seventy-Six under a grant from the American Revolution Bicentennial Commission to the Advisory Commission on Intergovernmental Relations. The copy was reviewed for Federalism Seventy-Six by Carl F. Stover, Daniel R. Cloutier, Valerie Earle, James Ferguson, Thomas J. Graves, Gary L. Jones, William R. MacDougall and Bruce W. Rohrbacher.

William R. MacDougall
Executive Director

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What's Behind?

What's Now?

What's Ahead?

For nearly 200 years now, Americans have tried to reconcile the twin goals of diversity and unity through a federal system of government, with a sharing of power between a national government on the one hand and State and local governments on the other. This includes fiscal and political accountability at each government level—from the White House to the court house.

This shared-power or “federal” characteristic of our system has been in controversy since the founding of the republic. Today, as at other times, the question is raised, among statesmen, scholars and citizens alike, as to whether such a system of shared and divided powers is equal to the complex and critical nature of domestic government in the United States.

This booklet explains the findings and recommendations of the Advisory Commission on Intergovernmental Relations (ACIR)—a national bipartisan body created by Congress in 1959 and charged with continuing study of the workings of the federal system and with proposing ways in which the system might be strengthened. The Commission's work over the past decade and a half provides a yardstick against which to assess the past and chart the future of the nation's form and structure of government on the occasion of the American bicentennial observance.

It was the adoption of the Constitution in 1787, not the Declaration of Independence in 1776, that established the federal system. But the issues of the prerevolutionary period provide the core concepts of the Constitution created at Philadelphia and its federal principle—America's greatest contribution to the art of government.

Whether it was “taxation without representation,” the authority of parliament to regulate commerce, the legal status of the colonial charters, or the power of the Crown as the imperial link, colonial spokesmen such as James Otis, John Adams, and Thomas Jefferson were arguing issues of governmental centraliza-

The Origins

tion and decentralization—the division of power between the center and the grassroots.

When independence was declared, a compact for confederation was adopted by the new states, in reaction against the unitary structure of British government. But in less than a dozen years, the weakness of the national government became so apparent that many were gravely concerned for our survival as an independent nation. Consequently, the stage was set for the mighty work that was to emerge from Philadelphia and the federal formula that was its most ingenious feature—a feature providing for a strong national government, while reserving considerable power of domestic governance to the states.

As America prepares to embark on its third century, the central goal of the federal system is still “to form a more perfect union,” just as it was in 1776, 1787 and 1861-65. President Lincoln, in his first inaugural, in 1861 eloquently summed up the nature and meaning of the American union:

... in legal contemplation the Union is perpetual... (It) is much older than the Constitution. It was formed, in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured, and the faith of all the then thirteen states expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution was ‘to form a more perfect Union.’

For nearly 200 years, the federal system has survived and has adjusted to enormous changes in population, technology, living patterns and governmental needs. It weathered the Civil War and the foreign wars, official venality and political foolishness, indecision and lack of action, sins both of omission and commission. It also has had dramatic saviors and unsung heroes, as well as articulate opponents and unknowing subverters.

It is a resilient system that defies precise definition. It has been viewed as both a nation centered and a state centered system; as a competitive and as a cooperative arrangement; as a layer cake, a marble cake, and a “blender cake;” as a three-legged stool, a pentagon, and even an abstract painting (no representational form, shifting shapes and an abundance of color). The image of a juggler has been evoked, trying to keep in the air the many oranges of conflicting objectives while his assistant heaps on apples of economic growth, technological advance, political controversy, and social change.

None of these interpretations or comparisons truly explain the federal system, though all provide some clues to its character. It is a highly complex and infinitely subtle blend of contrasting needs, values, and institutions rooted in a society that is pluralistic, an economy that is diversified, and in political parties that are neither centralized nor ideological.

The goal today may well be a better balance, but true equilibrium can never be reached, for federalism is as dynamic as the forces that shape the society it serves. From time to time, particular events or policies have thrown the system out of balance, and sensitive observers have feared its fate. But for two centuries, federalism has managed to adapt to new circumstances without sacrificing its essential nature.

Here is one oversimplified example, stripped of many of its ramifications, of the kind of pendulum swings that have characterized this adaptability. It might be said that the federal system now—in the mid-seventies—is beginning to recover from a long period of serious disequilibrium.

In the 1930s, the Federal government—which had the financial resources—was forced to take steps to provide citizens with economic protection from the ravages of the Great Depression. The Social Security Act was adopted, and Federal aid to states expanded into many new fields. The results brought economic security to millions but was accompanied by a fallout of increasing centralization and the birth of “functional bureaucracy”—decisionmaking by state and local bureaucrats who applied for, and Federal bureaucrats who handed out the grant money, rather than by those who were “politically accountable” to the people.

By the middle 1960s, stimulated in part by legislative reapportionment, states were beginning to reassume a positive role over their own affairs and those of local government. In 1972, two Federal actions in particular added momentum to this swing of the pendulum. One was the adoption of general revenue sharing—providing relatively “no strings” money to elected officials at state and local levels, thereby bolstering their capacity to set their own priorities and make their own decisions. Although revenue sharing violates the preachment that the government that raises the money should be the one that spends it, on balance, the objective of decentralization seemed more important.

The other Federal action was the beginning of the nationalization of welfare, with Federal takeover of the adult assistance categories (aid to the aged, blind and disabled). On its face, this was a move toward centralization. But the Federal-state welfare system had been characterized by such great disparities among states that the twin goals of equity and national unity made continuation of state based systems untenable. In addition, by removing this fiscal burden from the shoulders of the states, it was hoped they would be able to assume other, more appropriate responsibilities.

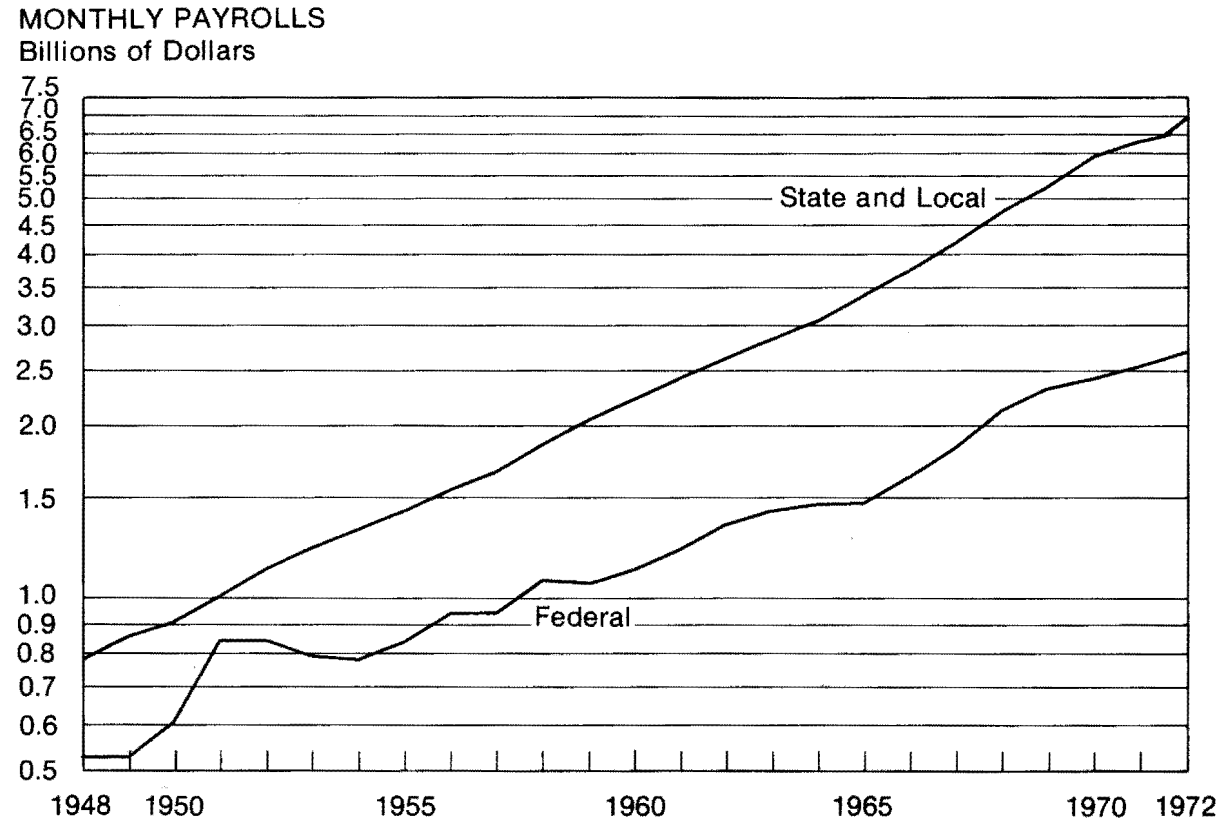
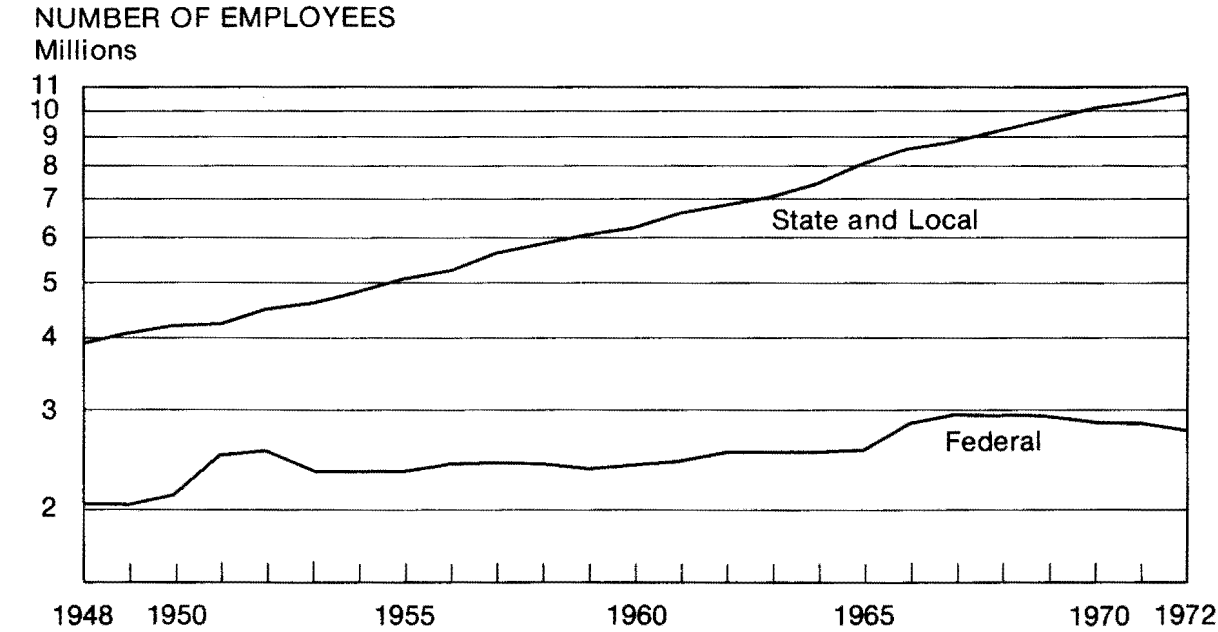
Since its inception in 1959, the ACIR has studied specific conflict and tension points in intergovernmental relations; also it has provided an overview of the system as a whole on the occasion of its annual reports to the President, Congress and the public.

The Commission has made well over 500 recommendations to Federal and state governments to resolve specific problems; some of these have been accepted, others rejected, and many others still

Swings of the Pendulum

The Tasks Ahead

Government Employment and Payroll, 1948 to 1972
Logarithmic Scale



Note: Data are for month of October; 1957 data were reported for April and have been adjusted for comparability to October.

await action. These recommendations fall into a pattern that emerges as an action agenda for rebalancing and strengthening the federal system. The agenda can be considered in five broad areas:

- Revitalizing local government;
- Building stronger states;
- Achieving balanced population and economic growth, including diversified housing opportunity;
- Streamlining and humanizing the administration of justice; and
- Restoring fiscal balance among Federal, state and local levels of government, including consolidation and simplification of the Federal grant system and massive shifts in intergovernmental responsibilities for the financing of welfare, medicaid, and public education.

Revitalizing
Local
Government

America's grassroots governments—the cities, counties, and towns—today face greater challenges than ever before, with problems and citizen demands emerging and growing at a rate far greater than the legal, structural and financial capacity to deal with them. Here one sees most dramatically the triple mismatch between fiscal resources and human needs, between political boundaries and population settlement patterns and between the states' constitutional role as parents of these units and their frequent unwillingness to “grasp the local government nettle”.

In 1970, 66 percent of the population resided in “metropolitan areas”.¹ Typically a metropolitan area consists of a central city surrounded by suburban municipalities, towns and counties, both city and suburban, containing in turn a sizeable number of school and other special districts.

Since 1950, many central cities have suffered a net population decline. Between 1960 and 1970, suburbs recorded a net population gain of about 27 percent; central cities of little more than 6 percent—and most of that from annexation. The 1970 census showed that for the first time more people were living in the suburban areas than in central cities—although some of the older, fully developed suburbs also suffered a net decline.

Marked disparities in racial composition are evident in the following comparisons between 72 central cities and their suburbs

Metropolitan
Disparities

with regard to age, income, housing, crime, government expenditures, taxes and external financial aid.

Race

The cities are getting blacker and the suburbs whiter. Between 1960 and 1970, the white population declined in 40 of the 72 largest central cities; in all but three of these cities, the non-white population increased. Over 85 percent of all non-white metropolitan growth occurred in the central cities. In 1970, 24 of the central cities were more than one-quarter black while 67 of the suburban areas were more than 90 percent white, although here and there across the country the proportion of black population in suburbia is beginning to increase.

Age

Older people cluster in cities; younger ones in suburbs. In 1970, 11 percent of the central city population was 65 years or older; 8 percent of the suburban population. This meant more school children in the suburbs: 24 percent to 19 percent in the city, but many of those in the city were harder and more costly to educate because of socio-economic disadvantages.

Income

Family units in the suburbs are wealthier. In the northeast, for example, average central city household income was 79 percent of suburban household income in that region. For the country as a whole, 17 percent of central city households were earning under \$3,000; and 33 percent, more than \$10,000. This compares with 12 percent under \$3,000 and 41 percent more than \$10,000 in the suburbs. (It is important to note that central city-suburban disparities of an economic and racial nature tend to be more marked in the northeast and industrial midwest than elsewhere in the country.)

Housing

Housing costs more and is worth more in the suburbs—making it harder for low income people to leave poor central city neighborhoods and making it easier for suburbs to finance their government services through the property tax. In 1970, owner occupied houses in the central cities were worth 84 percent of suburban houses. From 1960 to 1970, suburban houses increased in value an average of 47 percent; city houses only 31 percent. Rental housing followed basically the same pattern.

Crime

In 1970, crime rates in all but one of the 72 central cities exceeded those of the respective suburban areas. The FBI's *Uniform Crime Reports* for the first nine months of 1973 showed an encouraging shift. Total crimes for cities over 1-million population were down 3 percent while crimes for suburban areas were up 5 percent. Violent crimes were down 2 percent in cities over 1-million population, but up 10 percent in suburbs. But the discouraging fact remains that, for 1972, the rate for robbery was eight times as high in cities as in suburbs; for murder, five times as high; and for rape and aggravated assault, nearly three times.

Comparing 1957 and 1970 data, central cities in both years spent better than 25 percent more per capita on government services than their suburban counterparts. Central cities have always had to spend a greater portion of their budgets on non-educational services. In 1957, central city areas had 82 percent higher per capita non-educational expenditures than the suburbs. By 1970, this figure had climbed to 95 percent.

Conversely, suburbs have spent a greater portion of their budgets on education. This has meant, over the years, the suburbs could also spend more per pupil on education than the central cities. But this gap is closing, primarily because of state government aid. (In fact, the analysis shows only 20 central cities spent less per pupil on education than their surrounding suburbs and 47 cities spent more; but this comparison ignores the substantially higher per pupil costs in providing education to children from low income or otherwise "disadvantaged" homes.)

Taxes are higher in central cities, but the gap is narrowing. Average per capita tax burden in 1957 was \$117 for central cities and \$80 for suburbs; in 1970, it was \$258 for central cities and \$190 for suburbs. That means that in 1957, central city tax collections were 46 percent higher than suburbs. By 1970, they were down, but still 36 percent higher.

Tax burden or "effort" as measured by the proportion of personal income going for taxes shows that taxes are 34 percent heavier in the cities. This measurement—considered a very rough one by economists—shows people in central cities paying 6.7 percent of their income in taxes while the suburbanites pay 5 percent.

A major reason for the narrowing expenditure and tax gaps is Federal and state aid focused on the cities. On a per capita basis, cities received no more aid than suburbs in 1957; in 1970, they received 31 percent more aid. Expressed differently, in 1957, the central cities relied on aid for 20 percent of their budgets; by 1970 this figure had risen to 32 percent.

However, major exceptions exist. The study found that even as of 1972, 43 suburban areas received more per pupil aid for education than their city counterparts.

Historically, most urban growth has been concentrated on the fringe where there has been vacant land on which to build new houses. Many American cities in the 1800's grew in population and area by annexing these newly building neighborhoods. But beginning in the early 1900's, public concern about municipal corruption began to mount anew. State legislatures began to pass laws to "protect" the people on the fringe by making it easy for them to incorporate into new independent municipalities and by making it very difficult for the large city to annex adjoining territory—at least not without the approval of those being annexed. Here, in these double barreled statutory enactments were implanted many of the roots of what has come to be called

Government Expenditures

Taxes

Federal and State Aid

How the Situation Developed

A Fragmented Tax Base

"the urban crisis," with the harvesting of their bitter fruits beginning in the post World War II years and reaching flood tide in the 1960's.

The crucial importance of these legal points becomes clear when one considers the nature of municipal powers. When the residents of a particular geographic area vote to incorporate, the resulting municipality acquires the following powers, among others: (a) Property taxation. The incorporating residents now have their own tax base. (b) Land use regulation. The new city can now regulate the types of growth and housing it will permit. (c) School district adjustment. Many state laws require or permit the readjustment of school district lines in the light of municipal boundary changes. (d) Provision of municipal services. The city furnishes police, fire, sanitation and other services.

This "fragmentation" of local government structure would not have been so tragic for urban America if matters of efficiency and economy in governmental services were the only considerations involved. But the real heart of the matter lies in the *splintering of the tax base*, particularly as it relates to education. Each local unit is able to levy its own taxes to support the level of service it desires. Upper and middle income whites, fleeing from a central city to escape school integration, welfare costs, rising crime, or for whatever reason, have been able to incorporate new units or enclaves on the urban fringe. Furthermore, by zoning in high income people and white collar industry and zoning out other people, they have been able to bring great fiscal resources to bear upon the costly services of education, utilities, recreation and the like. The core city consequently is left with an eroding tax base and an ever increasing proportion of "high cost citizens."

Throughout the process, the states had tended to keep hands off, delegating to the point of abdication their powers of zoning, building regulation and land use control to the individual local jurisdictions.

These governments—which usually had inadequate geographic reach—misused these powers to their own short range advantage and the long range detriment of the entire area. The inevitable result was a metropolitan landscape marked by disorderly sprawl, difficult pollution problems, and deepening economic, fiscal, and social disparities—harmful both to the environment and governmental ability to deliver public services in an economical and equitable manner.

A Declining Rural America

Meanwhile, the mass flight to metropolitan areas left many remaining rural areas with some of the most difficult, but least publicized dilemmas. In 1790, 95 percent of the population lived in rural areas and only 5 percent in cities of 2,500 population or more. By 1970, this had shifted to 74 percent urban and 26 percent rural. Only 5 percent actually lived on farms, witness to the decline in "family farming" in the wake of agricultural mechanization. The quarter of the population that remains on

farms and in small rural towns has the lowest income, suffers from the poorest educational and health facilities, and lives in some of the worst housing in the country.

With the farm to city migration, rural areas are left with a multitude of governmental units, thousands of towns and small cities below 2,500 population, hundreds of counties below 5,000, and thousands of special districts serving a few hundred people each. These units of local rural government provide fewer services, exhibit less administrative leadership capacity, suffer from more diseconomies of scale, have weaker financial bases, and use intergovernmental cooperation agreements less frequently than their urban counterparts.

Politically, this situation tends to encourage "place oriented" rather than "people oriented" programs of rural development, in other words, the preservation and restoration of county seats and small towns becomes the central objective instead of assisting rural people towards economic betterment.

Population settlement patterns, the resulting citizen needs for governmental services and the physical nature of many of the services themselves inevitably overlap political boundary lines. But transportation, water and sewer utilities and air pollution monitoring are obvious examples. Consequently, Federal, state and local officials often have been forced to resort to special districts with boundary lines drawn to fit a particular problem and the specific geographic area to be served.

The result has been both constructive and chaotic. Services that existing cities, counties and townships were unable or unwilling to render have been provided to the citizens needing and demanding them. But the local government map has grown considerably more complex as a consequence of the creation of a multitude of single purpose authorities and districts. There are now 25,000 special districts and authorities—three-quarters of these overlap municipal or county boundaries and most of them are beyond the authority and control of locally elected general governments, and generally out of sight of the public.

At the State level, 40 states have established substate districting systems embracing 488 regional areas. At first, these were just lines on a map, but two-thirds of these districts are now organized.

At the Federal level, 19 grant-in-aid programs have been enacted that call for regional districts. They have resulted in approximately 1,800 regional districts handling specific programs in a narrow functional manner.

All this activity has resulted in a "typical" metropolitan area made up of 85 units of general and special purpose local governments, including:

- two counties;
- 13 townships;
- 21 municipalities;
- 18 school districts;

The Evolution of Regional Cooperation

—31 special districts and authorities for such purposes as fire protection, water supply, sewers and housing.

In addition, the typical metropolitan area has three-to-four Federally supported areawide planning districts, such as law enforcement, comprehensive health, manpower, transportation; and one council of governments or similar regional organization—usually an organization of elected officials of the municipalities, towns and counties comprising the metropolitan area.

The legal and political responsibility for alleviating this situation rests in large measure with the states, the parents that created or delegated the creation of most of these units. ACIR recommendations call for state action on several fronts: To strengthen general purpose local governments; discourage narrow gauge districts and non-viable jurisdictions; and encourage coordination and cooperation among local units. It should be emphasized that though such steps are politically difficult in the extreme, they represent a consensus among national civic and business organizations that have looked at the American local government picture in recent years, including the National Municipal League, Chamber of Commerce of the United States, Committee for Economic Development, and others.

Running through nearly all of the ACIR reports has been the theme of strengthening the hand of elected officials as decision-makers at each level of government. Locally this means greater reliance upon cities, counties and towns and less upon special districts and other *ad hoc* arrangements.

Parent states historically have been very strict with their “general-purpose children” in some areas where flexibility is needed, but overly permissive in others, where a strong hand is necessary. The states have been rigidly specifying functions to be carried out by counties while handcuffing them further by requiring uniform tax rates (and consequently rigid service levels) through the entire county area, explicitly determining county and city organization structure, and stringently guarding what cities do, and how they raise the money to do it. It was this rigidity in part, that has led to the creation of special districts to perform individual functions, sometimes supported by a tax levy, more frequently by service charges or benefit assessments. On the other hand, the states until recently have tended to neglect their responsibility over land use, annexation, building codes and zoning, delegating these functions *in toto* to local government with few if any guidelines specified as to their exercise.

ACIR has called on states to grant substantial “home rule” powers to cities and counties and to limit the creation of further special purpose units.

States should delegate to the localities all powers not specifically denied them in the constitution, enable them to determine what organizational structure best fits local needs, and permit

local governments to establish and control their own tax and debt levels.

States should stop the proliferation of special districts by making it harder to form them and easier to consolidate or dissolve them, and should increase both the visibility and accountability of those already in existence.

In the last few years, the states have responded to a variety of pressures and delegated greater authority to local government. For instance, at least seven states authorized greater home rule powers for their local governments in 1970, five in 1971 and at least ten States in 1972.

One of the most comprehensive actions to date is Pennsylvania’s *Home Rule Charter and Optional Plans Law* of 1972 which gives counties, cities, boroughs and incorporated towns and townships broad administrative and taxing powers (although the state retains the power to decide what is to be taxed, but the home rule units can set the rates).

New Jersey adopted an *Optional County Charter Law* in 1972 that permits counties to adopt one of four optional forms of government after a charter study and a public referendum. Each alternative provides for a legislative body and a strong central administrator to facilitate the functioning of a modern government.

But the people are not always ready for government innovation. The new 1970 Illinois constitution permitted counties to establish an executive form of government and receive home rule powers if the people adopted the idea at a referendum. In 1972, nine counties held referenda on the subject—and it failed in every county.

In viewing city and county government as a whole, however, encouraging progress is being made in strengthening the management capability of county and city government. For example, more than 200 counties now have appointed administrators and nearly 40 have elected county executives. The number of cities with planning agencies responsible to the mayor have doubled in the last decade. And nearly half the cities over 50,000 population have some elements of a planning, programming, budgeting system.

For a variety of reasons—to dodge city taxes, to entice industry, and to avoid certain kinds of neighbors—thousands of independent political subdivisions have been incorporated in the absence of strong state boundary supervision. These areas contribute heavily to metropolitan fiscal disparities, to urban sprawl and to the overlapping metropolitan jurisdictional map.

ACIR seeks State action to discourage the formation of new units and the merger of existing non-viable units with viable general purpose governments through such means as the following:

- permitting the use of liberalized municipal annexation procedures;

**Discourage
Non-Viable Units**

**The Crowded
Local Government
Agenda**

**Strengthen
General Purpose
Local Governments**

- authorizing state boundary commissions to consolidate or dissolve non-viable units;
- providing rigorous state standards for incorporation;
- amending state aid formulas to eliminate or reduce aid to non-viable local governments.

Six states had local boundary commissions as of 1973: Alaska, California, Michigan, Minnesota, Oregon and Washington. An Iowa law takes effect in 1974. Michigan took about the most far reaching stand in 1970 when its legislature permitted the state boundary commission to order annexation of areas to home rule cities. The cities are permitted to initiate annexation by resolution, but final authority rests with the boundary commission.

The voters of North Carolina were also in the vanguard on these issues. At the 1972 general election they amended their constitution to prohibit incorporation of a new town or city closer than one mile from a city with a population of 5,000 to 10,000; three miles from a city of 10,000 to 25,000 population; four miles from a 25,000 to 50,000 population city and five miles from larger cities. The legislature can disregard these limits only by a three-fifths vote.

From the standpoint of local government modernization, the Federal general revenue sharing legislation adopted in 1972 provides both incentives and disincentives; only general purpose local governments are eligible beneficiaries. On the other hand, the act provides funding for such units regardless of size. At hearings conducted by ACIR on the subject in the summer of 1973, several witnesses from California expressed the fear that revenue sharing funds might hinder efforts to consolidate or merge these tiny governmental units.

When a metropolitan area comprises a single county, coordination of services can often be effected through city-county consolidation or, more simply, by county assumption of those functions needing handling on a broader than municipal basis (e.g. water and sewer utilities, mass transportation, solid waste collection and disposal).

Since 1945, 13 counties have consolidated with their central cities and outlying jurisdictions—11 of these actions have taken place since 1962. But the going is slow—in 1972 one consolidation was approved (Lexington-Fayette County, Kentucky) while three other proposals were defeated. Given the small number of adoptions and the fact that most consolidations so far have taken place in the south, one must conclude that other mechanisms must be considered if progress is to be other than glacial.

In urban counties generally, ACIR suggests that states let the county perform urban functions. If a particular service is needed in only one section of the county, the county could provide the service and tax only that section to pay for it. (This often requires an amendment to the state constitution to authorize differential property tax rates within a county.) Also, the Commission

encourages interlocal contracting arrangements among cities or between counties and cities for the provision of specified services.

A more comprehensive approach is represented by the regional service corporation which would provide a variety of services on an areawide basis. Colorado's local government service authority act, adopted in 1972, is an example. The stated purpose is to reduce the proliferation of other types of "quasimunicipal" government. The local government service authority may perform any number of services for two or more counties, including water collection, treatment and distribution; sewage collection, treatment and disposal; transportation; parks and recreational facilities; libraries; fire protection; hospitals; gas and electric services; and jails and rehabilitation. The authorities may be formed at the initiative of the local governments involved or by petition of 5 percent of the qualified voters of the area. The new district must then be approved by a majority of the electors voting in each county within the service area of the proposed district.

In the summer of 1973, ACIR adopted five recommendations to establish a coordinated regional strategy at the multicounty substate level. The plan, (parts of which had been proposed or supported by the major national organizations of state and local governments²), calls for an "umbrella multijurisdictional organization" (UMJO) composed primarily of elected officials of all local governments in the area, that has:

- authority to plan and to resolve local governmental conflicts that have a regional impact;
- conditional authority to conduct regional operating programs;
- policy and budget control over those special districts in the region serving an area broader than a single unit;
- decisions either by majority vote of the governing board or on occasion by a vote weighted according to population.

The Metropolitan Council in Minnesota's Twin Cities area and the Atlanta Regional Council already possess most of these powers and functions. In addition, regional councils exist in one form or another in 212 metropolitan and 238 non-metropolitan areas that could serve as a foundation for the kind of organization proposed.

Over reliance on regional mechanisms, on the other hand, can result in further fragmentation of governmental authority and a serious under utilization of the full range of powers of cities, counties and towns. The political temptation is very strong, especially at the state level, to evade the decision as to which type of local government should provide which level of service by tossing the question over to a metropolitan debating society. Legislatures have been slow in unshackling local government and have been hesitant to authorize county performance of urban functions or the exercise of municipal powers on an extraterritorial basis. They have been even less willing to choose between cities and counties as to which is best able to perform particular functions, or to designate specific services as "city dominant" (fire

protection) or “county dominant” (solid waste disposal and sewage treatment). Of course, such a designation is legally and fiscally difficult because of the many differences in population and capacity among classes of cities or counties within a single state. Also, it is much easier politically to grant functional powers to cities, counties, and towns alike, with the admonition that they work out details on an area by area basis, either by special legislation or by contractual or other voluntary agreements among the jurisdictions concerned.

Share the Growth

In the Twin Cities area of Minnesota, an ingenious approach to ease metropolitan fiscal disparities has been initiated. The 1971 state legislative session approved a plan whereby 40 percent of the growth in each jurisdiction’s non-residential property taxes would be put into a common pot to be shared by all governmental units according to need. The metropolitan pot would be divided according to per capita assessed valuation—units with the lowest assessed valuation to receive the largest proportionate amount of money.

The idea was to discourage tax competition among local governments over new industry, help jurisdictions incapable of helping themselves, and preserve the environment from over industrialization at the same time. Although fairly well received by many localities in the metropolitan area, the plan has been tied up in litigation in the State courts and has not yet been put into effect.

**Initiate
Neighborhood
Government**

At the other end of the scale of government in large metropolitan areas there is growing alienation on the part of citizens packed into densely settled, low income neighborhoods. ACIR has suggested that major urban governments be authorized to create neighborhood subunits. Activities and purposes of these units would include broadening citizen participation, affording reasonable decentralization of municipal activities, providing neighborhood input into municipal decisions, conducting self-help projects, sponsoring recreational activities, on occasion rendering particular services on a small scale, and where necessary, levying a small head tax. Although the full range of these recommended activities are not found in any one city, a survey conducted in 1971 by ACIR staff showed decentralization of some form taking place in cities and counties across the nation. For example, 25 percent of the cities reporting had an ombudsman, 29 percent a special telephone number for citizen complaints; 17 percent of the mayors held meetings in neighborhoods; 32 percent had established neighborhood councils; and 4 percent, “little city halls” for the conduct of decentralized activities.

**Sharpen
the Federal Role**

The Federal government—for all its power and the greatness of its purse—has a very small role in revitalizing the structure of local government. Nevertheless, ACIR has called on the Federal

government to move further to alter aid programs that now encourage special districts and to strengthen regional or metropolitan review of local grant applications.

In the early sixties, ACIR proposed Federal legislation to require review and comment by an areawide body on all applications for Federal grants filed by any local government in a metropolitan area. This recommendation was incorporated in the *Demonstration Cities and Metropolitan Development Act* of 1966 wherein such a review was required. These requirements were broadened through Title IV of the *Intergovernmental Cooperation Act* of 1968, which led in turn to the issuance of budget *Circular A-95* by the President’s Office of Management and Budget (OMB).

The general revenue sharing act, while eliminating a population floor, did deny funds to special districts. And administrative efforts are underway in the OMB and several of the Federal departments to strengthen further the review process prescribed in OMB *Circular A-95*, under which metropolitan and areawide clearinghouses review local government applications for Federal grants pursuant to the two above-mentioned statutes.

Building

Stronger

States

As the roots of the urban crisis of recent years were being planted and nurtured in the thirties, forties and fifties, many major sins of omission and commission can be ascribed to the states. Cities and suburbs, counties, townships and boroughs alike are the legal creations of the state. Decades of state government non-feasance and malfeasance contributed to the deadly combination of restricted annexation and unrestricted incorporation; the chaotic and uncontrolled mushrooming of special districts; the limitations upon municipal taxing and borrowing powers; the abdication of the all important powers over urban development; and the reign of chaos in the non-system of criminal justice.

But, in the mid-sixties the activity and initiative of the states began to quicken, due in part to the reapportionment decisions and in part to the strengthening of the two party system in many states previously under one party dominance, as well as pressures from the Federal and local levels. With urban areas better represented in their legislatures, states began to take a more active interest in urban affairs. The membership shakeup of the legislatures resulting from reapportionment, including the infusion of much new blood, created a more favorable environment for reform of the legislatures as institutions. More legislatures began to hold annual sessions; yearround professional staffing of major standing committees was begun in a few States; and codes of

ethics, conflict of interest, recorded roll calls and open committee meetings—"sunshine laws"—were enacted in several states. Also, the legislatures began to be much more supportive of constitutional revision (so long feared lest the "Pandora's Box" of reapportionment be opened).

On the management and policy side, executive and legislative salaries were raised to attract adequate talent. Centralized budgeting was instituted, executive branch reorganization became popular, and governors began to get a handle on what was happening. Planning was strengthened, court reform was undertaken, school finance overhaul was begun, and land use programs were born. In brief, although uneven, the modernization of state government has been making considerable progress across the country.

ACIR's Agenda

Recommendations by the ACIR parallel those made by many scholars, practitioners and observers of state government, such as the Council of State Governments, Committee for Economic Development, Chamber of Commerce of the U.S. In brief they are:

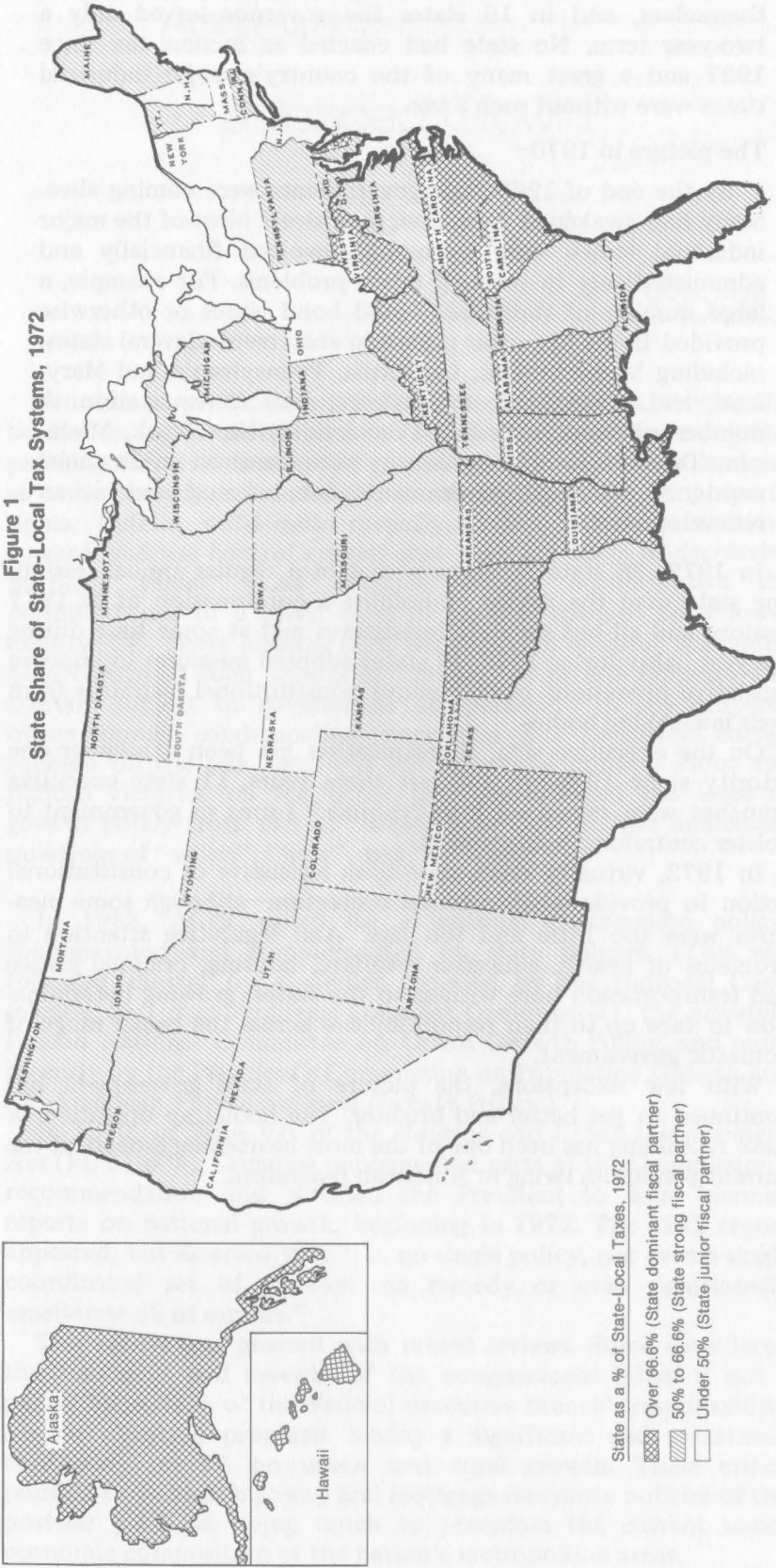
- Shortening the ballot to consolidate executive power in the governor;
- Power of the governor to succeed himself to the extent of at least two four-year terms;
- Power of the governor to reorganize executive departments subject to legislative veto;
- Annual sessions of the legislature; and
- Adequate legislative compensation, adequate facilities, and yearround professional staffing of major standing committees.

Constitutional revision has picked up over the last few years—and more new constitutions have been adopted. This can be attributed partly to a more sophisticated approach to seeking ratification one, among two or more alternative articles rather than having the voters merely vote up or down on a single new document. It might also be due to greater awareness of the need for reform on the part of the public.

ACIR's *Eleventh Annual Report* in January 1970, compared states in 1960 and 1970:

The picture in 1960—

Although important steps had been taken in a few states to modernize state constitutions, most states in 1960 were functioning under stringent restrictions placed upon both their executive and legislative branches in the wake of public revolt at scandals in state governments that swept the country in the years immediately following the Civil War. In 1960, legislatures of most states were meeting only biennially; a great many governors were not eligible to succeed



themselves, and in 16 states the governor served only a two-year term. No state had enacted an income tax since 1937 and a great many of the country's major industrial states were without such a tax.

The picture in 1970—

By the end of 1969 state governments were coming alive. Many had awakened from their long sleep. Most of the major industrial states were becoming involved financially and administratively in pressing urban problems. For example, a large number of states had voted bond issues or otherwise provided funds for water pollution abatement. Several states, including Massachusetts, California, Pennsylvania and Maryland, had voted funds for assisting mass transportation. A number of states including Connecticut, New York, Michigan, Delaware and New Jersey were involved in financial assistance to local governments for housing and urban redevelopment.

In 1972, 36 state legislatures met in a regular annual session, one state used the device of holding a continuation of its 1971 session, and all but six state legislatures met at some time during the year. Also during 1972, 17 states adopted measures to improve legislative operations or to remove constitutional restraints from their lawmaking bodies.

On the executive side, reorganization has been a number one priority since 1970. In the last three years, 11 state executive branches were organized into "cabinet" forms of government to bolster centralized management.

In 1972, virtually every state took legislative or constitutional action to provide environmental protection—although some measures were too little and too late. And legislative attention to problems of health, education, welfare, housing, criminal justice and transportation bore witness to the states' growing determination to face up to their responsibilities across the broad range of domestic government.

With few exceptions, the picture of state government has continued to get better and brighter. The bootstrap operation of state rebuilding has been one of the most heartening aspects of the current pendulum swing in American federalism.

Achieving

Balanced Growth

and

Housing Opportunity

Frontier psychology has long prevailed in America, viewing the land as an inexhaustible resource and the process of governmental planning for urbanization and governmental controls over land use as unwarranted and unconstitutional infringements on property rights. Indeed, until quite recently, courts have been cautious toward land use control actions that have the effect of *decreasing* property values. (This decrease usually occurs when the permitted use of a given tract of land is changed to a lower density—i.e., fewer housing units per acre.) On occasion the courts have construed such actions as "taking" of private property and thereby subject to government compensation of the property owner through condemnation procedures. But the current energy squeeze on the one hand and environmental political clout and judicial victories on the other have transformed the issue of growth policy from one of "whether or not" to the immediate questions of "when", "how", and "by whom".

In 1968, ACIR called for a national urbanization policy, supplemented and complemented by state policies. (This was followed shortly by a similar proposal by the National Commission on Urban Problems [Douglas Commission], the privately funded National Committee on Urban Growth Policy, and more recently by the President's Commission on Population Growth and the American Future *National Growth Policy*.)

In 1970, in Title VII of the *Housing and Urban Development Act* (PL 91-609), Congress implemented parts of the Commission's recommendation and directed the President to issue biennial reports on national growth, beginning in 1972. The 1972 report appeared, but asserted that "... no single policy, nor even a single coordinated set of policies can remedy or even significantly ameliorate all of our ills."

This report was greeted with mixed reviews. Some considered the statement and reversal of the congressional intent if not a partial abdication of the Federal executive branch's responsibility for coordinating programs having a significant and sometimes conflicting impact on urban and rural growth. These critics pointed to Federal highway and mortgage insurance policies of the postwar years as doing much to preordain the current socioeconomic composition of the nation's metropolitan areas.

ACIR's
Growth Agenda

However, other observers approved the report's emphasis on the need for an intergovernmental growth strategy. And some found its analysis of population growth, distribution trends and associated problems to be provocative and its chronicling of State and local actions to be illuminating.

It should be recognized that the establishment of Executive Office machinery for the formulation and review of national urban growth policy was the least controversial and easiest to legislate of any of the recommendations in that particular ACIR report.

Other components of a national growth policy were set forth by the Commission in 1968 report, *Urban and Rural America: Policies for Future Growth*. They constituted a series of possible Federal actions in furtherance of such a national policy.

- Federal incentives (tax credits, loans, or grants) for business or industrial location;
- Provision of a percentage preference in Federal contract awards to labor surplus and other areas;
- Promulgation of criteria for the location of Federal buildings;
- A matching program of resettlement allowances for low income persons migrating from labor surplus areas;
- Federal aid for on the job training allowances for employers in labor surplus areas;
- Elimination or reduction of interstate variations in public assistance standards and benefits;
- Expansion of voluntary family planning programs for low income families;
- Federal aid for new communities and other large scale urban development meeting housing-cost-range and other criteria;
- Experimental new community building on Federally owned lands.

While some of these recommendations have been partially implemented since 1969, the hard fact remains that growth policy—whether national, state or local—must be *geographically selective*, and that is very difficult to confront in political terms.

State Growth Policy

The ACIR recommendations for possible state growth policy components are equally important and equally difficult. They include:

- Making credit more readily available in certain areas through loans and loan guarantees;
- Geographical preferences in state procurement;
- Establishment of state and local land agencies to acquire, hold, and dispose of tracts of land considered strategic in the development process;

- Providing county or other regional review of local land use decisions having a regional impact.

The role of state land agencies was recognized in the 1970 urban growth legislation passed by the Congress. In the last three or four years, highly urbanized industrial states, agricultural states, and states with large wilderness retreats have been acting on land use. More than two-thirds of the states have taken some significant action since 1970.

One of the first to take the big plunge was Maine. In 1970, the Maine legislature adopted a site location law, authorizing the state environmental improvement commission (EIC) to regulate any industrial or commercial development at least 20 acres in expanse or a building 60,000 square feet or bigger. The EIC was empowered to disapprove the development if the developers had insufficient financial resources to comply with state pollution standards, if the proposal lacked adequate transportation facilities or if it would have an adverse impact on the environment. The burden of proof was to lie with the developer.

Florida enacted sweeping land use planning legislation in 1972. It reorganized state level planning agencies, called for the preparation of a state comprehensive plan to provide long range guidance for orderly social, economic and physical growth; and provided for a land use plan to be formulated within the framework of the comprehensive plan—to guide development and protect the state's land and water resources.

And Vermont set standards for land development in 1973 *Land Capability and Development Plan Act* which laid the foundation for a more specific land use plan to be considered in 1974.

Until recently, the typical suburban municipality had been able to proceed pretty much as it saw fit with regard to growth policy and land use regulation. (As noted earlier, the relatively unlimited power to zone has been a highly attractive inducement to new incorporations in many of the nation's metropolitan areas.)

During the past five years or so, however, several new factors have emerged to create real dilemmas for municipal governments and to reduce considerably municipal self determination and "home rule" regarding future growth. These new factors include:

- Court decisions overturning large lot zoning and other local land use actions that tend to be racially or economically discriminatory;
- entry of large corporations into residential and apartment home building and consequent availability of high-powered legal talent for vigorous pursuit of judicial review of local decisions;
- unexpected social and economic heterogeneity arising from success in attracting industry for tax base purposes;
- increasing activity of environmentalists both inside and

Local Growth Policy

outside the municipality in challenging a wide variety of proposed public works projects;

—overload of waste treatment plants and consequent forcing of building moratoria by state or Federal agencies; and

—most recently, shortages of power and fuel. (For example, because of power shortages in Southern California, the City of Los Angeles recently closed its New York office which had been engaged in soliciting industrial moves to the area.)

A combination of these and similar developments has produced a drastic change in previous suburban growth policies:

- Industry is no longer given an unqualified welcome because it brings along heterogeneity, responsibility for providing housing, air and traffic pollution. Also, industry no longer is so badly needed, tax base wise, due to the easing of the school fiscal squeeze through declining enrollments and lessening dependence on property tax for educational financing;
- Municipalities are beginning to limit growth, sometimes by necessity (sewer overflow); sometimes by choice (“we want to keep it as it is or keep it from getting too big”).
- Growth limitations are being questioned on grounds of economic policy and social fairness, especially where they tend to inhibit job creation or to be exclusionary in nature. The latter is the case when a growth ceiling is set anywhere near the current population and housing stock of the jurisdiction.

The major techniques being used currently by local governments to control growth include: arbitrary population or dwelling unit ceilings enforced through the issuance of building permits; water and/or sewer hookup moratoria; limitations on types and kinds of housing (multifamily, number of bedrooms, etc.); mandatory dedication by developers of necessary public facilities; and the phasing of growth to availability of public facilities. This last approach was tested in a well publicized court case in New York State where the action of the Town of Ramapo in tying building permit issuance to the progress of the town’s long range capital program was upheld by the state supreme court.

Housing Opportunity

An important aspect of growth policy is the assurance of a range of housing quality and price, especially at low and moderate income levels. Federal housing programs and the activities of local housing agencies for a long while occupied center stage in public and governmental attention in this field. For many years housing was a subject of neglect by state government. ACIR has called on the states for several major actions in this field:

- To reduce discrimination in housing;
- To stimulate the provision of low and moderate income housing;

- To exercise greater control over building codes and building technology;
- To assure close coordination among city and county housing agencies; and
- To enact uniform relocation policies protecting people and businesses displaced by state conducted or state aided public works projects. (An ACIR recommendation for a national relocation policy was implemented in the enactment of the *Uniform Relocation Act* of 1970.)

Virginia took sweeping action in the housing field in 1972, establishing a uniform statewide building code to cover all types of structures both private and public; creating an office of housing within the division of state planning and community affairs to set policies and develop goals; establishing a seven-member housing development authority empowered to sell tax-exempt bonds to finance housing for families with low or moderate incomes; and enacting a fair housing law, the first state act of this type in the Old Confederacy.

At least 12 other states adopted or strengthened provisions to finance low and moderate income housing in 1972. The previous year, five states had acted on this problem and 12 states did so in 1970. By 1971, 13 states had adopted various forms of a uniform statewide building code. Four more states took action on the subject in 1972.

Streamlining and Humanizing the Administration of Justice

As discussed earlier, state governments are the primary source of most “domestic law” and this is true for crime control as in most other functions. Federal offenses include only those against the U.S. government, or its employees while engaged in official duties, and offenses which involve the crossing of state lines or an interference with interstate commerce. Crimes such as murder, robbery, burglary, theft, assault and rape are nearly all violations of state law, with no Federal law involvement. In October 1970, for example, personnel engaged in two of the major phases of law enforcement (police and corrections) numbered 46,000 Federal (5.8 percent), 148,000 state (18.5 percent) and 605,000 local (75.6 percent).

Obviously, the Federal government can exercise a strong stimulating influence, especially in the areas of judicial and correctional reform. Federal expenditures for criminal justice are climbing, and the bulk of the increase is going to support state and local law enforcement systems. However, even as Federal grants pass \$1-billion, this constitutes only about a sixth of the total national expenditure in this field.

Consequently, as in many other areas of domestic government, the cities and the states are where the action is. In law enforcement especially, dramatic improvement in our approach to and handling of the crime problem will depend in a large measure on an overhaul of state laws and of state and local institutional arrangements for apprehending, trying, and rehabilitating offenders against the rules of society. Success also depends upon a combination of leadership and flexibility by the Federal government in providing assistance to state and local criminal justice efforts. In this connection, the ACIR recommended a continuation of the "block grant" concept in the handling of Federal aid to state and local governments for criminal justice.

A succession of national commissions, beginning with the Wickersham Commission in the Hoover Administration, and continuing up to the recent National Advisory Commission on Standards, Justice and Goals for the Law Enforcement Assistance Administration, have been remarkably unanimous in identifying major deficiencies in this country's administration of justice and in suggesting the general direction improvements should take. A study of intergovernmental relations in the criminal justice system in 1970 led the ACIR to similar conclusions, but more specific with regard to the relationship between state and local governments. There follows a brief description of the existing situation in each of the four major areas of criminal justice (police, prosecutions, courts and corrections), a summary of the major ACIR recommendations, and a few highlights of recent actions.

Today more than a half-million public employees are engaged in police work; a small fraction of them serve in the FBI and other Federal law enforcement agencies; over 50,000 in state police forces and highway patrols and over 450,000 at the local level, deployed through 30,000 separate police forces, 90 percent of them with less than ten full time personnel.

The average police department is undermanned and overworked; its personnel are recruited by outdated methods and inadequately trained. Where a highly professional service is needed, a politically oriented system rooted in the Middle Ages frequently is offered. In a society where people and crime are highly mobile, the police too often are tied to small and inefficient jurisdictions.

Major recommendations for change by the ACIR, Committee for Economic Development and many other groups include:

- Broadened statewide enforcement authority and a strong local support capability for state police forces;

- A mandatory state system of crime reporting;
- State technical assistance and training for local police forces, with minimum state standards for recruitment;
- Provision by county governments of countywide police services and incentives for merger and consolidation of small local forces;
- State specification of the scope of discretionary policy activity and protection of police acting within such scope from tort liability;
- Provision of extraterritorial ("hot pursuit") powers to local police forces in urban areas and creation of specialized metropolitan police strike forces operating on an areawide basis, designed to be effective against organized crime, and for other similar purposes.
- Modernization of the county sheriff's department and placement of sheriff on a statutory rather than a constitutional basis; and
- Local government action to involve citizens in the law enforcement process through vigorous police-community relations and other means.

In behalf of the state, the public prosecutor conducts the prosecution of persons suspected of crime. His decisions affect significantly the arrest practices of the police, the volume of cases in the courts, and the number of offenders placed in the correctional system.

Yet today in a considerable number of states, more than half the prosecutors work only part time on public business. Also, despite much progress in recent years, the public defender function—a most necessary one if justice is not to be denied to poor people—is underfunded and understaffed in many states. Clearly, in the interest of reducing crime, improving efficiency, and assuring equity a thoroughgoing overhaul of the prosecutorial function is in order, including:

- A requirement that all chief prosecutors be full time officials, with the prosecutor serving more than one county where necessary;
- Payment by the state of at least half the costs of local prosecutor offices;
- Strengthening of the state attorney general to oversee the work of local prosecutors and where necessary to intervene in local prosecutions; and
- Full state funding of the public defender system with access throughout the state.

In an address to the American Bar Association two years ago, Chief Justice Burger declared that, "In the supermarket age we are

Major Deficiencies and a Call for Change

Modernizing the Police

Overhaul of the Prosecutor Function

Judicial Reform

To Correct Rather than Corrupt

with few exceptions operating the courts with cracker barrel, corner grocer methods and equipment, vintage 1900." He went on to list, as many others have done, much needed reforms in the system. State progress, in this area is encouraging, but the agenda remains formidable. The ACIR has identified major changes in state-local relations in the judicial field that are minimal to assure reasonably equitable and expeditious operation of state and local courts.

- Abolition of justice of the peace courts and establishment of a simplified and unified court system under the administrative supervision of the state supreme court;
- Judges to be appointed rather than elected and to serve full time with a judicial qualifications body to handle judicial discipline and removal problems;
- Establishment of an office of state court administrator with an administrator for each large urban area court, to handle the administrative and fiscal aspects of the system; and
- Full state assumption of the cost of local courts.

It is said that America's prisons today corrupt more people than they correct. In hardly any area of domestic government have the nation's institutions lagged so far behind the imperative needs of the present. The brushmarks of medievalism and impotence in our correctional systems are spread wide for all to see. Over half the country's larger prisons are more than a century old; two-thirds of all released prisoners will commit another crime; prison staffs are small, poorly paid, and inadequately trained; guidance, counseling and vocational education are inadequate, obsolete, or non-existent. Two-thirds of convicted criminals are under probation and parole jurisdiction; only a third are in correctional institutions. Yet, these institutions account for up to four-fifths of total correctional expenditures and a like portion of total personnel engaged in correctional work.

ACIR recommendations for state and local action to achieve meaningful correctional reform include the following:

- Reordering priorities, with emphasis on rehabilitative services and vocational training;
- Strengthening community based facilities, treatment and work-release programs;
- Reassigning state-local roles, with local responsibility confined to short term institutions and juvenile detention and probation, state assumption of both fiscal and operational responsibility for all other institutional, probation and parole activities and facilities.

The Response

Over 40 states took legislative or constitutional action in 1972 to improve their judicial systems. Likewise, major attention was focused on the extremely difficult question of punishment and

corrections with much sentiment for reform of the correctional system and its institutions.

Statewide public defender systems have been established in many states to provide indigents with a more qualified defense. State and local prisons and jails are establishing new and more appropriate methods for handling prisoners, increasing their attention to prisoner rights preparation for reentry into society.

Productive alternatives to incarceration are being used increasingly. Through improved judicial administrative practices, backlogs in courts are being reduced. These are all strong and growing trends in redirecting the judicial and correctional sectors of state and local criminal justice systems. Specifically, in 1972:

- Five states wrote new criminal codes;
- Four states (Minnesota, Ohio, Rhode Island and Washington) acted to decriminalize drunkenness; Nine states (Hawaii, Minnesota, Missouri, Montana, New Jersey, New Mexico, Pennsylvania, Tennessee, Vermont) lessened criminal penalties for marijuana possession while stiffening penalties for trafficking in harder drugs;
- Two states (Alaska, Rhode Island) began limited programs of public compensation to crime victims;
- Four states ratified new judicial articles to the state constitution (Wyoming, South Carolina, South Dakota and Kansas), creating a unified court system and providing for judicial discipline; Four other states (Georgia, Iowa, North Carolina and Minnesota) established new judicial qualifications discipline and removal plans; Six-man juries were authorized in Arizona and Connecticut and Oregon; and
- Twelve states (Florida, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New York, Rhode Island, Tennessee, Vermont and Washington) took action to modernize their correctional systems.

One of the most far reaching measures was a complete overhaul of the corrections system in Massachusetts revising administration, community services, employment programs, security and State-county relations. Considerable portions of the *Omnibus Corrections Reform Act* of 1972 paralleled ACIR model legislation.

Restoring Fiscal Balance

in the
Federal System

A decade ago four areas of fiscal imbalance could be identified:

- A **General Revenue Imbalance** that increasingly favored the Federal government and handicapped states and localities in providing a strong system of decentralized government.
- A **Public Welfare Expenditure Imbalance** that favored states that minimized outlay for public welfare and worked against states and localities that underwrote relatively generous assistance programs.
- A **School District—Local Government Imbalance** under which the largely “independent” school boards endowed with property taxing authority and faced with rising enrollments were gradually crowding cities and counties off the already overburdened local property tax base.
- A **Metropolitan Imbalance** that worked for the wealthier suburban jurisdictions and against most central cities and some poor suburban jurisdictions—a classic mismatch of needs and resources.

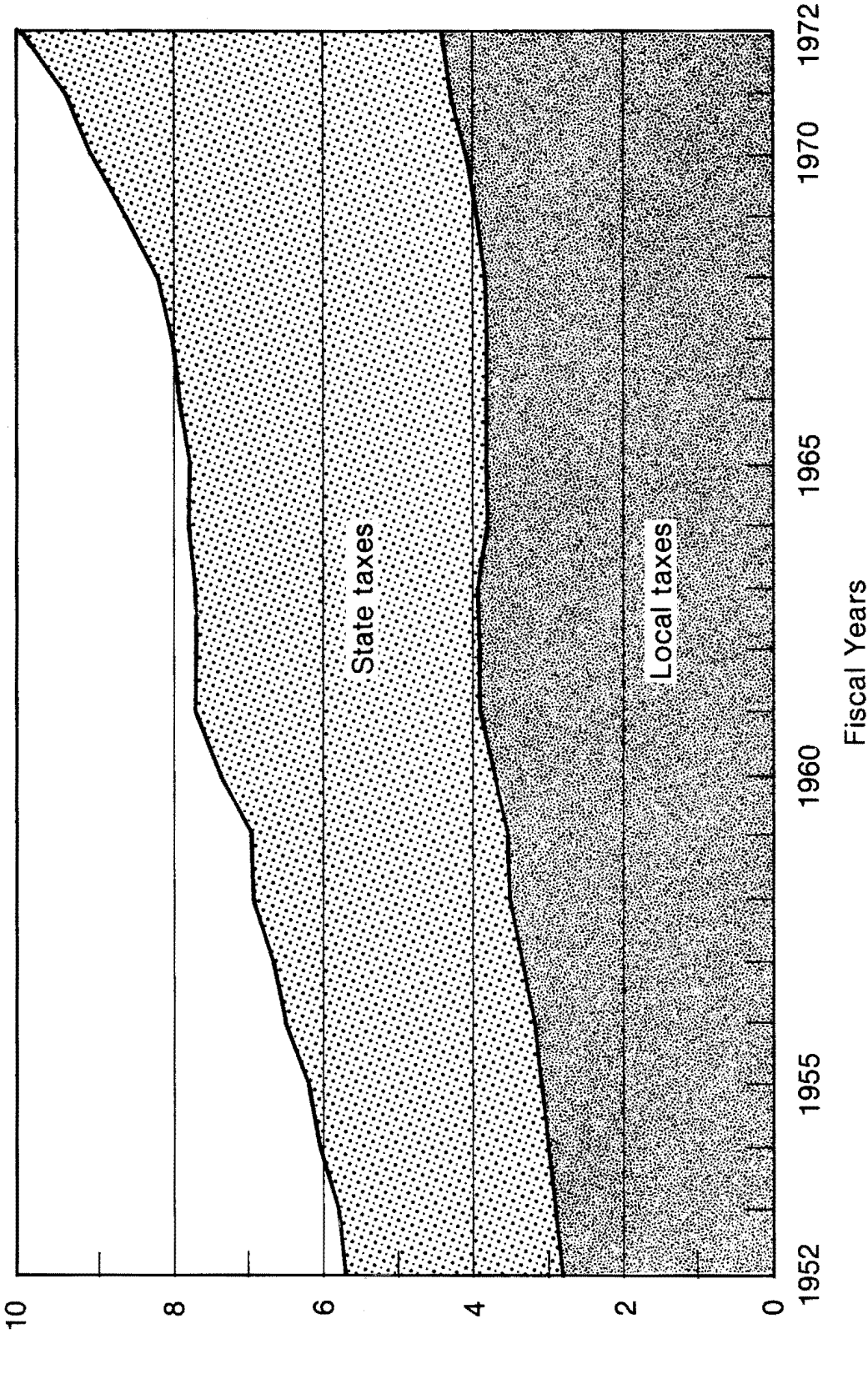
From 1950 onward the Federal income tax with a moderately progressive rate structure—was able to fund a rapidly rising level of domestic expenditures, with actual net decreases in tax rates over the period. State governments, largely dependent upon consumption taxes and moderate to low rate income taxes, frequently had to raise rates and impose new taxes to keep abreast of increasing educational and other expenditures.

Local governments had to do likewise with property taxes and miscellaneous nuisance taxes. Consequently the state-local landscape became marked with monuments to defeated governors, mayors and county officials who courageously committed political suicide by doing what had to be done to increase the resources of government to meet, in part at least, the escalating service demands from an insatiable (and largely unappreciative) public.

Beginning in 1972, many states turned the “fiscal corner” from deficit to surplus. In addition, on a national income accounts basis, state and local government enjoyed a \$14.8-billion surplus by the end of 1972 while the Federal government’s budget deficit hit \$23-billion. The surplus was not the occasion for mass celebrations, however, for most of it was caused by unique circumstances that cannot be repeated. But it did signal the fact

The
Federal-State-Local
Fiscal Picture

State and Local Taxes As A Percentage of Gross National Product
1952 through 1972



ACIR's Fiscal Agenda

Modernizing the Categorical Grant System

that state revenue systems were on stronger ground. On the other hand, one-third of the states still had to raise taxes during that year.

The ACIR fiscal program embraces seven major components: (1) drastic overhaul of the Federal grant system; (2) revenue sharing; (3) welfare reform; (4) equalization of school financing; (5) a high quality state-local revenue system; (6) property tax reform and (7) selective property tax relief for low income citizens.

One of the major imbalances in federalism today—yet one that is least recognized and probably least understood—is the growing gap between program specialists with their supporting interest groups on the one hand, and elected legislators and executive officials on the other.

This gap is probably inherent in our system of government with its geographic division of powers, three separate branches, checks and balances and functionally organized legislative committees and administrative structures. But this imbalance between elected policymakers and civil service functionalists has grown to dramatic proportions in the last quarter century because of the growth in categorical grant programs and the institutional arrangements that grew up around them.

Functional government reached its zenith in 1970 when categorical grant programs numbered anywhere from 600 to over 1,000, depending upon what is counted as a "separate program". Since 1970 their numbers have grown more slowly—but little has been done to consolidate the existing programs or to make it easier for state and local legislators and executives to cope with them.

With each new Federal categorical grant program, a new crop of specialists and subspecialists have appeared on the scene at all levels of government. These programs were often enacted at the behest of elected state and local officials; but few, if any counterbalancing efforts were made to strengthen the position of the departmental secretaries, the governors, state legislators, county commissioners or mayors.

In 1967 the ACIR recommended a restructuring of the Federal grant-in-aid system that (a) would restrict categorical grants to new Federal policy initiatives where it was necessary in the national interest to focus the assistance upon a specific program objective; (b) would consolidate older categorical grants into broad functional block grants; and (c) would provide general revenue sharing as the top layer of the three-tier system.

The Commission proposed that Congress enact legislation giving the President authority to consolidate categorical programs subject to legislative veto. But despite repeated introduction and consistent support from organizations representing state and local government, this legislation has not progressed appreciably in Congress.

So far, two block grants have been adopted: the *Partnership for Health Act* of 1966, consolidating about 16 existing categorical

programs; and the *Omnibus Crime Control and Safe Streets Act* of 1968, providing aid in a new area of Federal concern. Both programs have come up against severe obstacles and both have been involved in controversy.

The Partnership for Health program, in most states, was placed in the hands of the functional health officials to administer, and the vertical link between Federal, state and local health functionaries was maintained unbroken in many instances. Most governors and legislatures missed a big opportunity to fold the new program into a comprehensive planning effort, properly relating health activities to other state endeavors.

In this respect, the Safe Streets program has fared better, but it has not been without considerable controversy over choice of priorities among police, correctional and other criminal justice activities. Nonetheless, Congress has now voted for the second time to extend it pretty much intact.

Since 1967, the Commission had been pushing for general revenue sharing and in 1972 it became a reality. By December, the first installment toward the five-year total of \$30-billion was mailed to 38,000 states, counties, cities, towns and other units of general government—without any application forms.

However, to secure the passage of revenue sharing by a Congress very jealous of its authority over categorical grant programs, major compromises had to be made.

—The act was given a five-year life rather than permanency, tending to influence local governments to use the money for one-shot capital facilities projects rather than continuing social service programs.

—The act divided the money arbitrarily between states and localities, with states getting one-third and localities two-thirds regardless of the real division of responsibilities between the two.

—The act provided some strings for local use of the money, requiring that it be used for eight "priority" areas. However, these are so broad and obvious that few if any complaints have been registered on that score.

—The act, in contrast to earlier versions, failed to provide an incentive for the use of state income taxes, though it did contain another ACIR recommendation, authorizing Federal collection of such taxes as an administrative accommodation to states.

—As noted earlier the act provides funds for all but the very smallest government units rather than setting a population cutoff. (However, state legislatures may adopt an alternate formula for distributing funds among local governments.)

A second major fiscal accomplishment of 1972 was the beginning of the nationalization of welfare. ACIR had called on the Federal government in 1969 to take over the financing of all

Sharing Federal Revenue

Federalizing The Welfare System

public assistance programs and medicaid. Welfare presents an onerous burden to state and local government. It is no longer a state or local program, but a national one permeated with Federal restrictions and requirements as well as national implications for economic development and interstate migration. In 1972, Congress took the first step by nationalizing the adult categories—aid to the blind, aged and disabled—the relatively non-controversial programs of assistance. It considered (including House passage) but did not enact a similar Federal takeover of Aid to Families with Dependent Children. It did not deal with medicaid, leaving that for consideration in connection with the general question of national health insurance.

Equalizing School Finance

At the heart of metropolitan disparities, the problem of education has lain for at least a decade. On the one hand, most people want to keep strong local control over elementary and secondary education. On the other hand, local financing of schools has resulted in enormous tax and expenditure disparities within metropolitan areas.

In 1971, several state supreme courts and lower Federal courts held these disparities in violation of state and Federal constitutions. One of the Federal cases was decided by the U.S. Supreme Court in 1973—*Rodriguez v. San Antonio School District*. A divided opinion, overturned the lower court but termed the system existing in most states inequitable and chaotic. The court held that corrective efforts must come at least initially from state legislative or executive action. This decision applied only to U.S. Constitutional issues and did not affect decisions of high state courts as to conformity with state constitutional requirements. (New Jersey courts for instance have since found its system in violation of the state constitution.)

In 1969, ACIR went on record suggesting that states assume substantially all of the costs of elementary and secondary education in order to equalize educational opportunity and ease the property tax burden, but that local policy control be maintained. In 1972, the Commission reaffirmed its opinion that it is the job of the states to correct these disparities, not the Federal government.

In 1971, Minnesota greatly increased its share of school support as a part of a comprehensive tax reform legislation. In that same year Maryland assumed responsibility for full state funding of school construction costs. In 1972, the California legislature adopted a massive tax overhaul measure, providing more than \$1.1-billion in new school funding and property tax relief. In 1973, the Florida legislature overwhelmingly approved the *Educational Finance Program Act* of 1973 to equalize educational funding across the state at about 81 percent, to provide money for compensatory programs and to adjust for cost-of-living differences throughout the state. Kansas and Utah have also acted on equalizing school finances, and North Dakota increased the state share of school costs to 80 percent.

But in two other states—Michigan and Oregon—similar efforts to

achieve state financing of the bulk of education costs did not succeed—a legislative defeat in the former and a public referendum defeat in the latter.

ACIR considers a high quality, high yield state-local tax system to rest on a progressive personal income tax, a strong state sales tax and an effective and fairly administered local property tax.

In 1960, 31 states had a personal income tax, 34 had a sales tax, 20 had both and five had neither. By 1971, only New Hampshire still had neither tax, while 40 states had a full fledged personal income tax, 45 had a broad based sales tax and 36 had both. In 1972, no states adopted either tax, but the Ohio electorate in a referendum rejected an attempt to repeal the personal income tax that had been adopted the previous year.

This history of the property tax is actually two separate stories: tax reform and tax relief. One obviously is much more difficult and less politically popular than the other. In the past decade, reform has moved very slowly, while activity in providing tax relief has been widespread, occurring in some form or other in nearly every state.

A major reason for the unpopularity of the property tax has been the widespread feeling that the tax is not administered fairly. Inequitable assessments have resulted in random and unwarranted tax burden differentials. Poor assessment practices have led to taxpayer confusion and distrust of the system.

In 1963, the Commission adopted 29 recommendations for state actions to improve assessment practices and increase tax equity. The recommendations are based on three principles:

—The prevailing joint state-local system for administering the property tax can work with a reasonable degree of effectiveness only if the state tax department is given sufficient executive support, legal authority, and professional stature to insure local compliance with state law calling for uniformity of tax treatment.

—Professionalization of the assessment function can be achieved only if the assessor is selected on the basis of demonstrated ability to appraise property, rather than elected in a political campaign.

—The perennial conflict between state law calling for full value assessment and the political difficulty of moving assessments upward to 100 percent can be resolved most expeditiously by permitting local assessment officials to assess at any uniform percentage of current market value provided this policy is reinforced with:

A full disclosure policy, requiring the state tax department to make annual assessment ratio studies and to give property owners a full report on the fractional valuation policy adopted by county assessors, and

An appeal provision specifically authorizing the in-

Achieving High Quality State-Local Revenue Systems

Property Tax Reform

roduction by the taxpayer of state assessment ratio data in administrative or court appeals on the issue of whether his assessment is inequitable.

To move from elected to appointed assessors, from partial to full value assessment, and from special privilege for some to equality for all, involves intense political pain. Consequently, the record of recent state achievement in property tax assessment reform is quite low. But Wisconsin did take some far reaching steps to reform assessment practices, New York moved moderately in 1971-72, and in 1973, in Maryland, the state took over the assessment function completely with the objective of making it uniform and equitable statewide.

Selective Property Tax Relief

While property tax reform is lagging in the states, property tax relief has boomed. In its 1972 study, *School Financing and Property Tax Relief—A State Responsibility*, the Commission reaffirmed earlier studies and called upon every state to shield low income and elderly families from overly burdensome property taxes. The Commission asserted that this was a state responsibility, not something to be bucked up to the Federal government.

One reason the Commission considered property tax relief a state rather than a national problem is that the tax and its burden varies greatly from state-to-state and community-to-community. Not everybody is overburdened by property taxes. The average American family—a couple with two children and an annual family income of \$12,000—in 1972 paid 3.4 percent of its income in property taxes. But more than six-million elderly homeowners paid an average of 8.1 percent of their income in property taxes in 1970. And the 1.6-million elderly homeowners in this country with incomes of less than \$2,000 a year paid an average of 16.6 percent of their household income to the property tax collector.

ACIR urged states to phase in property tax relief as the property tax burden mounted and phase it out as the burden decreased. It developed legislation—based on pioneering programs in Wisconsin, Minnesota and Vermont—that would operate like a “circuit breaker” on an electrical outlet, that would cut in when the property tax reached a percent of individual income that the state deemed oppressive. Because a portion of rent is used by the landlord to pay his property taxes, tenants could also be brought into the circuit-breaker program.

State response to this suggestion has been overwhelming. On January 1, 1970, some form of property tax relief program existed in 28 states. By July 1, 1973, every state had some kind of program, and 21 had adopted circuit-breaker legislation.

On January 1, 1970, 12 states were financing the local government costs of property tax relief. This is a major concern of the Commission, for if states make the localities bear the cost of reducing property taxes, local fiscal problems would be aggravated further. By July 1, 1973, 31 states had assumed partial or complete financing of these programs.

Conclusion

The agenda for the third century of American federalism is long and tough. The easy problems and the simplistic solutions never made it onto the agenda; some difficult issues began to be confronted in the middle sixties and early seventies; it is the near impossible tasks that remain.

Local government must be reorganized and simplified; metropolitan areas must become governable and their internal socioeconomic disparities be mitigated; equality of educational opportunity must become a living reality instead of an empty phrase; growth policies must be formulated and reconciled among localities, states and nation, and among economic, environmental, and social values; the property tax must be made equitable and effective; the state governments must perform imaginatively and courageously for both their urban and rural constituencies; the Federal grant system must be made manageable and “grantsmanship” dethroned and the reform of the welfare and criminal justice systems must proceed apace; and ways must be found to assure that the diversity in the federal system continues to operate as a strength and not a weakness.

In short, during its third 100 years, the United States will have to come to grips with new and awesome questions not conceived in its second century. But, at the heart of these challenges and opportunities will remain the original goal and continuing watchword—“to form a more perfect union.”

Checklist

of

Agenda Items

Here is a checklist of ACIR recommendations, most of which are directed to state and local governments. To facilitate their implementation, the ACIR staff has prepared draft legislation that would accomplish many of them. The bill title or number are included in parenthesis after the recommendations. They may be ordered free of charge from ACIR, 726 Jackson Place, NW, Washington, D.C. 20575.

To Revitalize Local Government

- States should clarify the legal powers of general purpose local governments (*Local Government Residual Powers 31-22-00*) and authorize them to determine their own internal structure (*Optional Forms of Municipal Government 31-59-00, Optional Forms of County Government 31-42-00*).

- States should discourage non-viable units of local government by permitting the use of liberalized municipal annexation procedures (*Municipal Annexation 31-53-00*), by establishing rigorous standards for incorporation, empowering boundary commissions to consolidate or dissolve non-viable units (*State Authority over Boundary Adjustments 31-91-60*), and revising state aid formulas to eliminate or reduce aid to non-viable local governments.

- States should help local governments cope with areawide problems by facilitating county consolidation (*County Consolidation 31-41-00*), permitting counties to perform urban functions (*County Performance of Urban Functions, 31-43-10*), authorizing and encouraging interlocal service agreements (*Interlocal Contracting and Joint Enterprises 31-91-00, State Assistance for Interlocal Cooperation 31-91-12*), and encouraging metropolitan study commissions (*31-51-00*) and transfer of functions (*31-91-30*).

- States should facilitate regional coordination by adopting a system of umbrella multijurisdictional organizations composed primarily of local elected officials, which have the authority to plan programs and resolve conflicts, and the potential to operate functions. To stop proliferation of special districts, these umbrella units should become their policy boards and exercise budget control (draft legislation to be released in fall, 1973). States should make it harder to form special districts, easier to consolidate or dissolve them and increase the visibility and accountability of existing ones (*Supervision of Special Districts 31-69-00*).

- The Federal government should move further to avoid aid programs that encourage special districts and to strengthen regional and metropolitan review of local grant applications.

- States should deal with the problems of innercity alienation by authorizing major urban governments to create neighborhood "subunits" (*Neighborhood Subunits of Government 31-58-00*).

To Build Stronger States

- The institutional framework of state government should be modernized to permit a more positive role in the rapidly

expanding sphere of domestic governmental affairs. (Legislative reform bills: *12-11-00, 12-22-00, 12-30-00*).

- Congress and the Executive branch should channel Federal grants through those states that demonstrate willingness and capacity to accept responsibility in these various program areas; in other states, the Federal government should deal directly with localities. (*34-30-00, State Financial Assistance and Channelization of Federal Grant Programs for Urban Development*).

- States should pay part of the bill for urban development, (*35-60-00, 35-38-00*) housing code enforcement, mass transit (*38-40-00*) and other major urban functions.

- States should adopt a shorter ballot (*14-11-00*), give reorganization authority to the governor (*14-21-00*), develop improved and interrelated planning and budgeting processes (*14-41-00, 14-42-00*).

To Achieve Balanced Growth and Housing Opportunity

- A national urbanization policy should assure that Federal programs do not operate contrary to national goals and should include such components, such as financial incentives for industrial location in poverty areas and rural growth centers, migration allowances to facilitate population movements, preference in award of Federal contracts and public facilities to designated growth areas, expansion of governmental aid for family planning and Federal support for large scale urban development and new communities.

- State housing legislation should provide financial assistance for low and moderate income housing and should assure access to housing without discrimination. (*35-70-00*)

- State urbanization policies should complement the national policy; state land development agencies should be empowered to acquire, hold, site develop and sell land in accord with urbanization policies (*34-33-00*).

- States should bring order out of chaos in building codes through model codes (*35-10-00*), licensing and training of building inspectors (*35-23-00, 35-26-00*), and state performance of these functions in the absence of qualified local personnel.

- States should actively oversee local zoning to guard against misuse that deepens fiscal and social disparities within metropolitan areas. (*Extraterritorial Planning, Zoning and Subdivision Regulations 31-31-00, County Powers in Relation to Local Planning and Zoning Actions 31-34-00*).

To Streamline and Humanize the Administration of Justice

- States should upgrade police personnel practices, pro-

viding technical assistance and training for local forces with minimum state standards for recruitment (44-21-00).

- States should expand the full range of their supportive services to local law enforcement agencies (44-22-00).

- States should make sure that rural areas have adequate police protection. Two approaches are through "resident state troopers" and through consolidation of small local police forces (44-23-00).

- States should create specialized strike forces operating on an areawide basis (44-25-00).

- States should clarify intrastate extraterritorial police powers to achieve maximum efficiency and fairness in metropolitan areas (44-24-00).

- The office of county sheriff should be modernized and statutory rather than constitutional (44-26-00).

- To assure fair and effective prosecution, states should strengthen the authority of the attorney general to coordinate the activities of local prosecutors, prescribe minimum standards for prosecutors. States should make financial aid available for these purposes (*Omnibus Prosecution Act 14-22-11*).

- A unified court system should be adopted in every state. States should specify judicial qualifications, modernize methods of selection and provide for censure or removal. They should assume responsibility for court financing and should provide for professional court administrators (13-20-10; 13-20-20).

- States should expand their administrative and supervisory authority over corrections and systematize the various corrections activities. Rehabilitation and training should be stressed (14-22-20).

To Restore Fiscal Balance in the Federal System

- Federal general revenue sharing should be continued and strengthened.

- Congress should provide new Federal aid through block grants; it should authorize the President to consolidate grant programs subject to congressional veto; and should facilitate the "packaging" of related programs through joint management and funding within or between departments and agencies.

- The Federal government should assume financial responsibility for the dependent children assistance program and medicaid, continuing the welfare takeover begun in 1972 when the adult categories were federalized.

- State government should assume the predominant share

of the costs of elementary and secondary schools, thus fostering equality of educational opportunity and releasing the property tax for other uses (16-12-00).

- States should adopt high quality, high yield state-local tax systems that place greater reliance on a progressive income tax and a strong sales tax. (*Uniform Personal Income Tax 15-21-00, State Broad Based Sales Tax 15-30-00, Equalizing Program for Health and Hospitals 16-14-00, State Highway User Revenues to Local Government 16-15-00*).

- States should overhaul the local property tax to make it equitable and productive and assure its fair administration (*Property Tax Organization and Administration 15-41-20, Assessment 15-41-40*); states should provide protection for the elderly and the poor against excessive property tax burdens (15-47-00).

¹A Standard Metropolitan Statistical Area as used in census and other data sources consists of a county or group of contiguous counties that contains at least one city of 50,000 population or more or twin cities with a combined population of 50,000. Other contiguous counties are included if they are considered socially and economically integrated with the central city.

²Council of State Governments (including National Governors' Conference and National Legislative Conference), National League of Cities, U.S. Conference of Mayors, National Association of Counties, and International City Management Association.

What is ACIR?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, State and local government and the public.

Of the 26 Commission members, nine represent the Federal government, 14 represent State and local governments and three represent the general public. Twenty members are appointed by the President. He names three private citizens and three Federal executive officials directly and selects four governors, three State legislators, four mayors and three elected county officials from slates nominated, respectively, by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The other six are Members of Congress—three Senators appointed by the President of the Senate and three Representatives appointed by the Speaker of the House. Commission members serve two-year terms and may be reappointed. The Commission names an Executive Director who heads the small professional staff.

After selecting specific intergovernmental issues for investigation, ACIR follows a multi-step procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts and interested groups. The Commission then debates each issue and formulates its policy positions. Commission findings and recommendations are published and draft bills and executive orders are developed to assist in implementing ACIR policies.



American Federalism:

**Toward
a More
Effective
Partnership**

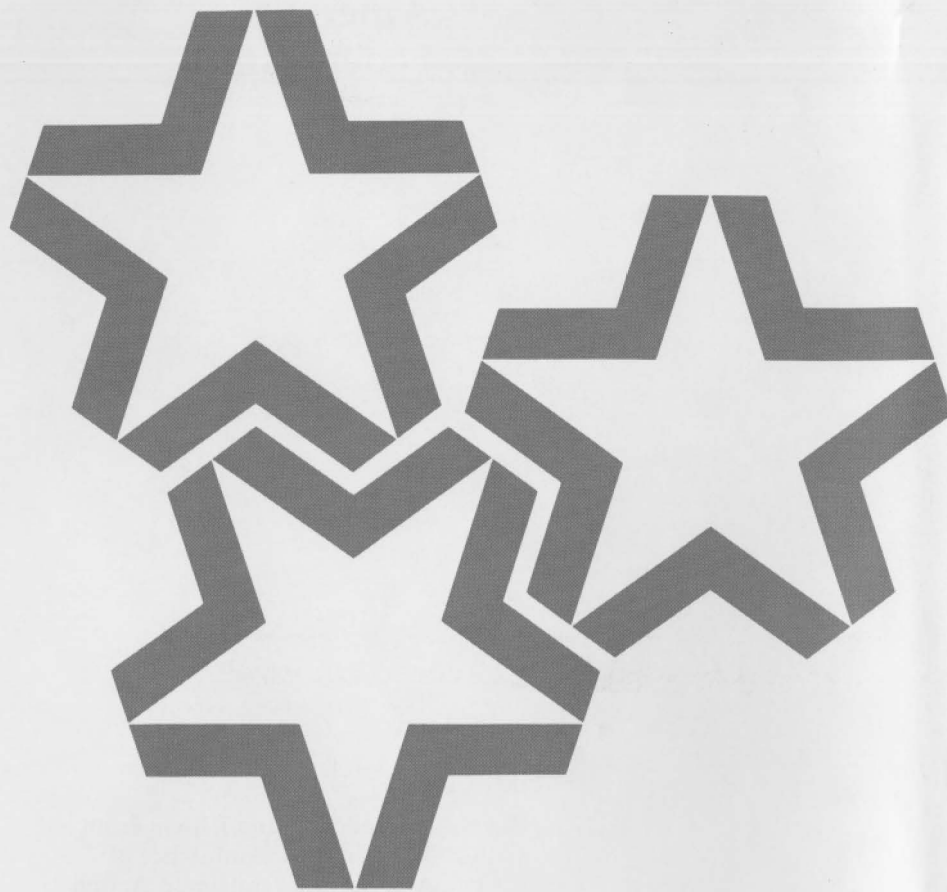


American Federalism:

Toward a More Effective Partnership

A Report of, and Papers From
The National Conference of
American Federalism in Action
Washington, D.C.
February 20-22, 1975

The Advisory Commission on
Intergovernmental Relations
Washington, D.C. 20575



In early 1975, the Advisory Commission on Intergovernmental Relations held its first national conference on American federalism. Although the bicentennial has attracted public attention to the historical aspects of federalism, our primary concern was to the system as it is operating at this crucial point in history when the sometimes overpowering problems of the economy, environment, and energy affect all levels of government.

Our conference did not come up with easy solutions or provide any final conclusions. But conference speakers and delegates did identify a set of central challenges, provided a forum for discussion of the major problems and proposed some important alternatives for action.

This volume is intended to share the conference findings and discussions with those interested in the workings and future of American federalism.

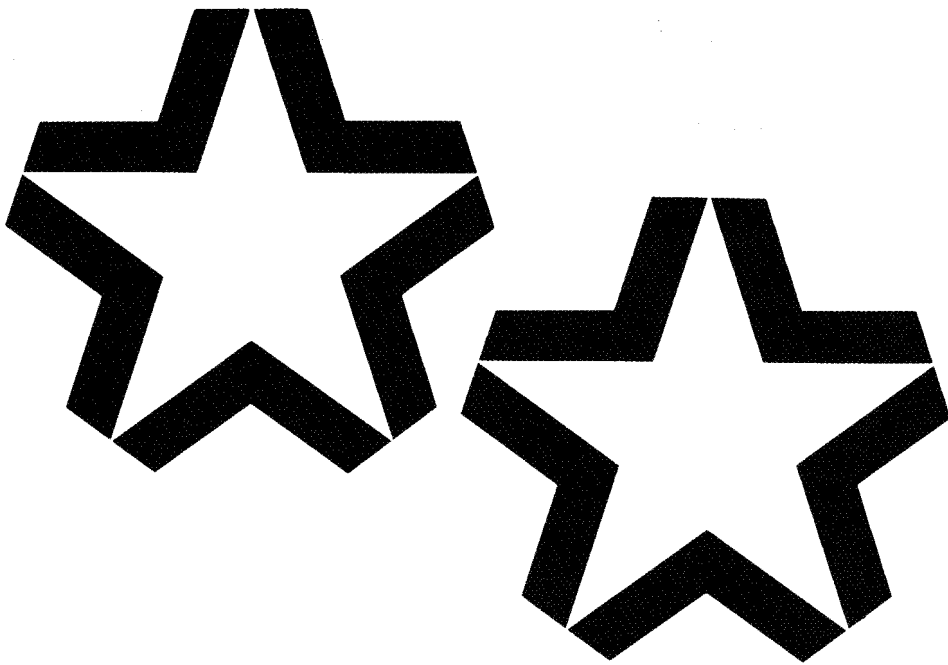
Robert E. Merriam
Chairman

ACIR is grateful to all those who participated in the program of the *National Conference on American Federalism in Action* by preparing papers or by serving as session chairmen and speakers or discussants or by being active, thoughtful, vocal delegates. ACIR also extends special thanks to the public interest group representatives and others who served on the conference planning committee. We are indebted to the National Science Foundation for funding certain conference expenditures.

William R. MacDougall, former executive director of ACIR, and Jo Anne Jimenez, his administrative assistant, carried the primary responsibility for organizing the conference. The many expressions from participants saying that the conference was an outstanding success are tributes to their efforts. F. John Shannon, David B. Walker, and Lawrence D. Gilson, of the ACIR staff, also played major roles in planning the conference program. Furthermore every member of the ACIR staff had assignments prior to and during the conference itself.

This volume was edited by Carol S. Weissert, who also wrote the overview. The manuscript was typed by Marinda T. Davis; Franklin A. Steinko was responsible for the printing of the report. Lawrence D. Gilson, director of policy implementation, supervised preparation of this report.

Wayne F. Anderson
Executive Director



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Federalism is a process without required form or practice — a process constantly in flux and under evolution.

Richard Leach, *American Federalism*, 1970.

The purpose of this volume is not to define federalism or discuss its long history or predict its coming glory or demise. These have been done in some detail by others. It is our purpose to look at federalism as it works today — at a time when it is faced with the convergence of several massive problems, resulting from a depressed economy, constricted energy supply, and finite environment. These problems confront all levels, involve all facets of federalism, and cannot be solved by actions of any one government acting alone.

In light of the magnitude of these problems and with the realization that there are no easy answers, the Advisory Commission on Intergovernmental Relations convened its first *National Conference on American Federalism in Action*. The conference speakers and delegates identified a central set of challenges and provided a forum for discussion of the problems facing the federal system. They looked at the present and the past and suggested options for the future. The result was some answers, many alternatives — and a realistic look at federalism in action.

For as Professor Leach and others have stated, the federal system is one constantly in flux and under evolution. The history of the system is marked with decades when decentralization was highlighted and those when centralization was the primary tendency; times when states were considered the ineffective partners and years when localities were circumvented whenever possible. Yet with today's global and nationwide challenges, the nation can no longer afford to have any one of the partners weak — and none can solve the problems alone.

Evidence from the conference indicates that the federal system is standing up to the current challenge. Reformed structure and function of governments are evident in the growing capability of regional instrumentalities and cooperative arrangements among governments to avoid overlapping and assure more effective service to constituents. Governments at subnational levels are assuming more responsibility in providing for individual needs of their cities and have compiled an impressive record of innovative, responsible legislation, and related decisions. And the fiscal system, although under the massive strain of an uneasy national economy, is in a period when the present mix of Federal aid, including general revenue sharing and block grants, is helping state and local governments weather the economic storm. And although cooperation among governmental levels is still far from ideal, recent experience has evidenced increased awareness of the need for and more experimentation toward achieving a more effective Federal-state-local partnership.

Frank Bane, first chairman of the Advisory Commission on Intergovernmental Relations and former executive director of the Council of State Governments, describes it from another angle: "With a federal system we have diversity, without diversity, there is no choice, without choice, there is no freedom." He continued, "the great glory of the federal system is some damn fool at the top can't ruin it."

This section of the report is an attempt to capture the thinking of that meeting as it evolved over the three days. Following this overview are texts of 11 speeches given during the meeting, reprinted in their entirety due to their particularly broad application.



Frank Bane, former chairman of ACIR and former executive director of the Council of State Governments.

“We may be on the brink of an era of creative innovation paralleled only by the Progressive era earlier in this century.”

The Promise and Performance of Federalism

Laying the groundwork for the conference, ACIR Chairman Robert E. Merriam suggested a series of tests to be used in evaluating the performance of the federal system. While providing his own tentative conclusions, Mr. Merriam challenged the conference participants to test the system against their own experience and perceptions. The tests, with the essence of Mr. Merriam's comments, follow.

Does Federalism Protect and Encourage Democracy and Freedom?

Encouraged by the recent election of those people in our society too often left out of the electoral process, Mr. Merriam's answer is yes. For, although the number of persons voting in 1974 was the lowest in the last 20 years, those who did vote "registered some remarkable decisions in opening up the system by electing representatives of groups historically underrepresented in our system." Blacks, women, and Hispanics were elected to high offices at the national, state, and local levels, and advocates of consumerism, strong environmentalists, and open government proponents were elected from coast to coast. The sheer number of positions available and the opportunity to progress to more responsible positions at higher levels are strong features of the American federal system.

In addition, access to voting and citizen participation for both sexes and all races have been opened up, not only through so-called sunshine laws, but also through an increased awareness by both citizens and officials of the importance of the citizens' role in the decision making process.

"Who, then, is to say that the American system is ossified, closed, unresponsive?" Mr. Merriam asked. He answers the question with the observation of a French scholar, Jean-Francois Revel, who said that

the United States was less autocratic, and granted more freedom of expression, of the press in particular, than any other great nation, and certainly his own France; that this nation had the economic wealth to accommodate a highly pluralistic society of free choice for individuals and various subcultures; that its federal government structure was flexible enough to accommodate dynamic new social forces and sound enough to guarantee sufficient stability in the process of rapid change. Mr. Merriam says that even though political parties may not be adequately fulfilling their consensus forming responsibilities, he believes democracy and freedom have been fostered by federalism, particularly "where levels of education and of citizen sophistication are high enough and in a time when such institutions as legalized segregation and rotten borough apportionment have been swept aside."

Does Federalism Result in Government Innovation?

The answer is a clear cut yes, according to Mr. Merriam, who feels that we "may be on the brink of an era of creative innovation paralleled only by the Progressive era earlier in this century." There is reason to believe, he said, "that the creative juices symbolized by the New Deal and the New Society eras have been sapped on the Federal level, that tight Federal budgets will make it less practicable to institute sweeping new national programs, and that the states may be, as was so proudly claimed in the Progressive era, the laboratories of social change in America." The states and their local governments are far more sophisticated than they have ever been before, he said. The state legislatures, in particular, are filled with more urban, better educated, more imaginative people than at any earlier point in this century.

Citizen groups such as Common Cause have had a remarkable impact also, he said, in the passage of broad

campaign spending and ethics legislation in the states. Although they will lose as many battles as they will win, he feels they will provide a "remarkable panoply of thrusts for innovative state action." Such action will range from land use control and consumer legislation to court reform and a challenge to industry oriented regulatory agencies and will likely spread quickly to other states, since he said, "for all the proclaimed diversity of our system, we are more one nation than we think."

Is the Federal System Efficient?

"Based on American experience up to now, we federalists have every reason to be rather humble," Mr. Merriam said. "Our consensus method of reaching decisions is laborious and time consuming. The capacity to plan well for the future, and then act in accordance with plans, is one of our weakest points." So it is sometimes asked, can we really afford federalism? With the thousands of frequently overlapping government units reaching from neighborhoods to the state, there is often duplication of administrative machinery if not provision of service. The opposite question, of course, is whether autocratic systems capable of swift decision are more efficient, or, in the long run, more economical. A single administrative mistake in a large autocracy can be disastrous. Mr. Merriam argues, as do others who follow later on in the program, that the very fact that there are so many governments "relates to what one might call the silent but real promise of American federalism — not only the guarantee of freedom and popular government but also the promise of unleashing human energy through decentralization by freeing a nation of a highly centralized national administration. Local initiative has been, and remains, one of our most enduring strengths."

Does Federalism Promote Equity in the Treatment of All Citizens?

Mr. Merriam says "one of the thorniest problems of American fed-

eralism is achieving equity for all citizens at the same time that allowance is made for diversity within the system." In all fairness, he says, federalism has worked both to foster equity in some cases and hinder it in others. Too often in the past, states and localities were guilty of the latter — especially in areas of racial and ethnic discrimination. The reapportionment decisions and the civil rights acts of the 1960s were responses to equity problems made at the national level. Assuring a certain floor of economic security is another area of national action to increase equity. "Yet one could say, with substantial evidence, that the assurance of civil and economic equity does not depend on a federal system," Mr. Merriam said. But federalism does have some distinct advantages, particularly in protecting the rights of minorities, especially those minorities that are enfranchised and politically articulate — not those who are politically impotent and have suffered under ancient injustices and who cannot enjoy the benefits of legislative slowdown and must rely on the courts. The Warren Court made massive strides in assuring the rights of the dispossessed of America. Yet in recent years state supreme courts have made important moves in this area particularly in the equalization of school funding and related property tax reforms. Still, Mr. Merriam says, American federalism has done a good job in protecting and fostering equity for its citizens — and we can be better satisfied with this record now than we could have been a generation ago. We would hope that in the future, he continued, less reliance will be placed on judicial "mandating" to fulfill what are really legislative responsibilities.

Does Federalism Contribute to the Improvement of the Quality of Life for All Citizens?

Although the definition of quality of life is far from settled, it would probably include such components as undefiled natural environment, clear air and water, health, accessible public transportation, cultural opportunities, and maximum opportunity for individual expression. Yet each technological and social "advance" seems to bring its own problems. Does federalism have anything to say to this problem? Mr. Merriam suggests that it does. "Too often, the effort has been made to suggest national quality of life standards for this huge, multifaceted nation — a macro-level effort doomed to failure because it fails to take into account that we live at the local, the microlevel." The very nature of federalism allows — even encourages — citizen participation in decisions concerning their well being, and such decisions rightfully should be made there, he said. "We should not entrust the national government with broad power to decide, beyond certain minimum economic and environmental standards, the priorities to enhance the quality of life of Americans living in 50 quite different states in 267 metropolitan areas and 3,100 counties spread from sea to sea," he said.

Is the Federal System Strong and Resilient Enough to Meet the Major Challenges of the Present and Future?

In our highly sophisticated and complex society, citizens and governments alike must cope with incredibly large enterprises — big government, big business, big unions, each stoutly defending its perceived self-interest against the lonely individual. Yet it is not only the individual who

may get lost, for today's large interests are many times larger and more powerful than governments. The problem is compounded with the complex, global scale problems now facing this country, ranging from quadrupled international oil prices to worldwide food shortages and inflation — problems that defy solution at the local level. The situation leads to a further question that Mr. Merriam calls the penultimate one: "Can our country conceivably deal effectively with these problems without a degree of centralized authority that will cut deeply into the warp and woof of our delicate federal system?"

In his opinion the country — and federalism — can and will survive. It will survive with a strong and efficient national government, what he calls the bulwark of the system, but also with the diffused power and responsibility resting primarily on the states, the cities, and the people themselves. It is this final power Mr. Merriam calls "the salvation of the federal system." But only if the importance of both is recognized, he said, paraphrasing Chief Justice Chase, can the states remain as indestructible as the Union itself. "And only if this is so can federalism grow and flourish into our third century." With that, Mr. Merriam challenged the speakers and participants at the conference with the same question. Their answers comprise the remainder of this overview.

Concerns Expressed in Small Group Discussion

With this challenge in mind, delegates set about their first task: to discuss in small group sessions the major American intergovernmental problems and possible solutions as they viewed them.

The results of these small group discussions, as compiled and reported by William G. Colman, former executive director of ACIR, dealt with both theoretical and practical

concerns. There were many questions concerning the effectiveness of federalism. Among concerns expressed were:

- Confusion about the roles and responsibilities, both fiscally and functionally, of each governmental level and between public and private sectors. Along this line, Mr. Colman continued, there seemed to be no consensus or machinery to deal with functional priorities and a disenchantment with the "overly marbled" marble cake.
- Apparent disparities between fiscal capacities and service needs partly due to interlocal differences, partly to Federal/state-local differences.
- A need for sensitivity of higher levels of government toward lower levels and more input from lower levels to the higher levels. Of special concern to participants in this area were special interest viewpoints that each level develops; inflexibility of Federal regulations; mandatory responsibilities on lower levels without adequate consideration of impacts and resources; and reluctance to recognize the reality of the urban county.
- Continued proliferation of categorical grants.
- Weak and ineffectual local governments.
- Lack of accountability and credibility at all governmental levels. Of special concern in this area was the need to encourage more citizen participation.
- Other specific issues of concern dealt with lack of a national development policy, need for new measures to combat recession, collective bargaining, lack of effective intergovernmental control of crime, the Federal regional structure, and ineffective legislative oversight at the Federal and state levels.

Regionalism, a subject covered in depth later at the conference, was

another cause of concern. There was a definite need voiced by conference participants for a regional process in urban areas so, as one delegate expressed it, "local actions necessary on a metropolitan scale (such as land use, capital expenditures, pollution control, etc.) can be considered in an open, rational way."

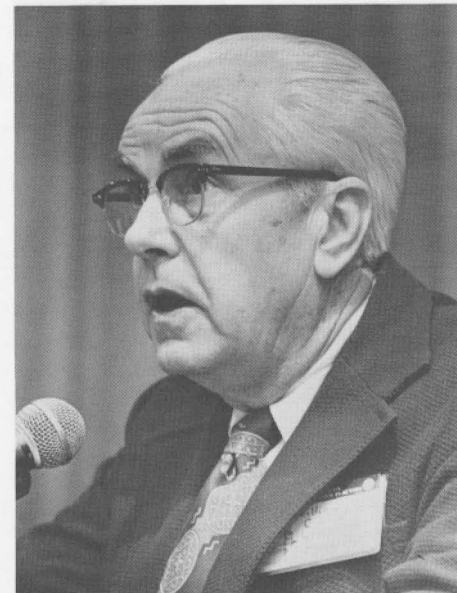
Effectiveness of Federalism

One of the basic questions raised by Mr. Merriam and the small groups dealt with the effectiveness of federalism: Are there too many governments causing too much confusion and with too little coordination? Is there too little governing?

Too Many Governments; Too Little Governing?

Although Indianapolis Mayor Richard Lugar thinks that cooperation among local governmental jurisdictions is a necessary and good thing, he does express concern at the tremendous growth and expansion of regional bodies and special districts. Stimulated by Federal guidelines and requirements, he said the latter often result in quasi-official units whose officials are not elected but exercise considerable authority over a variety of service areas and programs. Thus, Mayor Lugar continues, "the municipal official who is elected must now confront not only the Federal guidelines and officials, the state governmental apparatus, the elected county and township officials, but also non-elected regional officials who comprise a growing tier of government spawned by Federal legislation and state attempts to comply with guidelines."

In addition, Mayor Lugar said, the push for such additional governments often impedes the "much more vital steps of local merger and consolidation and serves to freeze the old boundaries into place."



William G. Colman, former executive director of ACIR.



Dr. Janos Horvath, professor of economics, Butler University, Indianapolis, Indiana.

Governor Daniel Evans of Washington agrees with Mayor Lugar's fears concerning the growing role of non-elected units. He thinks there is a role for regional planning, but he fears the fact that the non-elected body is "one step removed from the direct relationship of people to their elected representatives." He worries about moving away from direct accountability for public actions.

Other speakers had various solutions to the problem of too many governments and the coordination problems they pose. These diverse solutions, often broadly categorized under the term "regionalism," provide insight into the variety of mechanisms now in use across the country.

Judge Conrad Fowler, probate judge in Shelby County, Alabama, also supports the concept of general all-purpose government but points out that the alternative to multifunctional regional councils is the even more unattractive special district. He says, "we must reject the notion that a maze of special purpose regional mechanisms is an effective, responsive or responsible approach to handling the mounting planning, financial, and service problems facing practically all of our urban and rural substate regions."

Judge Fowler believes that county government should be modernized and strengthened through state constitutional changes and general legislation providing for charter adoption or for optional forms of government. Such modifications generally result in granting legislative power to the county governing body and lead to a change in structure so that one official emerges as the chief executive or chief administrative officer and a legislative body is assigned the policy making role.

Edward Regan, county executive of Erie County, New York, and Scott Fosler, director of governmental studies for the Committee for Economic Development, proposed differing "two tier" approaches as pro-

viding the advantages of both centralization and decentralization. One tier would be a metropolitan area government to provide planning, policy making, and operations for those functions requiring a geographically comprehensive approach; the second tier would provide decentralization to give the community the responsibility for any functions and activities which can be handled at a lower level. Anthony Astrachan, free lance writer on Canada and America, described the two tier system as it operates in Toronto. Howard Hallman, president, Center for Governmental Studies, Washington, D.C. discussed the importance of neighborhood governments in the two tier system.

Mr. Fosler, in presenting the recommendations of the Committee for Economic Development for a two tier system, said such a model "eschewed the notion that traditionally defined functions of governments could be neatly assigned to one or another of these two levels, but rather recognized the need to distribute functional responsibility according to specific area needs and to promote the sharing of power between each level in the planning and execution of functions."

He warned that metro government is not an end in itself and that there are at least two ways in addition to metropolitan reorganization to achieve some of the same objectives: to improve legal, financial, and administrative arrangements among jurisdictions as they now exist and to improve the management and productivity of existing governments.

Cooperation is the key to the success of the two tier approach in Toronto, according to Anthony Astrachan. "The two tier system means that burdens like welfare and police are shouldered by the whole of Metro instead of crippling any one component," he said. It has also saved the central city, he said, "by ensuring that if the mobile middle class moved to the suburbs, it would not be leav-

ing the core to rot." For the middle class continues to pay for the core through property taxes, (each borough or city adds its own mill rate to the Metro mill rate).

Edward Regan, of Erie County, New York, called the two tier government the "logical" approach, yet he said "often grant programs and Federal funds are not supportive of the two tier concept. If the Federal government does not encourage the two tier solution, it should at least not thwart it." Mr. Regan was particularly supportive of the urban county serving as the second (or metropolitanwide) tier.

Howard Hallman, president of the Center for Governmental Studies, Washington, D.C., thinks that unitary metropolitan government may be quite workable and desirable in small metropolitan areas but that multilayer governments will be the pattern in larger metropolitan areas. "And properly so," he said, "for this enables government to be organized in a manner in which scale of operations varies with the service rendered."

This multilayer government would vary from two to possibly even four tiers in the largest areas and would include neighborhood governments to act along with metropolitan and city governments in serving the needs of the citizens, he said. Each layer would perform specific activities and would share power. Mr. Hallman feels that neighborhood government is "better able to counter forces that sometimes have a negative impact upon neighborhood conditions such as unresponsive elected officials, lethargic and unproductive bureaucracies, selfseeking municipal unions, and private businesses which are more concerned with profits than neighborhood life."

Lex Hester, chief administrative official for Jacksonville-Duval County, Florida, feels that the city-county consolidation now in operation in his city is an effective means of provid-

ing services to citizens. Consolidation increases responsiveness in the area of racial equality, he said. "There were no black office holders before the consolidation, even though the county was 21 percent black," he said. "Now blacks are guaranteed seats and have one at-large seat too," he said. He feels the consolidation has also aided the government in its ability to set priorities. In addition, the new government in Jacksonville is making a special effort to provide responsiveness with neighborhood outreach programs, extensive use of advisory boards and public hearings, he said.

Indianapolis Mayor Lugar said city-county consolidation has been valuable to that city because it led to an extraordinary surge in new building, new outside investment capital, a sharp rise in per capita earnings, and a sharp decrease in the number of citizens with incomes below the poverty level. Big league sports, much more entertainment, new hotels, the building of the convention center desired for decades, and rejuvenation of inner city retail sales in addition to suburban retail prosperity all occurred in a five year span following the establishment of Uni-Gov in 1969, he said.

Francis Francois, chairman of the Prince George's County, Maryland, Council and former president of the National Association of Regional Councils, and John Boland, chairman of the Minneapolis-St. Paul Metropolitan Council, discussed the use of regional councils to provide consolidated and coordinated functions.

Regional councils provide a means of delivering services to local governments and of attacking regional problems, Mr. Francois said. Yet several things must be assured if regional councils are to succeed in the long run: that the organizational structure of the regional council be improved to make certain that policy is set by local elected officials, not

"If the Federal government does not encourage the two tier solution, it should at least not thwart it."

“Many people in California think they have said something significant when they state that there are 5,800 units of government there. Our finding was that the numbers mean nothing.”

staff; that clear legal standing be given to regional councils; that local governments be strengthened by making them more capable of identifying problems and delivering answers; and that public support for the concept of voluntary regionalism be improved.

John Boland provided a case study with the metropolitan council he heads. Set up by the Minnesota legislature in 1967, the council has a mandatory membership from local governments and a permanent non-voluntary funding base. The body has the responsibility for overall comprehensive planning, and it has review powers over the metropolitan operating agencies. The council provides physical and social planning, including regional plans and guidelines for health, criminal justice, housing, and aging. It is now completing a study on land use which, if passed by the state's legislature, would require mandatory comprehensive plans for all units of government in the metropolitan area, which will in turn be subject to review and approval by the Metropolitan Council.

In all the previous examples, state participation and support are essential to success. From passing legislation to authorize city-county consolidation to determining boundaries and strengthening financial and administrative contributions to the local government system, the state role is an essential ingredient. As **Mayor Lugar** succinctly expressed the relationship: “The local reformer must be an ally with the state government reformer.”

Yet there are those who do not believe there are “too many governments.”

Robert B. Hawkins, visiting research fellow at the Hoover Institute at Stanford University, is one. “Many people in California think they have said something significant when they state that there are 5,800 units of

government there. Our finding was that the numbers mean nothing.”

“His” finding was that of the Governor’s 1974 Task Force on Local Government Reform which he chaired. The finding also stated that the existence of numerous special districts did not create serious problems for the delivery of economical and high quality public services.

In fact, Dr. Hawkins indicated the results were often the opposite. The task force concluded that, especially in urbanized areas, the formation of special districts is, in large part, a response to citizen demand for decentralized government that can be easily controlled and that will tailor services to their needs. In addition, he quoted a survey conducted for the U.S. Senate Committee on Government Operations, which found that citizen satisfaction with government increases as the size of governmental unit decreases.

Too Much Role Confusion?

Closely related to this question of jurisdictional fragmentation, of course, are a pair of practical questions: what roles and actual functions are performed by the various governmental units within our 50 state-local systems, and does the present servicing assignment pattern make sense?

Alan Campbell, dean of the Maxwell School at Syracuse University, introduced discussion of functional assignments with the historical observation that “ever since man began designing governmental systems, or thinking about such systems, he has been troubled by the question of what part of the system should do what.” The reason, says Dean Campbell, is that there is no internally consistent theory which can be used to guide the placement of functions or to design a system in which to place the activities of government.

What theory there is comes primarily from political science and economics and a bit from public administration, sociology, and psychology. But, Dean Campbell concludes, these theories

provide little guidance to proper structuring of government systems or assignment of functions. The absence of a perfectly coherent system requires the setting of goals one hopes to accomplish by reordering functions. For Dean Campbell, the guiding principle is “equity,” and he feels it is possible to design a system which will maximize equity while not ignoring the claims of other criteria.

Dean Campbell’s conclusion is that there are criteria and guidelines but no perfect functional assignments for various levels of government. Dr. Hawkins agrees in part. “We must give up the notion that there is some ideal arrangement of function by level of government,” he said. “Rather, functions should be analyzed according to a set of criteria that indicates where scale economics are to be realized, where common resource problems and externalities will occur, and what functions citizens desire to control at the local level.”

“Some overlapping will always be necessary,” said **Robert Merriam**. But he posed a question, “yet must duplication be as excessive as now? What rationality is then left in the federal system and how can citizens possibly know which level they should hold accountable for success or failure in any given policy area?”

Federal Involvement: Too Much or Too Little?

In addition to concern about structure and numbers of governments, there was much discussion at the conference of the need for cooperative efforts and understanding of each government’s role and place in federalism. Both practitioners and academicians agreed that there needed to be more coordination among governments.

State and local speakers complained particularly about the Federal government and its apparent lack of concern for the impact of Federal actions on the other governments. **Mayor John H. Poelker** of St. Louis

offered an example in the area of transportation when he argued that the cities should have more choice in determining the use of transportation funds. Some localities needed mass transit money at a time when all that was available was money for highways, he said. At long last, there is an urban transit program, he said, that lets us improve and expand our transit services with Federal help, rather than continuing to build additional facilities where they really aren’t needed.

Another example of intervention from the Federal government, given by **County Executive Regan**, was that of San Diego where the county with its broader tax base performed social services and welfare functions instead of the city. However, the recently passed *Federal Housing and Community Development Act of 1974* provides funds to the central city, so the City of San Diego is “busy once again hiring social workers for a duplication of services provided by the county. This is an example of the Federal government marching backwards,” Mr. Regan said.

Mayor Lugar argued that the Federal government often does things to hurt localities. The mayor cited recent Federal legislation that he calls “ruinous,” especially the bill that included state and local government employees in the *1974 National Fair Labor Standards Act Amendments* despite testimony that fire and police protection would be prohibitively expensive and that severe cutbacks in service would result. Ironically, Congress exempted its own employees from the act.

“The pleasures of legislating must be balanced by the pains of taking time to understand enormous and expensive implications and paying the costs created,” he said. Large cities,

“Ever since man began designing governmental systems, or thinking about such systems, he has been troubled by the question of what part of the system should do what.”



“A growing proportion of the public business is going to leak out of the national level of government—some of it into international institutions—and a great deal of it into regional, state, and municipal government.”

such as New York, become ungovernable principally because their “own citizens and their elected officials are precluded from taking the necessary remedial measures by Federal and state mandates which may require action that is counter-productive.”

Governor Evans would like to see the Federal government reduce the number of categorical grants and allow states and localities more flexibility in spending the funds. The expense and trouble involved with categorical grants are among the reasons he sees revenue sharing, with its few restrictions and freedom from excessive paperwork, as a more effective form of Federal aid.

One of the findings of the California task force reported by Dr. Hawkins was that Federal intervention into the fiscal and regulatory affairs of localities not only forces local governments to spend monies that they might not normally spend but also forces higher administrative costs on local government in the form of dealing with Federal and state bureaucracies.

Elmer Staats, Comptroller General of the United States, while noting the problems in the administration of Federal assistance programs, sees some hopeful signs that greater coordination is possible. He cited as current examples the *Intergovernmental Cooperation Act of 1968* [which set up issuance of OMB Circulars A-95 and A-98 (now TC 1082)]; the *Joint Funding Simplification Act of 1974*, which permits the use of simplified and uniform administrative rules and procedures when a project requires assistance from two or more Federal agencies; the *Congressional Budget and Impoundment Control Act of 1974*, which attempts to improve the Congressional budget review and appropriation process; and several legislative efforts to consolidate categorical grants, including the *Housing and*

Community Development Act of 1974, the *Comprehensive Employment and Training Act of 1973*, and the *Comprehensive Health Planning and Public Health Service Amendments of 1966*.

Concerns in Carrying Out Roles

Another issue that must be faced in dealing with functions and structures of governments is the method used to carry out the functional roles. Major concerns dealt with at the conference were equity, citizen involvement, and growth management.

Equity

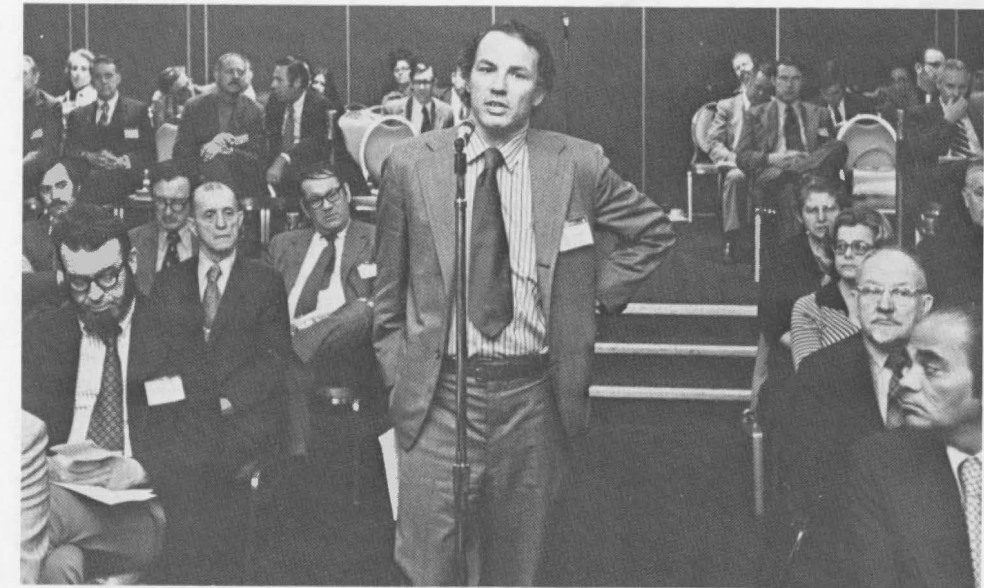
Dean Campbell indicated that the equity criterion is the all important one and should be considered in any functional definition, categorization of governmental activity, or structural reorganization. In order to prevent disparities, he said, large scale governments should be established to incorporate an economic base large enough to capture both the growing and declining portions of that base. Disparities may also be prevented by a distribution of expenditure, which relates service to those most in need and least able to afford purchase of the service. Although there are current policies that promote the equity concern, such as transfer of all or a large portion of the financing of education to a higher governmental level, other efforts, such as general revenue sharing, tend to bolster existing structure and activities which may or may not be equitably arranged.

Harlan Cleveland, director, international programs, Aspen Institute for Humanistic Studies, Princeton, dealt with several kinds of equity, including equity between and among individuals, between individuals and organizations, between private and public organizations, and between levels of government. Although possessing “no magic solutions” to problems of equity between levels of government, he feels “that a growing proportion of the public business is going to leak out of the national level of government — some of it into in-

ternational institutions — and a great deal of it into regional, state, and municipal government.” In addition, he is concerned with the equity between the separate branches of government which, he says, has become increasingly out of balance. The executive claim of national security placed on a widening range of subject matter has come “to mean separating Congress from the power to make policy,” he said. However, he thinks the new budget process will be the first step toward reversing the flow of power. He also recommends that the claim of executive privilege be defined more specifically and interpreted more narrowly; that composition of White House staff be explained more clearly and the staff members be made accountable to the Congress or the courts for their actions; that the Comptroller General be permitted to act, as an agent of Congress, with the full range of necessary powers such as subpoena supported inquiry and prosecution of executive agents in the courts; and that the Supreme Court be encouraged to interpret the law in timely fashion through advisory opinions.

A practical example of the concern for equity at work on the fiscal front was given by Governor Wendell Anderson of Minnesota who described that state’s school finance and property tax reforms first enacted in 1971 and extended in 1973. These reforms, described by ACIR as the “Minnesota Miracle,” increased state support of school operating costs from 43 to 70 percent, and doubled state school aid from \$660-million a biennium in 1971 to more than \$1.3-billion for the current fiscal biennium.

One of the results of the legislation, Governor Anderson said, was a reversal of the property tax spiral in



Audience participation was a key part of the conference.

the state — a spiral that is ruinous to equity since the property tax is one of the most regressive taxes currently in use in this country. “In the three years before we passed our Fair School Finance legislation, net property taxes on homes and farms rose 74 percent in Minnesota,” he said. “In the three years following, net property taxes dropped 8 percent on homes and farms.”

Before the bill passed in 1971, nearly half of all of the total state and local tax revenues were raised from the property taxes. Today, it’s just 34 percent, he said.

“Before the new law,” Governor Anderson said, “the homeowners in one school district had to pay higher taxes than those in a neighboring district in order to spend less money per pupil on their schools. Now the district that spends more, taxes more. And the district that spends less, taxes less.”

In 1973, the state passed legislation freezing property taxes on homes of senior citizens with the state paying local costs that would have been assessed against the homes; adjusting the school aid formula to provide even greater weighting for children from families on public assistance; and establishing a six year plan to raise expenditures of low spending school districts up to the state aver-

“Citizens ought to be participating in government as regularly as they get up in the morning and go to work.”

age. Another Minnesota law that went into effect this year provides that 40 percent of any revenue generated from new economic growth, whether a power plant or new industrial expansion in the seven county Twin Cities area, be shared among surrounding communities. The intent of the law is to reduce inequities between the tax bases of the have and have not communities.

Ronald Welch, property tax consultant and former assistant executive secretary of the California State Board of Equalization, also foresees movement toward greater equity in property taxation. He predicted the future use of somewhat more generous circuit breakers, especially of the type that refund all or substantially all property taxes and imputed property taxes in excess of certain percentages of owner-occupants' and renters' income. He also predicted improved opportunities to secure relief from excessive assessments by appeal to assessment review agencies; more restraints on property tax rates and property tax levies; continued improvement of assessment administration by enlarging assessment districts, requiring assessors and their technical staffs to meet higher entrance standards and to participate in continuing education; and much greater use of computers in the appraisal process.

Citizen Involvement

Numerous references were made to special efforts underway on the part of citizens and their elected officials to encourage more citizen involvement in governmental processes. The initial sweep of "sunshine" laws in state houses across the country has nearly put an end to "closed" sessions and has thus greatly aided the possibility of such interaction. General revenue sharing has also ushered in new citizen participation opportunities. It is now up to the citizens to take advantage of the opportunity.

Governor Evans strongly encourages the citizens of his state to "be involved." "Citizens ought to be participating in government as regularly as they get up in the morning and go to work," he said.

Mayor Lugar pointed out how important citizen involvement is to a modernization effort — such as the merger of Marion County and the City of Indianapolis. "Modernization has succeeded only when an obvious majority of citizens involved wanted it to succeed," Mayor Lugar said. "The most important modernization occurs when the general will for unity exceeds even by a small margin the deeply held feelings of many citizens for divisiveness."

Citizen involvement is one goal and effect of the decentralized neighborhood governments urged by **Howard Hallman** from the Center for Governmental Studies. Several cities, including Detroit, Pittsburgh, Portland (Oregon), Kansas City, Boston, and New York City, have provided mechanisms for more resident involvement. These minigovernments usually do not have absolute autonomy but rather exist in what Hallman calls "metropolitan federalism." Nevertheless, Hallman says, "neighborhood government should have considerable freedom of action within the sphere delegated to it, flexibility on how best to carry out assigned functions, and the right to initiate activities beneficial to the neighborhood and certain taxing powers. It would operate within a framework of federated urban government and a system of shared power. Its powers should be meaningful even if not unlimited."

Growth Management

A third important concern in the carrying out of governmental roles deals with growth and its management now and in the future. **Ralph Widner**, director, Academy for Contemporary Problems, Ohio State University, both argues the case for planning for the future and discusses the areas in which it is being carried out.

The continuation of a system of *laissez faire* government set up in this country's early years cannot continue, Mr. Widner argues. This approach results in what he calls "hidden" policies that do not assure desired achievements. In addition, scarcity and finiteness have now become reality and we "are being impelled in the face of crisis after crisis toward the formulation of policies on growth and programs for the control and allocation of resources which only a few years ago would have been unthinkable." Yet, not only is agreement on the problems we wish to plan for difficult, but also of concern are what Mr. Widner calls conflicts in values such as equity of opportunity versus free market; centralization versus decentralization; preservation versus development; and individual rights versus group rights. It is the individual versus group rights conflict that most affects national, state, or local growth policies. For if such growth policies are adopted, what are the implications for future Americans in terms of their freedom of choice to live and work where they wish?

Mr. Widner does see a pattern evolving out of the confused growth policy debate, however. He describes the pattern as a three legged stool, with one leg social policy, one economic policy, and one environmental policy. Growth policy must meet the objectives of all three. And it can be done, he says. States and localities are doing it by providing for uses of land, water, air, energy, and material resources that will minimize environmental disruptions and promote the reuse and conservation of material resources; attempting to channel population growth and development toward areas with greater residual "carrying capacity;" attempting to

protect fragile and unique environments; and establishing aesthetic and health standards designed to improve the quality of life in both metropolitan and non-metropolitan areas.

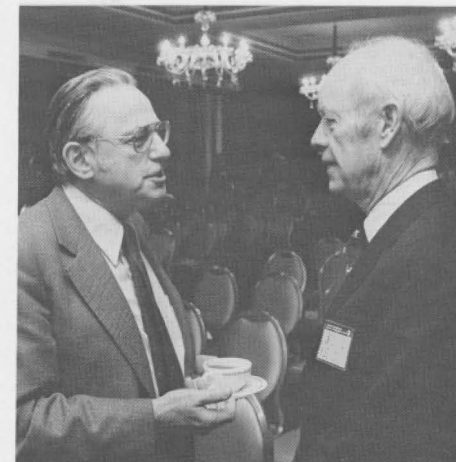
States and localities are moving in the right direction, he said, in areas such as comprehensive land use management, comprehensive growth policy statements, and coastal zone and interior wetlands legislation. The Federal government actions have "lagged behind states and localities in response to these new conditions," Mr. Widner noted.

He says the Federal responsibilities for a national growth policy could best be met through the effective use of economic policy, Federal regulatory powers, and the establishment of minimum social and environmental standards that would apply nationwide. For with the exception of the public domain, he says "the Federal government exercises little influence over the specific use of land in this country."

B. R. Stokes, executive director of the American Public Transit Association, agrees that national goals should set the tone for local action. He argues that regional bodies should set these programs in motion — at least in the area of transportation.

"It is our view that Federal urban transportation policy to be effectively realized, must be translated into action programs at the regional level," he said. "The planning process is the first step toward regional implementation. Federal policy should require such a planning process and should set in motion the programs by which regional plans are accomplished."

He continued that the Federal DOT should outline the general requirements but that there should be substantial local option for tradeoffs that will reflect local conditions and values. These regional plans should involve state, regional, and local governments, he said.



Arthur Naftalin, professor of public affairs, University of Minnesota, left, and Farris Bryant, former governor of Florida and former chairman of ACIR.



John Driggs, former mayor of Phoenix and former ACIR member, left, and Arthur Okun, senior fellow at the Brookings Institution.

Harry Hughes, Maryland secretary of transportation, also emphasized coordination among levels of government "to help find a solution and then continue to work together to implement those solutions." An important part of this partnership is the regional planning agency which he says is essential. "Both our major transit activities in Baltimore and Washington rest on a solid foundation of many years of cooperative Federal, state, and local planning," he said.

Bruce Barkley, acting director of the Office of Transit Management, Urban Mass Transportation Administration, U.S. Department of Transportation, agrees that there should be planning on the Federal level in his field and believes this planning will enable state and local governments to better meet their responsibilities.

"For while the Federal government has no business setting standards for the exact shape and form of local structure, it does have an obligation to require the effective management of Federal resources in urban areas," he said. He therefore supports a strong statement of policy and procedure at the Federal level, defining appropriate Federal, state, and local roles; state criteria for local government reform through state legisla-

tion; and "perhaps even an intensive and serious look at the U.S. Constitution and its relationship to modern American life."

The New York Metropolitan Transportation Authority is an example of a quite comprehensive transportation planning and operating entity serving an extremely large urban area, according to **Edwin G. Michaelian**, director of the Institute of Sub/Urban Governance at Pace University and member of the Metropolitan Transportation Authority. The MTA was created to correlate commuter transportation and mass transit and comprises the New York City Transit Authority which operates subways in New York City and the bus system in various boroughs and Nassau County, the Long Island Railroad, commutation into and out of New York City on the various divisions of the Penn Central Railroad, the Tri-Borough Bridge and Tunnel Authority, the Staten Island Rapid Transit rail line in that borough, and two airports.

Fiscal Federalism

No aspect of government so clearly highlights the complexities and tension of a Federal system as do fiscal concerns. Some state and local governments have tax systems broad enough to permit equitable treatment of all citizens, but other governments, in various ways, are forced to rely too heavily on the most regressive revenue sources. While many local governments argue for more Federal and state money on the grounds that it is collected in a more progressive manner, they object to strong Federal or state controls over use of those funds. With the multitude of interrelated concerns, it was Federal aid and its impact on state and local recipients which provided the most discussion.

Present Mix of Federal Aid

Although admitting that there still are problems with Federal aid to state and local governments, **Comptroller**

General Elmer Staats believes that the present mix of Federal assistance (categorical grants, block grants, general revenue sharing, and tax expenditure) is a good one. Each plays an important role "in providing Federal financial assistance, a pattern developed through an evolutionary and incremental process over nearly two centuries," he said.

Categorical grants, vociferously objected to by many state and local officials, serve the purpose of dealing with designated problems of national concern in a specific and uniform manner and with maximum involvement of state and local governments, Dr. Staats said. He thinks such grants are particularly valuable for research and demonstration activities or when the overriding objective is to prescribe a minimum level of services.

Block grants, more popular with many state and local officials, reduce administrative work and costs and provide recipients with greater flexibility in using available funds while placing a major responsibility on states and local governments.

General revenue sharing, described by Dr. Staats as "general fiscal support payments or . . . income redistribution payments," will be the most controversial, debated, and studied of all Federal assistance programs, he predicted.

Daniel Elazar, director, Center for the Study of Federalism, Temple University, thinks that categorical grants are not as narrow as often thought, block grants not as broad, and revenue sharing not as free as it is supposed to be.

He describes categorical grants as "not as narrow as they sometimes seem," and he says that, like general revenue sharing, they are "fungible." "Indeed the fact that they tend to be controlled by specialists, the very element of categorical grants that has led government generalists to criti-

cize them so severely, adds to their flexibility," he said. The social services program, until limited by Congress two years ago, was an example where he says "specialists at the state level drove their trucks, at least 50 of them, right down the middle of that program, running over the generalists in the process and showing how broad a categorical grant can be when one knows how to use it."

He says what little research is now available indicates that there is almost no difference in use of money as a block grant or categorical grant. "Not only that, but Congress almost immediately started adding new categories to the block grants," he said.

Among restraints on revenue sharing have been pressures on state and local governments during an inflationary period to provide for budget deficits that must be covered. Pressures to increase public salaries are another restriction on the innovative and imaginative use of the funds, he said.

Governor Evans of Washington attacked categorical grants saying their high administrative costs convert them virtually into a high cost welfare system for administrators at the expense of the intended beneficiaries. He thinks the categorical programs should be dismantled. He is, on the other hand, in favor of general revenue sharing which he says "is essential to effective federalism." The State of Washington has been sharing revenue with its local governments for years, he says, and will continue to do so.

Senator Edmund Muskie of Maine, Chairman of the Senate Budget Committee and the Senate Intergovernmental Relations Subcommittee, supports revenue sharing but warned conference participants that it faces "rough sledding in Congress." There will be those, he said, who will not be anxious to continue revenue sharing due to the enormous Federal deficit. There will be those who think it is not going to the poor and needy and should be abandoned.

"The present mix of Federal assistance is a good one."

“The proper role for revenue sharing is and always has been that of a complement—not a substitute—for a balanced mix of general revenue sharing, block grants, and categorical programs.”

And then there are many who are “simply indifferent to the fate of revenue sharing. It is not an issue that generally stirs passions in its support.”

Senator Muskie pointed out three areas where changes may be proposed in the new revenue sharing bill: revising the revenue sharing formula where it deprives cities of needed funds because they are located in relatively affluent states; using revenue sharing as an incentive to state and local governments to move toward more progressive tax structures; and improving civil rights enforcement.

The general goals of the legislation when it passed in 1972 are still good today, he said. These include a desire to relieve the fiscal problems of hard pressed local governments which have inadequate or inflexible tax bases; to reduce the regressive burden of state and local taxes by substituting revenues from progressive Federal income taxes; and to give people at the state and local levels the resources and flexibility to develop solutions suited to their unique problems.

“The proper role for revenue sharing is, and always has been, that of a complement—not a substitute—for a balanced mix of general revenue sharing, block grants, and categorical programs,” he said.

The future of Federal aid was addressed by **Comptroller General Staats**, who says there will likely be further growth in the Federal assistance programs. Yet he warned that he doubted “whether we have fully assessed the dangers which lie ahead—and which are possibly inherent in massive Federal aid—unless we are willing to realize that over a period of time we can, and possibly already have, radically revised our concept of the relationship of the Federal government and state and local government. The concept of the Constitution as a living and flexible document

is no more sharply illustrated than in the financial relationships to the Federal-state system.”

Although he emphasizes that the changing relationship is not necessarily bad, he says its potential implications must be considered. In particular he encouraged the concept of a periodic assessment of both the need for and form of various assistance programs.

National Economic Impact on States and Localities

And finally in the fiscal area is the issue of the national recession and its impact on state and local governments. The session on this topic was a debate between **Arthur Okun**, senior fellow at the Brookings Institution, and **Edgar Fiedler**, assistant secretary for economic policy, U.S. Department of the Treasury.

Dr. Okun strongly supported a Federal tax cut to be supplemented by a temporary cyclical increase in general revenue sharing based on the level of the national unemployment rate and so constructed that it would phase out automatically when prosperity is restored.

“If the states and cities can produce the evidence that such an added inflow would prevent recession induced slashes in expenditures and increases in taxes (rather than merely have Uncle Sam do their borrowing for them), Congress should be receptive to this proposal,” he said. Although primarily concerned with national action by the Congress and the President, Dr. Okun did urge the states and localities with their divergent interests as oil producers, as users of heating oil, or as suppliers of resort services, to “view their own interests in the perspective of the urgent national interest to achieve independence from the economic and political power of the world oil monopoly.”

The decisions that must come from these economic circumstances will be large for the entire country and the entire decade to come, he said. “And their significance extends beyond

their impact on real GNP, the inflation rate, and the unemployment rate. They are major tests of the responsiveness, soundness, and nationality of our political and economic institutions and that is why they must be passed,” he said.

Dr. Fiedler downplayed the crisis somewhat by saying Americans are “fascinated with catastrophes” and “hardly respect an economist who doesn’t predict destruction.” All the problems are real but will be solved in time. Our tax system is strong, he said, and operates well. In fact, he feels the economy will recover whether there is a major tax cut or not.

He also expressed the view that the government—at Federal and state and local levels—is too involved in economic management. “Someone will have to change the trend,” he said, “of running more and more to government for payments to individuals.” He also feels that there is too much government regulation. “There are a large number of cases where government has mismanaged long term relationships,” he said. “The ICC, for instance, came close to destroying the railroads by requiring too many tracks and a too stringent rate setting system.”

Problems Not Mentioned

Although the conference dealt primarily with the present, **William Colman** provided an interesting perspective during the final session by comparing problems discussed in 1975 with those that might have been of concern at a similar conference ten years ago. His list included:

- That there was little clamor for additional Federal funds;
- That there was not much push for new Federal programs;
- That the “urban crisis” seemed to be submerged within more generalized fiscal and administrative concerns;
- That there was very little mention of the court system.

In contrast, he noted current areas of concern that were not major issues a decade ago, including:

- Increasing unease about the federal system and overall fiscal viability of the nation as a whole;
- A drift toward the “layer cake” (symbol of three distinct and separate planes of government) talk of earlier years;
- Most concerns expressed in general terms of finance and structure rather than in specific functional areas.

The Future of Federalism

Daniel Patrick Moynihan, professor of government at Harvard University and former Ambassador to India, concluded the conference with a speech entitled, “The Future of Federalism.”

In order to test the present and the future, he looked at four projections he made in the past. These four conditions described in 1960 in a paper prepared for the Commission on the Year 2000 would, he felt then, determine the future of federalism. The conditions, which he believes are still valid today, include:

- The nationalization of public policy, an event he describes as following from the achievement of a genuinely national society. If there were a goodly supply of local problems “there were fewer and fewer specifically local subjects.”
- The rise of the Federal fisc as the primary source of discretionary public expenditure. Convention has it that this is owing to the superior revenue raising potential of the national government, he said.
- The tradition of decentralization and the fact that federalism is greatly inducing the grant-in-aid as the principal form of Federal expenditure on domestic programs. “Certainly there is no evidence that this is to be anything but an enduring aspect of federalism,” he said.



Edgar Fiedler, assistant secretary, economic policy, U.S. Department of the Treasury.

“There was little clamor for additional Federal funds and not much push for new Federal programs. The urban crisis seemed to be submerged, and there was very little mention of the court system.”



Arthur Okun, senior fellow, Brookings Institution.

- The diffusion of the middle class ideal of participation in public decision making will add a considerable and, in a sense, unanticipated utility to the complexity of the American government structure, which requires such great citizen participation to operate. Citizen participation is a good which Americans actively seek, especially as they become more educated and have more discretionary time and resources, he said. He would further expand on that today to emphasize participation as a product of government, especially its importance in a multi-ethnic society like ours. "There is no ethnic group that can't find some office to which one of its members can get elected or appointed, if it so desires," he said. Yet the problem lies in the fact there are so many governments that few offices are that important. Hence, the process of ethnic succession is eased. Those "in" do not that much mind stepping aside for those "out." The ins know that not that much is at stake, really, he said.

Dr. Moynihan then reviewed six themes for the Third Century as he had formulated them in 1960. He believes most have survived the last 15 years and stand up well today.

- He concluded the "multitiered system of bureaucracies and government activities" was assuming a permanent shape he called "wedding cake federalism" surmounted by the person of the President. He says the pattern holds today: "It even became more pronounced as the growth rates of expenditure and employment at the lower levels of the federal system continue to be generally greater than those higher up." The people are increasingly at the bottom. The trend will continue, he said, with the money mostly Federal, the jobs mostly local.

- He predicted that special purpose governments would multiply and multipurpose metropolitan government would not. Indeed special districts are still proliferating.
- He felt that there would be a trend toward metropolitanism in education — with fewer units and larger jurisdictions. Although the movement is not notably in evidence, as he predicted, the busing issue relates to the issue problem and he feels it may come true yet.
- He predicted a national social accounting system to evaluate social programs. Although results are not so positive, never so emphatic as he had hoped for and expected, this has occurred — or been attempted. He finds that "social accounting is increasingly an aspect of public affairs in the United States. With respect to government programs, it has assumed a role of presumptive normalcy alongside the financial audit functions of earlier years."
- A quest for community is what he calls the effort to overcome and prevent alienation. Although this is an area difficult to measure and too often one that runs counter to the centralization that seems to be occurring, he believes "it is reasonable to expect that the quest for community will continue as a theme in American life and hence in American Federalism and that it will continue as a countervailing influence to centralization and uniformity, a force, as it were for paradox."
- That what has been called the "rediscovery of the market" could be serviceable to planned and unplanned economies alike, to public and private enterprise, is a 1960 prediction of his he called "wholly wrong." Some

efforts along this line, notably Dr. Moynihan's own "Family Assistance Plan" and experiments including experimental school voucher programs and housing allowances, have come to little or nothing. To the contrary, he said, government direction grows.

The reason he says the last prediction was totally wrong was that it was "the only one in which I dared to predict that events would commence to move differently from the way they had been moving." He predicted the market place idea because it seemed "too good an idea not to change minds," he said.

"As this has not happened," he said, "I conclude that the forces that have been shaping federalism in recent decades are immensely powerful and are not likely to be reversed by anything save a large movement of opinion: not expert opinion, but public opinion."

The forces? They are growth of government at every level, in every form — or the conquest of the private sector by the public sector. He suggests the only way to change this would be a genuine political and cultural decision by Americans that government is large enough and should not get larger.

He predicts that this will happen; that "well before government is taking half the income of the country, somewhat past the 40 percent point, we will taper off." And at that point, issues of federalism will once again assume a true saliency, he said, for we will be discussing the distribution of power and resources in a relatively stable state.

"In the near future, however," he said, "we will continue as we have done: increasing the strength of national government in the name of



Daniel Patrick Moynihan concluded the conference with a look into the Future of Federalism.

increasing the strength of state and local government."

Yet in the face of what he feels is the trend toward centralization, are the innovations occurring at the state and local level. Among these he mentions New York's disability insurance program adopted when the Federal government was "nearly immune to such thoughts" and no fault automobile insurance adopted by many states well in advance of national action. "Policies do rise in the federal system," he said. "If pressed, the professor of government today is more likely to suggest that governors are put in Washington — when they are — to see if they can't get the national government to do something that state government can't do."

The system continues, he said, resulting in no small measure from "a marvelously flexible and enduring system of shared but interconnected power which for two centuries has provided a stable and enduring government over a vast and heterogeneous society and an even more stupendous territory."

The conference participants seemed to agree.

“The forces that have been shaping federalism in recent decades are immensely powerful and are not likely to be reversed by anything save a large movement of opinion: not expert opinion, but public opinion.”



American Federalism: A Paradox of Promise and Performance

In 1776, a dream became reality; 13 years later its structure was formed. Nearly two centuries later we gather here in a major assessment of that dream's performance.

Just over 15 years ago the Congress established, and the President approved, the first formal mechanism to monitor federalism in action: the Advisory Commission on Intergovernmental Relations. Ours is the sometimes lonely and mostly unnewsworthy task of reporting on and recommending ways to improve the workings of our federal system.

Mine is the pleasant responsibility to suggest to this first *National Conference on American Federalism in Action* some tests against which your discussion may measure the performance against those early—and subsequent—promises, remembering always that the final measure of democratic government is its ability to foster freedom with equity while contributing to a better life for all.

As we confront the agenda for these two days, therefore, we must ask ourselves what tests we apply to measure our success. My list of tests is a suggestion, not an all inclusive list. It asks:

- Does federalism protect and encourage democracy and freedom?
- Does federalism result in governmental innovation?
- Is the federal system efficient in the allocation of limited resources?
- Does federalism promote equity in the treatment of all citizens?
- Does federalism contribute to the improvement of the quality of life of all citizens?
- Is the federal system strong enough, resilient enough, and flexible enough to meet the major challenges of the present, and of the future?

No doubt the answers will be both conflicting and perhaps confusing, because they do indeed contain many paradoxes. In the remarks which follow, I shall touch on some aspects of the questions I have raised. To several of the questions I will dare to suggest an answer.

By Robert E. Merriam
Chairman, Advisory Commission
on Intergovernmental
Relations

Born and Raised in Paradox

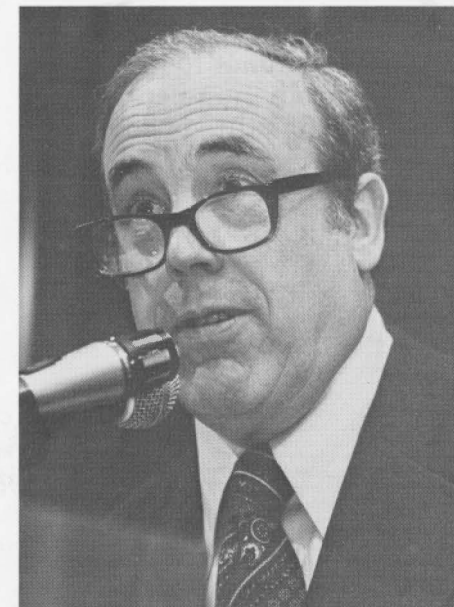
As Chief Justice Salmon P. Chase wrote in an 1869 decision, "the Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible states." But the nature of American federalism, we all know, is far more complex than that.

As every topic we will be discussing in this conference will demonstrate, we live within, we were nurtured within, we will create our future in a system rooted in paradox.

There is the original paradox of our written Constitution itself — a document written in secrecy by a nation's elite, determined to place some limitations on what they perceived to be the dangers of mass passions. Yet the federal order permitted the development of one of the greatest free republics ever seen, and as we so often have heard, the longest continuous democracy in world history. The federal system designed by the Founding Fathers was also designed to bring political stability to an inchoate assemblage of 13 proud and quarrelling sovereignties. Through decades of testing, including a Civil War, that stability was created. Yet the federal system has also allowed dynamic forces to express themselves; indeed our entire history may be seen as a continuous process of new causes and forces arising, none ever triumphing absolutely, yet each profoundly affecting our laws and mores.

There is probably no need to detail all the paradoxes of American federalism — the paradoxes and seemingly irreconcilable promises of liberty and equality, of democracy and efficiency, of unity and diversity, of a more perfect Union which is not yet perfect.

We do know that the system created by the Founding Fathers has proven its extraordinary resiliency over almost 200 years. It is possible that we attribute too much of our success to



“The fact is that Americans are not about to give up the historically non-centralized, federal nature of their government system.”

federalism itself, with its carefully structured but flexible divisions of powers both between the states and the national government and between the branches of the national government itself. It may be, indeed, that a parliamentary system like Great Britain's, or any other form of essentially democratic government with some restraints on any single base of governmental power would have sufficed just as well for us in the past, or today.

But in defense of federalism, I would remind you that when the Founding Fathers looked around at 2,000 years of human history, they could see no successful model of a nation covering even then a great expanse of territory that guaranteed its people both freedom and stable popular government.

Indeed, the only governments covering an expanse of land comparable to the America of 1787 had been empires — Russia, China, and the Roman Empire — and they had all been autocracies. The theory of the time was that any nation covering a broad territory had to be run with an iron hand and had to be aggressive. Its own survival, the theory went, dictated that it dominate its own people and its neighbor states, since if it did not, it would be destroyed by the sharks surrounding it.

For the American Constitution writers, the answer was federalism — a way to have the advantages of size, including, if need be, the capacity for unified selfdefense, without losing the advantages of a republican government of democracy and liberty.

Now, two centuries later, we might think that rapid communications make federalism less a necessity in a nation of great physical size. But look about our world and you will see that every spatially large, free system, except that of India, in practice, is federal. Practically every large free nation devolves authority and decision making power to its constituent units. So there is still good

reason to believe, just as two centuries ago, that if a nation's territory is large, its essential choice is autocracy or federalism.

Even if that thesis were proven faulty, however, the fact is that Americans are not about to give up the historically non-centralized, federal nature of their government system. In fact, in our attitudes, we reflect the very paradoxes and tensions that have been inherent in the American federalism system since its inception. On the one hand, we expect much of the national government; on the other, we seem to have an intrinsic preference for the government that is closest to us.

Recent polls by Louis Harris and others confirm public preferences for federal responsibility contained within a framework of shared pluralism.

The conclusion is inescapable: if American leaders, from the Constitutional Convention forward, have been ambivalent about the locus of power and responsibility within our federal system, that same ambivalence is still reflected within the broad mass of the American people. But while that historic paradox remains, a new problem now confronts every level of American government in our time: namely, the massive floodtide of public disillusionment with the leadership being provided them.

Watergate has accelerated these attitudes but has by no means been the only cause. Indeed, as our 1974 annual report notes, a positive aspect of last year's incredible events has been a demonstration of the ability of our system to effect a peaceful transfer of power in the midst of near chaos. Nevertheless, confidence in our political and governmental leaders at all levels is deeply shaken, cynicism about them is high, and only the continuing confidence in the system

American Federalism:

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carries us forward. Nine out of ten people in Harris' latest poll, for example, expressed the cardinal article of faith that the government can be made to work efficiently and effectively, and within the parameters of liberty a free people require.

And now the questions.

Does Federalism Protect and Encourage Democracy and Freedom?

We start with yet another paradox: while public trust in government and its leaders has plummeted to historic lows, one could also well argue that significant changes are taking place. Look at last autumn's elections. On the one hand, they showed Americans "tuning out" of the political process in massive numbers. Only 38 or 39 percent of the voting age citizenry bothered to go to the polls, the lowest turnout since the wartime year of 1942 and eight full percentage points behind the turnout in 1970.

But those who did vote registered some remarkable decisions in opening up the system by electing representatives of groups historically underrepresented in our system. Blacks were elected in unprecedented numbers to Southern legislatures and became lieutenant governors of Colorado and California. Hispanic governors were elected in New Mexico and Arizona. Connecticut elected its first woman governor, a woman who made it on her own and not as a successor to her husband. North Carolina elected the first woman chief justice of any state in American history; San Jose elected the first woman mayor of any city over a half million population — a woman who, incidentally, had first been propelled into politics when the local authorities failed to respond to her complaints about the need for a street light at a crossing where her children went to school. Advocates of consumerism, of environmentalism, of open government, "sunshine," and ethics laws were elected from coast to coast. The new Democrats elected to

Congress furnished the margin of victory in scrapping the seniority system, an accomplishment that may rank as one of the major reforms in the history of Congressional government.

Who, then, is to say that the American system is ossified, closed, unresponsive?

I am reminded of a controversial little book written earlier in this decade by the Frenchman Jean-Francois Revel. America, he said, was in insurrection against itself. He defined the basic issues as

a radically new approach to moral values; the black revolt; the feminist attack on masculine domination; the rejection of young people of exclusively economic and technical social goals; the general adoption of non-coercive methods of education; the acceptance of guilt for poverty; the rejection of an authoritarian culture in favor of a critical and diversified culture; . . . the broad rejection of the spread of American power abroad; . . . and a determination that the natural environment is more important than commercial profit.

Revel's argument was that the United States was less autocratic and granted more freedom of expression, of the press in particular, than practically any other great nation, and certainly his own France; that this nation had the economic wealth to accommodate a highly pluralistic society of free choice for individuals and various subcultures; that its federal governmental structure was flexible enough to accommodate dynamic new social forces, and sound enough to guarantee sufficient stability in the process of rapid change.

"The revolution of the 20th century will take place in the United States," he wrote, "It is only there that it can happen. And it has already begun."

Against all of this, however, is a breakdown in political party respon-

sibility, spawning talk of third, fourth, and even fifth parties, all of which suggests basic weaknesses in our consensus forming mechanism as outlined in David Broder's book *The Party's Over*. How, then, do we evolve the programs to cope with a totally interdependent world economy, energy shortages, population expansion, racial prejudice, and world ideological confrontation? The nearly catastrophic national debate over Viet Nam and today's divisions over inflation versus recession only serve to highlight the dilemma.

Exacerbating the dilemma of political parties in their decision making role are two causal factors:

First is the difficulty that potential local and state and national leaders, in an age of participatory democracy, have in winning people's confidence so that they can really lead and accomplish something. The legitimization of authority, a prerequisite for satisfactory governance in any political system, becomes more difficult than in times past — and is certainly one of the crucial problems of our day.

Second, as Harlan Cleveland recently noted in commenting on the tide of "sunshine laws" and other citizen access and participation laws across the United States, "evidence is piling up that the very great benefits of openness and wide participation are being offset by the risks of making it difficult or impossible to get done the complicated things that have to be done if we are going to protect our surrounding, our bodies, and our selves."

The problem, then, really is to balance the need for recourse to insensitive governmental action with the need to preserve the essence of official responsibility.

Federalism plays a major role in all of this, both positively and negatively. On the positive side, we have known since the days of Andrew Jackson the potential of the American system,

with its multitude of offices from the local to the national level, to provide a real opportunity for citizen participation in government.

However, in our not very distant past, the potential for any serious, disinterested citizen involvement was severely circumscribed in a large number of American states. Anaconda copper "ran" Montana; the coal interest manipulated Appalachian states; Maine was under the thumb of the pulp and power interests; the "pork chop gang" dominated Florida. In many states and cities, political bosses, in close alliance with the dominant economic interests, set the limits of public debate and decided who could or couldn't make his way in elective politics.

But now the system has opened up in startling measure, even in the Southern states, where the ruling circles often used the segregation issue to prevent real popular democracy. There are many who believe that racism, that perennial scourge of our society, will sooner be brought to heel in the South than in the North. Within the multitiered federal system, the opportunity for citizen participation in the governing process is greater than ever before in our history.

So if one is to ask whether federalism fosters democracy and freedom, I would say "yes" — most particularly in a decentralized nation where the levels of education and of citizen sophistication are high enough, in a time when such institutions as legalized segregation and rotten borough apportionment have been swept aside, so that citizens have a real opportunity to control their own destiny. Yet, as noted, a price must be paid for this as with all other "rights."

Does Federalism Result in Governmental Innovation?

There is a real prospect that the American federal system — particularly on the subnational level — may be on the brink of an era of creative innovation paralleled only by the

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Progressive era earlier in this century.

I realize that prediction, in typically paradoxical style, flies in the face of the problems of participatory democracy I was discussing a few moments ago. But particularly in the smaller universes of localities and states, it seems to me that the new political forces abroad in the land, operating in the least controlled political atmosphere of our history, may produce some remarkable results in the years ahead.

There is reason to believe, I would suggest, that the creative juices symbolized by the New Deal and New Society eras have been sapped on the Federal level, that tight Federal budgets will make it less practicable to institute sweeping new national programs, and that the states may be, as was so proudly claimed in the Progressive era, the laboratories of social change in America.

There are several reasons this may be so. One is that the states, in their administrative and planning capacities, are far more sophisticated instruments now than they ever have been. Another is that in many states, once our current fiscal crisis is passed, there remain substantial reservoirs of untapped taxes, even considering the constraint of interstate competition. Fiscal flexibility will be enhanced through the growth of Federal block grants and revenue sharing. The states retain the essential power to do almost anything, short of abrogation of Constitutional rights or conflict with Federally preempted legislative areas, that they would like to within their own borders. They fund a great portion of the costs of local governments and seem certain to increase their legislative and executive oversight and review of how that money is spent — a step likely to lead, in turn, to new legislation. Finally, one must consider the new composition of state legislatures, more urban, more educated, filled with more imaginative people than at any earlier point in this century.

I see no reason why the remarkable

impact that Common Cause and similar groups have had in effecting broad campaign spending and ethics legislation in the states may not be copied by groups with a myriad of other "causes." With national coordination of their efforts, facilitated by instant communications, both organized groups and free floating innovators can be expected to spread fresh legislative ideas rapidly within the new political climate.

They will, of course, encounter the formidable entrenched forces in each state, and they may lose as many battles as they win. But their increased sophistication and understanding of the political process, harnessed to the stars of legislators anxious to make a mark for themselves and rise to higher office, should provide a remarkable panoply of thrusts for innovative state action, many of them successful, in the years ahead of us. The subject matter is likely to be very broad, ranging from land use control and consumer legislation to court reform and a challenge to industry oriented regulatory agencies.

What we are not likely to see, if history is any guide, is much tinkering with the fundamental structure of state government itself. The initiative and referendum process may be used widely — a phenomena that those of us with a high opinion of the deliberative and more balanced legislation process may not at all welcome. But I would be surprised if we ended this century with more than one unicameral state legislature or with a parliamentary system in any state. The interest of the most effective reformers in the American system has always focused more on processes and programs than structures, and I doubt if that will change.

What we do not know is whether the innovation on the state level will be all good or bad, or as is more likely, a very mixed bag. But I do think it safe to say that the innovations which

“This relates to what one might call the silent but real promise of American federalism—not only the guarantee of freedom and popular government, but also the promise of unleashing human energy through decentralization.”

have high political appeal, or are substantively successful, will quickly be copied by many states across the land, as often happens. In all honesty, we can't ignore the fact that we have a long way to go in this area, but the trend for innovation among the states is definitely here.

Is the Federal System Efficient?

One may ask this with great candor. Does federalism identify needs and priorities well and move to deal with them in an effective, timely manner? Can we make tough decisions as needed? And here, based on the American experience up to now, we federalists have every reason to be rather humble. There is a lot of justification to the criticism that our consensus method of reaching decisions is unbelievably laborious and time consuming. The capacity to plan well for the future, and then act in accordance with plans, is one of our weakest points. At every level of government, officials generally hold office for terms too short to formulate plans and then effectuate them. Indeed, the question is sometimes asked—can we really afford federalism? With our thousands upon thousands of governmental units, there is gross duplication of administrative machinery. Foreigners sometimes observe that only in America with its bountiful resources could one afford a governmental system like ours.

The opposite question, of course, is whether an autocratic system capable of swift decision, would be more efficient, let alone more economical. A single administrative mistake in a large autocracy can be disastrous—as the Soviet, and earlier the Nazi, experiences have amply demonstrated in this century.

Alexis de Tocqueville made some interesting comments on efficiency in the decentralized American system which we might bear in mind. Very freely translated, his point was that in the France of his time, when the

government set out to do anything, it did it well. It knew how to plan, and it had a superb bureaucracy to carry out its plans.

The Americans, Tocqueville observed, seemed incredibly inefficient. You could look over the young nation and see a field littered with started and abandoned efforts. But there was one curious difference, he noted. The Americans (and the figures here are my invention) seemed to be starting up 20 times as many projects as the French. So even if they were only half as efficient as the French administratively, a simple bit of arithmetic revealed that they were getting ten times as much done in their inefficient way.

This relates to what one might call the silent but real promise of American federalism—not only the guarantee of freedom and popular government, but also the promise of unleashing human energy through decentralization. Local initiative has been, and remains, one of our most enduring strengths.

But it does pose problems for us as a mature nation. Before, we had a vast continent awaiting our settling and experimentation, and there was plenty of room to make mistakes. Now we face the problems of severely limited resources—scarce land, scarce energy sources, and scarce or at least frightfully expensive capital. Our gains in industrial productivity have dipped seriously, particularly in comparison to other industrialized nations, in the last decade. The share of our gross national product represented by government has risen from 22 percent in 1946 to 33 percent at the present; the share represented by state and local government has soared from 5 to almost 15 percent.

I am sure you have seen President Ford's statement in his budget message that total government spending will grow to more than half of our national output if domestic assistance programs grow in the next two decades at the same rate as in the past 20 years. A major part of the increase of recent years has been in

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social insurance programs, in wages of government workers, and pensions and fringe benefits. National health insurance would represent another massive increase. Should political resistance fail to slow these trends in future years, we must ask ourselves, how much elasticity will be left in our system? How much money will be left over for new social and environmental programs, for mass transit, for experimentation, for the expression of local energies?

And how, we might be asking ourselves over the next two days, do the various proposals for the modernization of subnational government on our agenda, including administrative improvements and sub-state regional reform, relate to our overall fiscal condition, and our ability to tap the creative impulses of the American people.

Does Federalism Promote Equity in the Treatment of All Citizens?

One of the thorniest problems of American federalism is achieving equity for all citizens at the same time that allowance is made for diversity within the system. By equity, I do not mean equality; total government enforced equality would, of course, eradicate all diversity in our system, and with it freedom and liberty. But if we view equity as fairness and justice, then federalism may be said to foster it in some cases and to hinder it in others.

Federalism fosters equity in that it functions in a way that tends to protect the rights of minorities. It means on the one hand that there is a strong national government—indeed, the supremacy of the national over then powerful state governments was considered the greatest victory of “federalism” as it was defined in the early years of the republic. The reapportionment decisions and the civil rights acts of the

1960s are but the latest manifestation of Federal competence to assure citizen rights; paradoxically, those actions abrogated state sovereignty but made possible more viable democracies within the states.

A strong Federal government, through the process of national dialogue, has also made the decision in modern times to assure a certain floor of economic security to citizens in all states. The Harris survey mentioned earlier found that 89 percent of the American public agreed with the statement that “the Federal government has a deep responsibility for seeing to it that the poor are taken care of, that no one goes hungry, and that every person achieves a minimum standard of living.” We are all aware of the mass of legislation, ranging from social security to unemployment compensation and welfare, which has been enacted to assure those ends.

One could say, with substantial evidence, that the assurance of civil and economic equity does not depend on a federal system. Particularly in the economic area, the United States has lagged behind the first nations to adopt social security, work injury assistance, sickness insurance, and unemployment insurance. We have still to adopt a family income maintenance plan, although it is already law in almost 20 other nations.

But federalism, in advancing or protecting equity in its widest sense, has some distinct advantages. Particularly, federalism means that the interests of various types of minorities in the society are not trampled by the excesses of majority will—the threat which Madison, in fact, saw as the chief danger of “direct democracy.” Remember that Congress is a direct reflection of the federal system, the Senate because of its equal representation for states, the House because decentralization is honored through the requirement that members come from districts and retain a

“Still, overall, I think we could say that American federalism has done a good job to protect and foster equity for its citizens—and that we can be better satisfied with its record now than we could have been a generation ago.”

loyalty to constituency greater than their loyalty to party.

This legislative system tends to protect minority rights if the minorities are enfranchised and are politically articulate. For such minorities, our system may assure equity better than any other in the world. When the *Voting Rights Act of 1965* resulted in the addition of more than 2-million blacks to the voting rolls in the South, we took a massive step toward assuring their participation in this process. The recent dramatic rise in elected black and Hispanic officials at all levels of government, starting from local power bases, demonstrate dramatically the interaction of the parts of our federal system.

Still, there are those who are so politically impotent, or who suffer under ancient injustices which majorities are unwilling to correct, that they cannot enjoy the benefits of legislative slowdown and courtesy and must rely on the courts. The Warren Court made massive strides in assuring the rights of the dispossessed of America. But while it used national power to force states to be more democratic, the shoe now seems to be on the other foot. One of the most interesting developments of recent years has been the movement of several state supreme courts, with California's perhaps the most outstanding example, into that controversial political thicket in which substantive rights for people, because of the lethargy of legislative bodies, must so often be won. State supreme courts moved first on equalization of school funding and related property tax reforms; now they and the Federal courts are beginning to move beyond schools to broader equalization of public services, in one of the least recognized but potentially most important developments of our times. But, once again, the paradox! Property tax disparities between rich and poor, old and young, from district to district are staggering. State and local tax reforms have slowed to a trickle since Federal revenue sharing. And, ironically, on balance

except for the upper brackets, public employee wages in many jurisdictions now seem out of balance on the high side.

Still, overall, I think we could say that American federalism has done a good job to protect and foster equity for its citizens — and that we can be better satisfied with its record now than we could have been a generation ago. We would hope that in the future, however, less reliance will be made on judicial “mandating” to achieve legislative responsibilities.

Does Federalism Contribute to the Improvement of the Quality of Life of All Citizens?

But let us assume that all these problems eventually will be solved and that we have a federal system that provides us with a sufficient measure of freedom and democracy, of innovation and efficiency, and of equity. We might have all that and still fail to provide what is ultimately most worthwhile for people, namely the parts and conditions of human existence that go under the general rubric of “quality of life.”

But what is “quality of life?” We have seen a growing agreement that the traditional measures of well being, such as the Gross National Product, the Consumer Price Index, income and educational levels, however important they may be, are only one part of the equation of human happiness within the society.

The new definitions, which some suggest should become formalized national goals measured by the relatively new science of social indicators, go well beyond “just economics.” They include such standards as undefiled natural environment, clear air and water, health, accessible public transportation, cultural opportunities, and maximum opportunity for individual expression.

But there is no unanimity on definitions among the academic and governmental groups which have approached the “quality of life”

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subject, and one suspects that if any definition were officially proclaimed, it would promptly be challenged. We have become painfully aware that rather than common happiness, rather severe social strains have emerged from the so called “progress” of our era — the achievement of higher standards of living, the spread and increasingly high levels of education, urbanization and metropolitanization, rising technicality and bureaucratization of work, and the heightened selfawareness and rise of minority groups.

Indeed, each seeming “advance” in our national life seems to bring its own problems with it. Strive as we will to carry out the Constitutional mandate “to . . . promote the general welfare,” we are caught in a revolution of rising expectations and reminded of Schopenhauer's cynical definition of the two sources of human unhappiness — “not having what you want and having what you want.”

Does federalism have anything to say on this problem? I suggest that it does. Too often, the effort has been made to suggest national quality of life standards for this huge, multifaceted nation — a macrolevel effort that is doomed to failure because it fails to take into account that where we live is at the local, the microlevel. Definitions of the quality of life and efforts to use government to enhance them should most properly be the task of people in the existing communities in which they live and work, areas that could or should consider themselves natural polities. In some cases, the natural polity may be a great metropolitan area; in some cases, a smaller city and its environs; in the case of some of our more lightly populated regions, substate regions or entire states.

One can envision a future in which the people of the natural groupings engage in lively and continuous debate about the qualities of life most important to them, which qualities they would want public policy to enhance, and which tradeoffs they are willing to accept among them-

selves. The answers of the people of the Ozark Mountains will not be those of the people of the areas along Puget Sound; the preferences of Atlantans may be distinctly different from those of Chicagoans — and in each area, the definitions, the priorities, may change far more rapidly than any Washington level administrator could ever envisage. People in Maine's Washington County may be willing to cope with high levels of what the rest of us would call poverty, if they can be left alone to take their living from the sea and the land. One survey in Los Angeles showed that stray animals, garbage, and noise were the primary concerns of ghetto residents — quite different, one would imagine, from the concerns of affluent suburbanites in the Los Angeles basin, but a set of problems, with appropriate solutions and relative demands on public resources, far better bargained out in Los Angeles than on the Potomac. If the process of debate in the natural regions can encompass all the social and economic classes, and every level from the neighborhood on up, then we can approach, in part, the problem of alienation by giving Americans a renewed feeling of participation and mastery over their own destiny.

It is true that constituent parts of government in America today may not, and in all too many cases do not, correspond to natural polities — but that is a problem we can try to circumvent by new political entities, or cooperative arrangements among existing jurisdictions. It does not for a moment mean that we should entrust the national government with broad power to decide, beyond certain minimum economic and environmental standards, the priorities for public life to enhance the quality of life of Americans living in 50 quite different states, in 267 metropolitan areas, and 3,100 counties spread from sea to sea.

Is the Federal System Strong Enough, Resilient Enough to Meet the Major Challenges of the Present and Future?

Any decision about quality of life, however, has to come with massive, seemingly intractable forces in the private and public sector. Remember that American federalism was originally designed to deal with the problems of public choice in a rather primitive agrarian-mercantile society rooted in the individualistic ethic. Now we have a highly urbanized, congested, consumer oriented society that has to cope with incredibly big enterprises — big government, big business, big unions, each stoutly defending its perceived selfinterest against the lonely individual.

This leads me to our penultimate test. This is what our conference is all about. I hope you will have some answers for me before we are through.

Consider the compound, global scale problems we must now cope with, ranging from quadrupled international oil prices to roaring inflation and the closest thing to a depression that the United States, in particular has faced in more than 30 years. Can our country conceivably deal effectively with these problems without a degree of centralized authority that will cut deeply into the warp and woof of our delicate federal system?

Certainly there is no way that 50 states and 39,000 general local governments, beyond certain conservation measures in which they have already proven their competence, can begin to deal with an energy shortage of worldwide dimensions. Nor is there any perceivable way that they can play an effective role in formulating economic stabilization policy. Instead, we see them increasingly at the mercy of a Federal government which all too often seems to speak with forked tongue. On the one hand, it champions such concepts as "New Federalism," the devolution of authority, increased block grants, and revenue sharing. But look what the same Federal government does

when the fiscal shoe begins to pinch. Two years ago we had legally questionable impoundments, confounding the carefully laid budget plans of states and cities. This year, despite advance budget briefings for governors and mayors, subnational government officials claim they have been presented with a complex administration economic program that will balloon their energy costs, cut deeply into the Federal revenue base, and restrict Federal aid to states and localities in a year of continued high inflation.

The states and their subdivisions are left, in effect they claim, to pick up the pieces, to take on new welfare burdens when their own revenues are imperiled, to raise taxes or cut services while Washington cuts taxes to stimulate the economy. Even at this advanced point in our national history we lack a mechanism to force Washington to consider, before it acts, the profound impact of its every action on state and local government.

That impact, we know, has grown massively in the last decades. In the 1950s, only one out of \$10 spent by state and local governments came from Washington; now the figure is close to one out of every \$4. With that level of interdependence, and rapid, unpredictable shifts in Federal fiscal policy, we may well ask if the states and localities have any reasonable hope to set their own priorities, to plan their budgets and programs, and to hope to remain accountable to their people.

One answer to this problem of federalism would be closer coordination and consultation between the member parts — in administrative policies, in fiscal policy, perhaps even one day in formulation of a total public sector budget or national fiscal policy for the United States, if that were possible without wiping out on the one hand the last vestiges of state and local autonomy or on the other hand the Federal Treasury and fiscal system.

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But alternatively or conjunctively, I think we should start to consider whether state and local governments should not begin to think in terms of reducing rather than increasing their financial dependence on the central government, of doing more things on their own.

Most of us, for instance, have welcomed much of the increase in Federal aid in recent years, particularly revenue sharing, on the theory that the demonstrated elasticity of the Federal income tax, as compared to state and local taxes, made Federal help necessary. But we must at least now ask ourselves whether we risk becoming bogus federalists — claiming all manner of potential in state and local government, but then running in good times and bad to Washington for the money, because we are unwilling to tax on a state basis for state and local needs. It is true that the political graveyards harbor the bones of many state and local officials who reformed their tax structures, thus improving public services and establishing sound and more progressive revenue structures for their jurisdictions, only to be retired by angry voters. It is also true that a number of states have moved aggressively to make their tax systems effective and progressive, but about one half continue to be regressive, some heavily so.

But rather than despairing of the task of making all state tax structures as responsive as the Federal, perhaps we should make action and education on taxes our first priority when the current recession tapers off. A substantial Federal redistribution of tax wealth from energy and food producing states to those less happily situated might be accomplished, just as Federal policy from the New Deal onwards transferred wealth from wealthy, industrialized states to the Southern, rural, and less developed. But after such redistribution, why can't the onus be on all the states to tax progressively and effectively, so that they can be more masters of their own houses?

If we believe seriously in federalism, for instance, we should believe in the primary responsibility of the states, not Washington, to maintain the viability of our great cities and urban counties. The famous rule of the 19th century Iowa Supreme Court Judge John Forrest Dillon, told us that the governmental subdivisions of states "owe their origins to and derive their powers and rights wholly" from the state legislatures. Dillon added that "as (the state) creates, so may it destroy;" perhaps we should add a 20th century corollary that "as the state controls, so is it responsible." But if that is so, what are we to say of the magnitude of Federal aid that bypasses the states and goes directly to the localities, often determining so much of their fiscal health or illness that their very viability as entities depends on Washington, not on the state governments?

I am pleased that our final speaker Saturday will be Daniel Patrick Moynihan, the father of the Nixon administration's pioneering but ill fated Family Assistance Plan. That plan, which really represented a full nationalization of welfare, would have been a massive step toward another imperative of a viable Federal system — namely, the sorting out of responsibilities, so that to the greatest extent possible we know which level of government is responsible for each distinct function of government. Today we face a situation in which each level of government, from local to Federal, has become involved in practically every non-defense activity of government, from consumer protection to highways to environmental protection. Some overlapping will always be necessary, but must the duplication be as excessive as it is now? What rationality is then left in the federal system, and how can citizens pos-



sibly know which level they should hold accountable for success or failure in any given policy area?

If the energy and fiscal crises of the past year have proven anything, it is that we need a strong, efficient, national government in the United States. That remains, as it has always been, a chief bulwark of our system.

But by the same token, it may be that the salvation of the federal system of diffused power and responsibility in America depends not primarily on Washington, but on the states, the cities, and the people themselves.

Only if that fact is recognized, if I may paraphrase Chief Justice Chase, once again, can the states remain as indestructible as the Union itself. And only if this is so can federalism grow and flourish into our third century.

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Functions in Flux

by Alan K. Campbell

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New Yorker magazine's community profiler Calvin Trillin attended last year's meeting of the National League of Cities. Reporting on that meeting he wrote, "Government is boring; politics are occasionally interesting, but government is almost always boring. Reporters often complain that they cannot write about an important program — revenue sharing for instance — because there are no people in it."¹

After discussing how difficult it is for journalists to make interesting issues which cannot be personalized, he again comments on how boring government is, particularly local government. "The fact that government is boring — like, for instance, the fact that rodeo bronco busting is dangerous — is naturally an element in determining the kind of people it attracts. (So dedicated they don't mind being bored? So boring they appear dedicated?) Boredom is also an element in determining the extent to which ordinary citizens participate. The citizen who makes it all the way through a hearing on a bond referendum on urban development legislation is likely to be a lobbyist.

"The fact that local government is closer to people than state or Federal government does not make it more interesting. Local government is mainly a housekeeping operation, and no one is interested in housekeeping."²

The *New York Times*, some weeks after the Trillin piece appeared, ran a nearly full page story headlined, "In Big Cities, Realistic Voters in This Election Year Are Aware of How Limited Are Mayors' Powers." It claimed that the public no longer believes that city governments are able to solve city problems. The efforts to use city hall to satisfy rising expectations, as were made in the 1960s, have been abandoned. The writer concludes that "... there

are many signs that the cities are no longer the cutting edge of American politics."³

If local government is as boring and ineffective as these commentators suggest, one cannot help but wonder why so many of us have come to Washington from all over the United States to discuss the role of state and local government in the American federal system.

This question applies with particular force, it seems to me, to those of us from the academic side who devote substantial time and effort to studying the state-local part of the governmental system. If that government and its officials are boring and ineffective, what that suggests about those of us who research and analyze such governmental behavior is a subject I don't care to pursue very far. Perhaps all of us, government official and student alike, have come to Washington to reassure each other of our importance and usefulness.

Despite these journalistic interpretations of the usefulness and excitement of state and local government, the field itself is dominated by ferment, by change, and by debate. Centralizers and decentralizers call each other unflattering names, metropolitan government advocates are regularly denounced by protectors of the *status quo*, those who would move governmental functions from the local to the state level must answer the challenge of the "home rulers." While these debates rage, changes do occur; local boundaries are shifted, functions are moved upward and downward, mostly upward, and the courts issue rulings about the distribution of services which, if followed, will remake the map of local government boundaries and powers.

Central to these debates and changes is the question of which level of government should do what? I interpret my assigned topic, "Functions in Flux," a title that must be pronounced with care, as asking that same question in different words.



¹*New Yorker*, November 18, 1974, page 32.

²*Ibid.*, page 33.

³*New York Times*, February 18, 1975, page 17.

“In fact, there is no internally consistent theory which can be used to guide either the placement of functions or the design of a system in which to place those functions.”

The Inconsistent Guidance of Theory

Ever since man began designing governmental systems, or thinking about such systems, he has been troubled by the question of what part of the system should do what. Easy generalizations are often used which hide the complexity of the issue. For example, all government should be as close to the people as possible, or jurisdictions should be of a size which maximizes economies of scale, or jurisdictions should be large enough to capture all externalities. Just stating these propositions demonstrates their simplicity and, more importantly, their inconsistency; each suggests different jurisdictional boundaries or functional assignments.

Accompanying the assumption that the logic is well understood of where functions should be placed or what jurisdictional boundaries should encompass, is the commonly held belief that it is only political resistance, those currently in power protecting their power, which stands in the way of the adoption of rational changes. In fact, there is no internally consistent theory which can be used to guide either the placement of functions or the design of a system in which to place those functions.

Nor at a more general level do theories of federalism offer much help. Over the past several decades politicians have provided at least three different slogans to describe American federalism — Cooperative, Creative, and New — but the difference in the content of each was never very clear. In fact there is little evidence that federalism as a system necessarily dictates assignment or subnational boundary systems different from those in a unitary system. There is as much of

a need in a unitary system to develop an efficient, effective, and responsive assignment of functions to different parts of the system as there is in a federal system. One need only look to the debates about local government organization in foreign unitary governments to discover the validity of this generalization. Within the United States there is a combination of Federal governance—the relationships between the national government and the states — and of unitary government — relationship of each state to its local governments. I do not believe that pursuing the theoretical underpinnings of federalism provides much guidance to where functions in either a federal or unitary system should be assigned.

Without theory, however, there can be no consistent guide to action other than expediency, which produces *ad hoc* arrangements with consequences impossible to predict. What, therefore, is the state of theory concerning the assignment of functions in a multilevel governmental system? What theory there is comes primarily from political science and economics with a bit contributed by public administration, planning, sociology, and psychology, but not much; and the criteria suggested by all these disciplines provide inconsistent guidelines.

The Role of Political Theory

Political scientists have generally accepted the proposition that the closer government is to the people the more likely it is to be responsive to their demands and needs. From this proposition has grown a set of ideas which favor so-called “grass roots democracy.” The latest version of this doctrine is, of course, community control, or, in its rhetorical form, “power to the people.”

Despite the believed self-evident logic of the proposition that the closer government is to the people, (i.e., the smaller the jurisdiction) the more responsive it will be, the evidence is

Functions in Flux

hardly convincing. On the average, participation in elections in smaller units is less than in larger units. That ideal of American democracy, the New England town meeting, has also been found by recent scholars to have been “elitist” controlled with relatively little citizen participation.

Another political science doctrine, which tends to run counter to the prescriptions of the grass roots argument, favors general government over single function special district government. The supporting argument suggests that a more rational allocation of resources among activities of government is more likely in a system which allows for a comparison of the relative contribution of each activity to the well being of the community. This doctrine rejects the transplanting of the private market into the public sector and sees the ballot box as a means of selecting officials who make resource allocation decisions rather than allocating resources on the basis of signals generated by individual consumers who purchase goods and services in the market.

The special district with its separate taxes and/or charges and fees more closely approximates the private market. In contrast, general government permits, it is argued, the planning and coordination of governmental activities in a way which will better serve communitywide rather than individual interest.

The general government doctrine tends to support large local government jurisdictions since size must be great enough to encompass all related governmental activities. Many planners as well as political scientists champion the use of the general government rationale to support both large scale local government and the provision of more responsibility at the state and Federal levels of the governmental system.

The political scientist also favors simplicity in both assignment and structure because he believes it aids the voter in making choices. A simple, general, hierarchical government-

tal system is assumed more likely to be understood by the voter, thereby increasing his influence over the decisions of that system. This arrangement precludes the functional fragmentation caused by single purpose special districts and the geographic fragmentation associated with many units of local government.

Obviously no “right system” emerges from these political science doctrines. In fact, each suggests different assignment and jurisdictional systems.

Economic Theory: Equally Inconsistent

The economists, although more dogmatic than their counterparts from other social science disciplines, are no less inconsistent in the guidance provided by their theoretical concepts. There are at least three doctrines drawn from economics which are relevant to the issues of appropriate jurisdictional size and functional assignment. These relate to externalities, economic efficiency, and technical efficiency.

Perhaps central to the question of what jurisdictions should carry out which functions, and what should be the size of those jurisdictions is the issue of externalities. The spill-ins and spill-outs of the benefits and costs of governmental activities are a well known phenomenon though a very difficult one to measure. The pollution which flows from one jurisdiction to another, be it water or air, is perhaps the most obvious, but equally important are those resulting from different benefits derived from human services. One example would be young people educated in one jurisdiction who, when moving to another, carry with them the advantages or disadvantages of the education they received in their home

jurisdiction. The ability of small governmental units to use their zoning power to zone in desirable activities and zone out undesirable ones creates another kind of externality. To minimize the flow of externalities, a greater number of activities must be assigned to larger jurisdictions — to metropolitanwide ones, to states, and frequently to the national government. An alternative, of course, would be a system of charges back to the jurisdiction which produces negative externalities. The impracticality of such a system is selfevident.

Pointing to a very different assignment result is the concept of economic efficiency. In this context, economic efficiency relates to the possibility of the individual optimizing the satisfaction he receives from his consumption of public services. The appropriate analogue is the private market — for there the individual may purchase that combination of goods and services which maximizes his satisfaction. The larger the population of a governmental jurisdiction, the more likely it is that the people within that jurisdiction will be heterogeneous in taste. The particular package of services provided by such a jurisdiction is unlikely therefore to fit the desired package for any but a very few residents. Since smaller jurisdictions are likely to possess more homogeneous populations, it follows that the package of services provided will more nearly fit their preferences for public services. Carried to its logical conclusion the concept of economic efficiency suggests a government for each person — every man a king!

A body of literature has grown from this doctrine which generally supports the current fragmented governmental system. The resulting large number of governments, it is argued, makes it possible for more people to find a jurisdiction which provides a basket of public services which fits their tastes. Thus, voting is done with one's feet rather than at the polling place. Actually it means

voting with wheels and pocketbooks. This doctrine obviously suggests a system very different than one which relies on capturing externalities.

Finally, some economists are concerned with technical efficiency or what is more frequently called economies of scale. For every activity of government there is an optimum scale, and I say "activity" advisedly since a function — police, fire, education — is normally made up of quite disparate activities and each has its own optimum scale. Therefore, it is activities to which the concept of economies of scale must be related rather than to functions. A system based upon maximizing economies of scale would produce a different geographical area for each activity of government. Therefore this doctrine, instead of suggesting a government for every person as does economic efficiency, suggests a government for every activity of government.

Taken together the criteria drawn from political science and economics provide little consistent guidance for drawing governmental boundaries or assigning functions among the levels of government. Since the criteria themselves often point in contrary directions, it is only through trade-offs of advantages and disadvantages that they can be combined in a way which will provide direction for the placement of functions or the structuring of the governmental system. The "grass roots" criterion of political scientists and the economic efficiency guidelines of economists suggest small units of local government encompassing relatively homogeneous populations with authority over a wide range of services. In contrast, the general government guideline, the control of externalities, and simplicity in structure suggest large units of local government combined with assignment of substantial responsibility to the higher levels of government — to state and federal governments. The economy of scale

criterion leads to functional fragmentation with a government for each activity of such size as to minimize cost.

Equity: The Overriding Criterion?

Combining these criteria is no easy task unless it is assumed they possess different priorities. If they could be ranged from most to least important, they could be made operative — but not, of course, without difficulty because of measurement problems. Yet there seems no "objective" means for such a ranking; it would have to be subjective. In the end, such choices are value laden. Since choice must be based on values, there is a criterion, not yet mentioned, which in my judgment should have priority over all the others. It is the criterion of equity. Its use assumes that there is a sharp distinction between the public and private sectors of the economy, that is, the public sector benefits should be more directly based on need rather than on what each individual's pocketbook permits him to acquire. Whether it be education services, police protection, sanitation services, or any other public service, the amount received of the total available should be related to the need for that service. Such equity should relate to both interpersonal and interjurisdictional distribution of the services. Most scholars have shied away from use of this criterion because of its obvious value content — it is not scientific. Although the selection of the equity criterion as possessing highest authority is not scientific, the measurement of whether a system is, in fact, equitable can be objectively determined assuming agreement can be reached on definitions.

One area of research, fiscal disparities, does ask one version of the equity question. It is a field which has been well plowed by the Advisory Commission on Intergovernmental Relations and by many

public finance scholars. Their findings, although differing in detail, have generally argued that the current system abounds with disparities — disparities in both tax burdens and services, as measured by differences in expenditures — disparities between central cities and suburbs, between low and high income suburbs, between metropolitan and rural areas, and among regions.

The prescriptions which have emerged from disparities analyses call for larger scale local governments in order to incorporate in such governmental areas an economic base which captures both the growing and declining portions of that base. It further suggests a distribution of expenditures which relates services to needs.

Also emerging from the disparities literature have been suggestions about the flow of governmental aid, suggesting that that flow should be in the direction of those governmental jurisdictions with weak tax bases and containing populations with substantial need. Finally, it has also been suggested that to overcome disparities it may be necessary to move some functions to higher governmental levels, transferring such activities as welfare, education, health, and hospitals to various points in the upper reaches of the governmental system — metropolitan, state, or Federal levels.

The shifting of functions or parts of functions or their financing is being more actively pursued today than is the restructuring of local government, probably because the political resistance is less. The defense of local "home rule" is apparently taking a backseat to the meeting of the public pay roll.

The equity gains accomplished by such transfers are not easily measured. The nature of the tax system from which, and to which, the func-

“There is a criterion, not yet mentioned, which in my judgment should have priority over all the others. It is the criterion of equity.”

tion is being transferred, as well as changing expenditure patterns must be taken into account. Such measurement, however, is not impossible. If the equity criterion is accepted as the one which ought to be dominant, then the other criteria can be used to the degree they are not inconsistent with it.

The equity criterion suggests that the financing of public services should encompass a tax base that includes all interdependent economic activities. At the broadest that suggests more national financing of state and local services than now exists but leaves substantial opportunities for statewide and areawide financing. Equity on the expenditure side suggests fitting as well as possible the provision of services to needs. Obviously the scale here could be much smaller than that required for fiscal equity. For service delivery the "grass roots" and economic efficiency criterion can be fitted to the equity criterion without difficulty. Such a combination does portend a set of increasingly complex intergovernmental relations — an outcome, I believe to be inevitable if the system is to maximize fairness and citizen participation.

Current Efforts

To what extent are current reassignment and restructuring activities consistent with the equity principle? They are a mixed bag. Some move in the equity direction while others do not. The policies of the Federal government, for example, push in inconsistent directions. The regional planning requirements of some programs are to some extent consistent with the equity criterion. Other requirements, however, actually reinforce the inequities of the system. The revenue sharing program, for example, with its "need and effort" formula does help offset slightly disparities but simultaneously acts to protect the current jurisdictional system of local government.

In some states, the efforts, some successful, to transfer all or a large portion of the financing of education, often court dictated, may produce a revenue and expenditure system which more closely accords with equity for both financing and spending, but not necessarily. For example, the transfer of school financing can result in large city residents finding their taxes for the support of schools higher without a similar increase in expenditures.

Further, some recent moves at the local level to create regional jurisdictions with genuine power — Jacksonville, Indianapolis, Minneapolis-St. Paul, to name but three — will result in greater equity in the financing of services. Decentralization efforts — schools in New York City, minigovernments in Indianapolis — will, if successful, provide the opportunity for improving the relationship between the package of services provided and the felt needs of people within each jurisdiction.

The Politics of Change

The number of changes, however, are small. The *status quo* has great ability to protect itself. Is there hope for reform? On the whole, political science research suggests that the current system is more than able to protect itself. Officeholders even in organizations nearly bankrupt — the Penn Central Railroad, for example — will fight to maintain their positions because that bankruptcy does not lessen the "goodies" which the system provides them. Some officeholders in nearly bankrupt central cities will fight to maintain the so-called integrity of their jurisdiction despite its inability to provide the services needed by its residents. The literature has named this behavior "capturing the hollow prize." The prize may be hollow for city residents who need better services and a lessened tax burden, but it not so for those who capture political positions in the system.

My guess is that both restructuring and reassignment of functions will occur at a snail's pace if the initiative

must come from those now holding office or from others (e.g., real estate interests) who benefit from fragmentation.

Despite this inevitable resistance to change, it is encouraging to find one group of local public officials who recognize their need for help in accomplishing certain kinds of changes. The International City Management Association adopted a resolution at its 1973 conference which said, in part, "The members of the International City Management Association believe that Federal assistance should usually be in the form of a block grant, however, categorical grants are desirable when national priorities are at stake and state, local, or private funding is scarce or unavailable; or when the problems or matters being addressed occur only in a relatively small number of communities or when" — and this I think is the significant clause — "the political risks are too high for responsive local or state governments to bear."

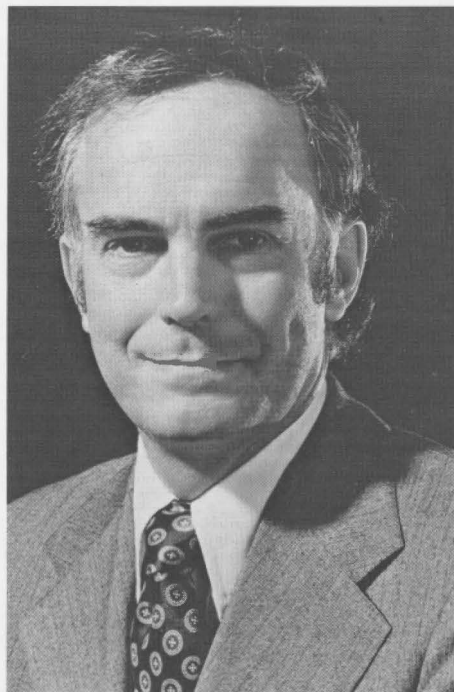
Leadership for change must come in part from outside the local government system. There would not have been reform of local government in Canada had it not been for the central role played by the Ontario provincial government, nor would there have been local government reform in Great Britain without the leadership of the national government. I doubt, too, that there would have been reform in Indianapolis or in Minneapolis-St. Paul without state leadership.

Nor is it undemocratic to suggest that higher levels of government participate in reforming local government. The evidence is strong that had the reorganization of either Toronto or London been put to referendum in

those communities, it would have been defeated. It is now equally clear that if the current systems were to be placed on referendum in those same communities the new system would be upheld by the local citizenry. Democracy does not imply that leadership should be abdicated by those who have moral, legal, and constitutional responsibilities for maximizing the effectiveness and the equity of the system.

Perhaps all of this is boring to our journalist friends. If so, I only ask compared to what?

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If someone were to ask me to describe the state of American federalism, I would have to relate it to a large American family. Sometimes members of a family squabble, although they love each other. Some of what they do doesn't appear to be very organized and sometimes it is messy and inefficient. But generally, at least in most large American families, it somehow works. And that's probably a pretty good description of American federalism today.

Rather than beginning with the standard lines on innovations and new ideas, I would like to launch this speech with a bit of heresy. The trend over the last few years has been to deal with governmental organization and reorganization by taking a good look at regional governments, or councils of government, as effective methods of governmental organization. Over the past few months I have started to wonder whether our attempts to make such neat packages out of government are really worthwhile. Perhaps we should make an effort to determine what government is all about and what we are trying to accomplish with it. Instead of dealing so much with structure, perhaps we ought to deal more with performance or the actuality of governmental responsibility.

I am also a little concerned about the problem of accountability. A council of governments is fine to assume some responsibility, but it is one step removed from the direct relationship of people to their elected representatives. And I am worried about moving away from the accountability for actions. I am also deeply concerned with recent Federal actions, especially in passage of a new health planning act late last year, which could move us into a situation where large amounts of public money would be guided and directed by councils made up of a majority of non-elected officials. Under such laws, elected offi-

cials would be totally outside the bounds of direct accountability. I do not know how many people really understand the full potential in that act — or those like it — which could eventually lead us to a time when elected officials will be dealing less and less with the direction and management of public monies. Accountability is a very important part of what a federal system ought to provide and what a system of representative government ought to be.

I said that perhaps our methods are a little messy today, and that our governments are not put together in packages as neat as we might like them, but I also suggest that by and large they are more effective than most people think; more effective even than most students of government are willing to admit. We are not going to get the most effective government and the most effective federal system if we cease to recognize what federalism really is. And in an attempt to mandate uniformity, I believe we weaken the whole concept of a federal system.

I have been deeply concerned over the years with the growing interdependence of Federal, state, and local governments, particularly through the categorical grant programs which have proliferated for the past couple of decades. At last count there were 1,500 categorical grants in operation and the number is going up, when the trend should be going in exactly the opposite direction. We are getting to a point now where we are building one of the most expensive welfare systems in the whole country with our own grants. The high priced auditors, managers, and paper shufflers required for many of our programs are so expensive that we are taking money away from the supposed ultimate beneficiaries of the program.

The Importance of Revenue Sharing

The expense and trouble involved with categorical grants are only a few reasons I see revenue sharing as an essential part of an effective federal system. Although the Federal gov-

ernment only recently discovered revenue sharing, states and their local communities have shared revenues for years. In my own state, we have a number of tax sources where money is shared with local communities with no requirements, no reporting, no mandate whatsoever from the state level, other than that the local government follows the general laws and constitution of the state. That's what revenue sharing is all about. There are simply some levels of government more effective at collecting taxes than others, but that does not mean that those levels of government should spend or manage all of that tax money.

There is a real question in my mind whether the Congress will continue general revenue sharing — at least in the terms I believe describe revenue sharing. I certainly hope that they not only continue the program but make it stronger. At the same time, I would like to dismantle at least the number of categorical grants we have.

Some people ask me what I would do at the Federal level given the budgetary crunch the President and the Congress face. How can I get or ask for more programs considering the deficits that are occurring, they ask. My answer is that we can do with less money in many areas and give more service in those same areas if Congress will just do one thing: when they reduce the money, they should reduce the requirements for reporting and categorization and give us more flexibility.

Regaining Trust in Government

And that comes to a second fundamental principle — how to somehow regain a measure of trust in government: trust between a legislative and an executive branch at any level; trust between the various levels of government; trust between citizens and their government itself. These things are not easy to achieve and

can only be gained ultimately by performance. But trust is a very important ingredient if we are ever going to use our tax money wisely and efficiently.

Revenue sharing is a measure of trust. So is the lack of categorization. The willingness of one branch of government to give responsibility to another is a measure of trust. Government at all levels should have more performance standards to operate under and fewer requirements concerning how they reach those standards. We are so interested in form that we forget all about substance. I think it's time we turned that trend around.

Another very important ingredient in making federalism really work, given the flexibility and the trust, is legislative responsibility for oversight. Congress, the various state legislatures, and a good many city and county councils spend so much time devoting their energies to new laws and regulations and ordinances that they never look back to see what they have done in the past or to see whether it works or not, or whether it works well enough. I have told my own legislature a number of times not to attempt to equalize the legislative and executive branches by tearing down the executive but instead to build up the legislative branch. I would join them in asking for whatever is necessary for legislative oversight capability to tell us whether we truly are executing the laws wisely and whether we are living up to legislative intent.

Need for Increased Productivity

The needs for today and the innovations which I believe are springing up all over this nation relate to productivity. When you come right down to it, the only chance we have to moderate inflation in this country

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and at the same time increase the potential standard of living of our citizens is through productivity in both the private and governmental sectors. We have attempted to move forward in this field in our own state, and many other states and local communities are doing likewise. We are finding that results are rather easy to obtain particularly if you bring into the whole process those who work in those levels of government.

In an attempt to gain some insight into citizen trust, in Washington, we started a program called "Alternatives for Washington." The program began with a task force of 150 people from all walks of life and various parts of the state. We asked of them only one thing: a considerable amount of their time. In four, three day sessions over a couple of months, they were asked to look ahead for at least ten years and describe some alternative choices for our state. They did that, and also in the process, became some of the most articulate spokesmen and most devoted citizens to making government and the federal system work that you could ever find. They have transmitted this enthusiasm to regional groups across the state and have given every citizen the opportunity to express his preference in a questionnaire inserted into every daily newspaper in the state. More than 60,000 persons responded to the 11 basic alternatives laid out by the committee and thousands sent individual letters amplifying material on the form.

One letter in particular dealt with the whole question of trust and participation of citizens in government. The writer said he thought our questionnaire was unanswerable and wrong and he didn't like it. He didn't like much of what was going on in government, he said. He thought we spent too much money and so on.

There wasn't a cheery note in the whole thing until he got to the very last sentence — the most important — in which he said, "Thank you governor, for the opportunity to express myself." That is what is so wrong today as expressed in the last election where only 38 percent of the people in this country voted. Literally one out of every three voted. The rest rejected participation in a free system such as ours because they did not think their vote or their participation made a difference. The opportunity to express yourself is a very important thing to reachieve if we can.

I have not spoken much about the specific innovations, many of which are current in all levels of government. I will list three or four, however, and give you a reference to many more.

- Open government is an important prelude to citizens' trust. Sunshine laws and open government laws have been passed in most states of this nation now and they far preceded the concerns and bills now in front of Congress at the national level.
- Regional and intergovernmental cooperation is proceeding in a wide variety of forms. I mentioned some of the messiness of our governmental structure, earlier, but I see something relatively new which may be a hopeful sight: that we are doing more and more things simply on an *ad hoc* basis. We find the problem, we devise a temporary combination or collection of intergovernmental groups to deal with the problems, and then they dissolve instead of creating a permanent framework which far outlives its usefulness.
- Budget building is more and more sophisticated. I believe that most of the state legislatures in this country have a more rational budget system than the Congress itself. Most states have a requirement for a single budget

allowing legislators to look at the budget in total, to compare that budget against revenues, and to have some relationships between them clearly in mind when the decisions are made. In our own legislature, for example, our budget department has created a very sophisticated computerized system for gathering budgetary information. And rather than keeping it to ourselves and competing with the legislature, we have turned that information over to that body. They in turn have developed a computerized "what if" system by which they can plug in almost any kind of change in a budget and get back the effect that change will have on the whole budget picture. They have given that system back to the executive branch so we are much closer together now in information. We are working from the same base, and the arguments between us at least come from the same fundamental information. And decisions now are made on issues rather than on misinformation.

- There is a need to establish measuring devices for better productivity and better results in government. We have only scratched the surface in this area, but I think that this could be one of the most important innovations or achievements for government at all levels in the next few years. It is easy to measure the effectiveness of a large business. A corporation building airplanes, for instance, can keep intricate cost control information to indicate when they have made a profit or suffered a loss. It is a pretty good measure of efficiency and achievement for business. It is not so easy for a government to measure the effectiveness of education, or the effectiveness of a welfare system, or the effectiveness of so many of the services we provide for which

there is no easy measuring stick. But I believe it is important for us to devise those measuring sticks that people both outside and inside of government can relate to. Over the years, we can then have a better way of telling whether we are gaining or losing against these measuring sticks in government.

So in summary, trust and confidence — government to government and citizen to government — are essential to the health of our federal system and perhaps represent an important future innovation. Citizen participation in the process is an important part of this innovation but not just when their own interests are involved, but when others are at stake as well. Citizens ought to be participating in government as regularly as they get up in the morning and go to work. In addition, government must retain the flexibility to recognize the differences nationally and within our own states and localities and must be given an opportunity to efficiently respond.

I have to give you just one commercial. Last year for the first time the National Governors' Conference produced a book entitled *Innovations in State Government* containing articles from each of the nation's 50 governors. I recommend it to you. I think there are many innovations. I believe the federal system is alive and well and working and will be so even to a higher degree when we celebrate our 200th birthday a year from now.

Daniel J. Evans was first elected governor of the state of Washington in 1965. In 1972, he was elected to his third consecutive term. Prior to that time he served in the Washington state legislature from 1956-64, serving as floor leader during the last four years. He is past chairman of the National Governors' Conference and has served on the Advisory Commission on Intergovernmental Relations since 1972.

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Local Government Modernization



Modernizers and reformers of municipal government must approach each opportunity with seemingly boundless enthusiasm, moral fervor, and careful definition of the grounds on which they expect to win. The deck is stacked against municipal modernization because most cities and towns are creatures of state governments, and most have distinctly separate governments from the counties which surround, contain, and often duplicate municipal services. Federal guidelines intrude into almost every function of municipal organization, and neighborhoods within municipalities often demand recognition and sometimes a considerable degree of autonomy.

The local reformer must be an ally with the state government reformer if only to gain permission to pursue local modernization. In the best of worlds, state governments would be sufficiently concerned about localities to provide more reasonable organizational statutes and a clear flow of authority and money in order that state government might produce a well woven governmental blanket rather than a torn and fragmented cloth.

From the standpoint of both Federal and state governments, it is taken for granted that police and fire protection, sanitary services, street repair, public health services, parks, and some environmental concerns will be provided at local governmental levels. Most states do not allow cities and towns to name the tax mix which might be employed to provide necessary revenues. Most states do little to assist the process by which logical boundaries of responsibility might be established for the rendering of services. In fact, most states maintain a heavy bias against innovative financing or rearrangement of lines and boundaries at the local level. Federal policies through generous funding of local vested interests have often served to fragment service jurisdic-

By Richard G. Lugar
Mayor of Indianapolis

tions, distort local finances, and then lock in many of the undesirable results.

County governments often suffer the same fate as cities at the hands of Federal and state governments even though state constitutions give counties somewhat more legitimacy. The "new county" program of the National Association of Counties is a natural ally with some of us who have proposed city-county consolidation for the large cities of this country. County reform is the best hope of many small cities and towns which might gain substantial benefits from such reorganization.

The past 15 years have been alive with innovation and reorganization. Many cities of small and medium sized populations have annexed enough territory to encompass about 3-million citizens within new borders. Five substantial city-county consolidations have occurred in Nashville-Davidson County, Tennessee; Jacksonville-Duval County, Florida; Indianapolis-Marion County, Indiana; Columbus-Muskogee County, Georgia; and Lexington-Fayette County, Kentucky. Of more significance to a wider circle of municipalities, functional consolidation has occurred in a legion of places with burgeoning numbers of special service districts crossing lines of general purpose governments and often dwarfing the remaining general purpose entities as monies, responsibilities, and voter allegiances followed desire to expand and perfect the enthusiasm for new services.

Environmental and transportation planning have triggered multijurisdictional cooperation. Disposal of refuse, garbage, and sewage has become more complex and fostered innovative restructuring. School district mergers have led to substantial decreases in educational governmental units, but a similar decrease has not been noted in law enforcement units.

At the Federal level, a few categorical grant-in-aid programs have been consolidated. The ten regional coun-

cils of Federal officials have offered better channels of coordinated communication for Federal, state, and local officials. Such innovations as joint funding applications which allow governments to help consolidate Federal efforts on the local level and the chief executive review and comment process which enforces the desirability of local comment on each proposed Federal activity have enjoyed limited but effective reform results for those communities fortunate enough to exercise these new opportunities.

As citizens view all of this regrouping, many believe that the reform trend is sound and certain, but many scholars of federalism are not so confident. I want to highlight some of the grounds for concern and indicate potential remedies.

The growth of regional governments stimulated by Federal guideline requirements often results in additional governmental officials who are not elected by local voters and who exercise considerable authority over a variety of special service jurisdictions which are difficult to coordinate in any general governmental manner. Thus, the municipal official who is elected must now confront not only the Federal guidelines and officials, the state governmental apparatus, the elected county and township officials, but non-elected regional officials as a growing tier of government spawned by Federal legislation and state attempts to comply with guidelines.

Secondly, much Federal legislation in the area of governmental reorganization offers few incentives for municipal modernization and reform. For example, the general revenue sharing legislation supports thousands of local governments which offer few general governmental services and thus inhibits general governmental consolidation. The push for

regional governments often blurs the much more vital steps of local merger and consolidation and serves to freeze the old boundaries into place. Frequently, the local government reformer has a strong suspicion that Federal and state legislators have fears of alienating local constituents who oppose merger or consolidation and thus adopt a pattern of flight high above the battleground by suggesting new governmental forms which are non-elected, reasonably distant from voter understanding and observation, and generally frustrating to lasting municipal reform while giving the impression of new idealistic breakthroughs in co-operation.

The United States Congress, the ACIR, and a host of private research groups are monitoring general revenue sharing, a concept which has, in fact, led to strengthened financial positions of most state and local governments and led to a remarkable new burst of overall interest in the concept of federalism.

Some Congressmen retain a strong suspicion that the Congress could spend the money with better results than local officeholders. Congress has mandated how seven out of every eight dollars returned to state and local governments must be spent and tries to enforce those guidelines with uneven success.

Unfortunately, the Congress demonstrates a tragic disinterest in the difficulties created by past categorical grant activity on the life and health of cities.

The National League of Cities and United States Conference of Mayors have documented the national dilemmas of uncoordinated highway and housing grants which have served to weaken local general governments, waste resources, and render the current housing and energy goals of the country much more difficult to achieve.

Recently, the Congress produced ruinous legislation including state and local government employees in

“The past 15 years have been alive with innovation and reorganization.”

the 1974 *National Fair Labor Standards Act* despite concerted testimony that fire and police protection would be prohibitively expensive and that severe cutbacks in service would be a result for many cities who actually need more public safety.

If the current session of Congress proceeds to passage of a federal employee bargaining act, the results for local governments everywhere will be severe.

Financial Restraints on Local Governments

Local governments have no way to raise the sums of money mandated by a Congress from afar that does not send along sufficient cash to fulfill its dictates. The pleasures of legislating must be balanced by the pains of taking time to understand enormous and expensive implications and paying the costs created. Inevitably after a financial crisis hits New York City or another conspicuous national media center, demands are made for individual attention and subsidy by the Congress. Governmental employee militancy, distorted welfare payment burdens, and lack of local political clout combine to heighten disaster and uncertainty. New York City becomes ungovernable principally because its own citizens and their elected officials are precluded from taking the necessary remedial measures by Federal and state mandates which may require action which is counterproductive until outside subsidies are raised to maintain all of the inefficiencies in place.

Congress has even imposed loose guidelines for the general revenue sharing money and maintained abnormal curiosity about those dollars even though almost \$40-billion of categorical grants is dispensed to the states and localities with a minimum of interest or knowledge by citizens anywhere.

The questions raised about general revenue sharing get to the heart of the Federal-local relationship problems in this country. Within local jurisdictions, racial, ethnic, religious, professional, and cultural minorities petition the Federal government to rifle shot legal and financial support which these groups may believe is unlikely to come from the governing democratic majority in a specific locality. General revenue sharing monies are usually appropriated in the same manner as any other revenues, but many local constituent groups have been more accustomed to a direct appeal to Congress and a direct response in the form of Federal bureaucracy based locally and earmarked funds. The key question remains, "How fair and how just will the local majority be to local minorities?" So long as local majorities are insensitive to local minority needs or Federal administrators and legislators assume insensitivity and demand construction and retention of parallel local governments operating independently within normally locally elected local governments, Federal-local relationships will exhibit mutual antagonisms and conspicuous deficiencies in waste of taxpayer resources.

A good case can be made that the quality of local government has improved, that minority interests are being recognized, that services can be delivered more effectively at the local level than by Federal outposts, and that Congress must exhibit a reasonable leap of faith with one dollar out of eight in state and local support. In truth, no amount of Federal program reform will make headway without strong municipal support in the administration of the program, and it is in the best inter-

ests of Federal and state governments to make certain that municipalities are given the potential strength to uphold their part of the Federal system obligation of services to actual citizens.

City-County Consolidation

It is difficult for observers of the local scene to follow the logic or assess the strength of reformation. Reconstructed municipalities do not bear a resemblance to Federal, state, or county entities. For example, critics of city-county consolidation in Indianapolis often note that schools are not melded with civil government, that city and county police are not merged, that volunteer fire departments flourish, and that the health and hospital corporation, the airport authority, and the capital improvements board are tied into the overall local general government only by board appointments. The seven constitutionally mandated county officials are tied in only through the power of the purse exercised by the city-county council.

Many critics have questioned why the reformed Indianapolis government remains "non-unified," and they question when it is likely that all of the parts will be put together to complete the supposed optimum framework. Others have questioned whether the unity achieved actually provides more efficient services than smaller jurisdictions might have provided in some specific instances and whether neighborhood government might be a better answer to the needs for local responsiveness than a city-state of 800,000 citizens inhabiting 380 square miles with 40 per cent of that territory under cultivation by productive farmers of the new Indianapolis. Black citizens continue to debate whether they are better off with 18 percent representation in a countywide government which has increased its property tax base by over a third in seven years or with a 25-30 percent of the population of a less dynamic former intercity government and possible control of the local Democratic party within the

innercity jurisdiction with the political clout that such a percentage might enforce.

I have raised these questions about Indianapolis innovation because I believe that common dilemmas face most municipal innovations, and by adopting a more parochial self-critique, I will not disturb the efforts of reformers elsewhere.

City-county consolidation is not necessarily a wave of the future nor a relic of past dreams. It has been useful for Indianapolis because it led to an extraordinary surge in new building, new outside investment capital, a sharp rise in per capita earnings, and a sharp decrease in the number of citizens with incomes below the poverty level. Big league sports, much more entertainment, new hotels, the building of the convention center desired for decades, and rejuvenation of inner-city retail sales in addition to suburban retail prosperity all occurred in a five year span following the Uni-Gov Act of 1969.

Also undeniable and vitally important was a greater sense of racial cooperation accompanied by fair employment and fair housing ordinances now enforced countywide and a new *esprit de corps* of many citizens looking for greatness and excellence in a city.

The general government consolidation followed countywide reorganization over a 17 year period of parks, public health, transportation, planning and zoning, and a host of earlier special service district reforms. It did not include schools nor did it proceed to a countywide police department or fire department because a large majority of citizens did not want such provisions. In fact, public education is probably stronger in 11 large school corporations and fire fighting is considerably more efficient in the current status of professional and volunteer groups covering a large territory in cooperation.

“Strong leadership has been of the essence whether municipal modernization involved a single purpose district merger or an areawide umbrella organization.”

Leadership and Citizen Support

Strong leadership has been of the essence whether municipal modernization involved a single purpose district merger or an areawide umbrella organization. Frequently, the leadership elements have included a concerted Chamber of Commerce effort, strong support by the League of Women Voters or other governmental study groups, the formation of specific reform organizations, and in the most effective instances, the direct efforts of political parties linking elective officials in municipal, county, and state governments.

The leadership must have staying power. Few elected officials will have tenure long enough to remain through the length and breadth of community awareness, education, debate, decision, and implementation of substantial modernization. Ideally, one wave of citizen reformers succeeds another and picks up the reform momentum without too many succeeding intervals of reaction, reeducation, and weary retreat in the face of Federal, state, regional, and other local opposition.

But modernization has succeeded only when an obvious majority of citizens involved wanted it to succeed. The most important modernization occurs when the general will for unity exceeds even by a small margin the deeply held feelings of many citizens for divisiveness.

Unity movements have taken a beating more often than not because of fear that government might be less responsive, might cost more, or become too ambitious with its new potentialities and thus raise more taxes. Despite the usual campaign platform calling for more home rule or demanding that Federal or state officials should “leave us alone,” actual proposals that would give more power to wield authority and to tax at the local level are usually defeated as a majority of citizens genuinely fear the results of the home rule which sounded much better in the abstract.

Of even greater consequence as

city-county consolidation or various forms of regional government are discussed is the fact that citizen movement is often characterized as a desire for better housing, more land, more room, and better services. At the heart of such movement is very strong fear of criminal attack. The fear of crime unfortunately, is well founded in many central cities. The crime problem, as various LEAA studies have documented, involves many young men, and the odds of a black citizen being either the criminal or the victim are high. The flight by white families and black families who had the option of mobility has left many helpless and less affluent white and black citizens in a no man's land of urban disaster in many cities.

On top of this, Federal courts continue to mandate racial balance in public schools which have been rocked by many other hardships and are unlikely to improve on the basis of racial balance or imbalance until neighborhoods around the schools and patrons of the schools have much more going for them.

Citizens who are caught up in fear of crime with reinforcement of fears created by schemes of racial balance are not good prospects for unified or modernized government. Until the crime rate is reduced substantially in most cities and the era of racial balance by the numbers comes to a close, the subject of municipal modernization will be largely an internal shoring up of deficiencies and occasional functional service adventures which do not involve much risk of racial discord and which do not involve schools or police powers.

The Uni-Gov reform in Indianapolis which did not touch the school corporations has led to a building boom in the central city and the provision of more tax base behind each inner city school child than in any of the ten suburban systems save one.

As a practical political matter, the Indiana legislature of 1969 would not have passed a bill to unify Indianapolis and Marion County civil governments if school consolidation had been a part of the plan, and only Indiana state government can provide for the unifying of any governments, general or special service in Indiana.

In the scope of these comments, I will not support a number of broad assertions with the argumentation necessary for more scholarly pursuit, but I am contending that the general problem of criminal activity blocks the door of much serious reform activity. To the extent that the crime problem becomes entangled with racial dilemmas and public school racial balance questions, the municipal reformer must become a miracle worker. The old problems of tax differentials which used to divide city dweller and farmer in discussion of school or civil consolidations may still prove to be tough for many citizens to surmount, but those difficulties pale before the pathos of larger city and larger suburban county struggles with race, crime, and school busing.

Because the stakes are high and the mountains steep, the adventure of reform at the local level is all the more inviting for citizens who are truly serious about making a difference in the human condition. Local reform is the toughest political effort of all. Insulated by miles of distance and a retinue of able staff, the Federal administrator or legislator advocating even the most courageous of pronouncements is not in the same ball park with the profiles in courage at local street corners and church basements where face-to-face contact and the bruising scuffles involved in persuading neighbors takes more stamina, more patience, more courage, and a deep reservoir of optimism and good will.

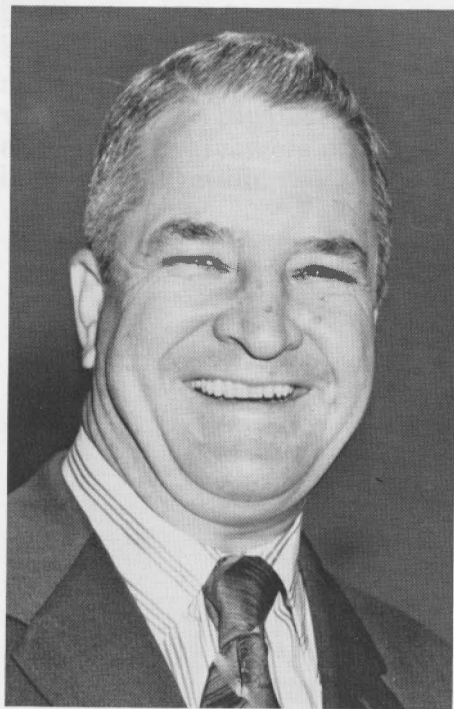
How easy it is to issue guidelines from afar and publish endless rules

which surpass the abilities of most local officials to have time to read, but how tough and how genuinely significant it is to obtain a favorable vote for a change in a crowded meeting hall amidst cheers and jeers and threats of individual economic and physical retaliation that can be understood immediately.

The prospects and procedures of municipal modernization need to be understood by all who are to make a significant contribution to stronger cities at any level of policy making. Victory comes hard and it often takes an agonizing amount of time, but there will not be ultimate victories for so called national policies of public safety, public health, environmental cleanup, and the standards of public education required in a sophisticated democracy until local governments have the appropriate organizational structures, sufficiently talented personnel, and adequate funding to perform the tasks which the rest of the nation, as a whole, deems essential.

Richard G. Lugar first became active in city politics in 1964 when he was elected to membership on the Indianapolis Board of School Commissioners. He served as that board's vice president in 1965 and in 1967 was elected mayor of the city of Indianapolis. He was reelected to that office in 1971. He is past president of the National League of Cities, a member of the Advisory Council of the U.S. Conference of Mayors and a member of the board of directors of the National Association of Counties. He is currently vice chairman of the Advisory Commission on Intergovernmental Relations.

County Modernization in the U.S.



In the beginning, our forebears organized the states; the states created counties, authorized the formation of municipalities, and joined together to form the union. The counties and the municipalities derived their structures and powers from the states.

The states needed a local unit to conduct elections, provide schools, assess and collect taxes, hold court, build rural roads, police rural areas, and care for the poor. These functions were assigned to the counties. The population of the counties outside municipal areas was sparse, and in the main, selfsufficient. There was little need to give counties authority to deliver local type services, adopt ordinances, or levy taxes — other than those authorized by general state laws. After all, the legislature met every two years, and county leaders could always petition for additional authority.

The counties were provided neither a legislative body nor a chief executive officer with power to appoint department heads, accountable for the day-by-day operations. County responsibility was fragmented among separately elected assessors, collectors, court clerks, sheriffs, county commissioners, treasurers, and others.

Even today, county government across the nation is so varied in name, structure, and function that no one designation can be used to identify county officials or county government without need for further explanation. Counties clearly mean many different things to the many local electorates within our 50 states. Municipalities were given a much broader package of authority and a more suitable structure for governance. Municipalities served a more dense population, requiring a greater variety of local services. Hence, it was necessary that portions of the states' power to legislate and to levy taxes be delegated to these

By Conrad M. Fowler

Probate Judge,
Shelby County, Alabama

units. A policy making body and a chief executive officer — instantly recognizable throughout the land today as the city council and the mayor—were provided.

Present Pressures and Reforms

So long as the counties remained rural and sparsely populated, county government functioned adequately. Yet, in due time, the spread of the population into the unincorporated suburbs, along with the accompanying demand for municipal services, brought the need for county modernization to the forefront. Counties with 18th century governmental structures and authority cannot supply the needs of suburban citizens in 1975. Nor can they meet the current areawide needs of citizens in both their incorporated and unincorporated areas.

A modernization trend in county government accelerated in the 1950s, continued in the 1960s and is proceeding with some vigor in the 1970s. How are counties modernized? You begin with state constitutional changes and by general legislation providing for charter adoption or for optional forms of government. These modifications generally result in granting legislative power to the county governing body, except as limited by the state constitution, the general laws of the state, or the county charter. They usually lead to a change in the structure, so that one official emerges as the chief executive or chief administrative officer and a legislative body is assigned the policy making role, but with no administrative responsibilities.

In 1969, the National Association of Counties (NACo), in order to keep abreast of new developments, began a service called "New County U.S.A." In 1973, NACo published a FACT book on American counties, which included a wealth of information relating to modernization efforts across the country. It reported that:

- Fifty-seven charter counties provide county government to 32-million Americans. (By the end of 1974, the number of

charter counties had risen to 67.)

- Twenty-four of the nation's 68 counties having a population of over 500,000 have charter government.
- In California and New York, 70 percent of their total state population governed by counties lives in charter counties.
- In Maryland, 59 percent of its citizens reside in charter counties.
- Fifteen states have charter counties. (By the end of 1974, this figure rose to 16.)
- Since 1960, 13 states have provided home rule legislation for their counties.
- Of the 57 charter counties (in 1973), 35 had chosen the council-elected executive form of government; the remainder, the council-administrator form.
- Twenty-one city-county consolidations now have been achieved, with 13 having been approved since 1947 and four of these since 1969.

NACo's weekly paper, *The County News*, in its December 16, 1974, issue, reported that about 500 counties, representing 60-million people, now have a county-manager form of government under which an elected commission appoints an administrator with executive responsibility and some 57 counties now elect a county chief executive.

The Rationale for Reform

Counties clearly are on the move, and with good reason. For some time now, various experts on American local government as well as politicians and other practitioners have emphasized that modernized counties could meet many of the pressing jurisdictional, fiscal, and functional challenges confronting both rural and urban America.

In 1966, The Committee for Economic Development, in its report on *Modernizing Local Government*, declared:

Counties have high, but undeveloped, potential for solving the problems of rural, urban, and most metropolitan communities. Their present legal powers are less adequate than those of municipalities, however. And, county structural organization and staffing patterns are obsolete. If the nation is seriously concerned about stronger and better local government, as it should be, these weaknesses must be remedied to permit counties to play a major role.

More states are beginning to recognize that more authority must be assigned to county government, that county officials — meeting regularly and under public scrutiny, covered by the media, audited annually, and held accountable periodically at the polls — are as suited to provide service, to make judgments on the levy of taxes and the expenditures of funds, and to adopt ordinances — as officials elected to serve in municipal government.

Moreover, well structured and adequately empowered county governments possess special servicing capacities:

- County government comes closest to being the government that covers the same territory as such problems as solid waste collection and disposal, mass transit, pollution, public health and welfare programs, zoning and land use programs, courts, law enforcement, corrections, probation and parole, code enforcement, and others.
- Reformed counties have a broad tax base and the capability of relating a given tax or user charge to a particular service.
- Such counties are well suited to coordinate the efforts of co-operating municipalities in the delivery of local services.

“Counties clearly are on the move, and with good reason . . . Modernized counties could meet many of the pressing jurisdictional, fiscal, and functional challenges confronting both rural and urban America.”

- Finally, counties can take a leading role in confronting the substate regional challenge with its many single purpose districts and authorities; about 170 SMSAs, after all, are composed predominantly of one county.

The Hurdles

The modernization of counties then means changing the governmental structure and expanding the power and authority of counties to pay for and deliver needed areawide and local services. And, the record indicates an increasing tempo in the beat of county reform.

Yet, another trend also is underway. Thousands of single purpose special districts, public authorities, and regional agencies have emerged. Some deliver municipal type services. Some merely plan, coordinate, and perform technical assistance functions within their special program areas. Some are encouraged by Federal legislation; some have been mandated by the states; and some have been created by local governments. But all combine to create a new challenge. Unless county government is modernized, it will lose its potential role as the most suitable provider of areawide and local services, as the proper planner and coordinator of regional programs.

Experience shows that modernization does not come easy. The hurdles are high and on all sides, including:

- State legislators, jealous of their authority over county government, and unwilling to vote home rule power to county officials;
- Citizens, unimpressed with the performance of county officials, unwilling to vote constitutional changes to grant broader authority to the county level, and unaware that a poor record often is more the result of a state straight jacket around county government than a lack of ability in county officials;
- County officials elected to perform one assignment and op-

- posed to any change therein;
- Elected non-policy making county officials who fear a diminution of prestige should they be placed in a non-elected status;
- Municipal officials who are reluctant to see a modification of long established patterns of functions and services; and
- Prevailing skeptical, if not cynical, attitudes toward all governments which ease the task of those who oppose reform and add to the difficulties of those who seek it.

An Agenda

The effort to modernize county government needs a catalyst. For many years, the reports of ACIR have been a resource for improving intergovernmental relations and have been relied upon in a number of states as authoritative works that provide a good basis for governmental reform efforts. State and local office holders, the media, and the citizens can all find recommendations in ACIR publications that have been thoroughly researched by what surely is one of the outstanding staffs in Washington. They are well documented, and above all, they have passed the scrutiny of the 26 members of ACIR who represent the public and all levels of government.

ACIR's publications can serve as a point of departure for any group in any state concerned with county modernization. These publications are valuable, not only for their quality, but because of the scarcity of reliable information on county governmental reform. Two recent important ACIR publications cover the subject in depth: *The Challenge of Local Governmental Reorganization* and *County Modernization: A Legislator's Guide*. Three of the former's recommendations deal directly with county modernization. The first provides a complete package of county structural reform initiatives that, in

addition to an optional forms authorization:

- calls for a full time executive officer for metropolitan counties, appointed by the board or elected by popular vote;
- would place county officers on a statutory rather than a constitutional basis;
- would empower consolidation of comparable or identical county officers and functions in adjoining counties; and
- would authorize consolidation of contiguous counties.

A second proposal urges enactment of state legislation that would clarify and systematize the functional responsibilities and relationships of counties and municipalities. The third would provide a stronger supportive role for the state in the assignment and transfer of certain functions to counties and municipalities.

County Modernization: A Legislator's Guide contains drafts of legislative bills that incorporate these recommendations. These bills, if enacted, would fully modernize county government, since they would:

- transfer residual powers from the state to local government;
- provide optional forms of government and place county officials on a statutory basis;
- authorize consolidation of local governments and of county offices;
- establish a system for the transfer of functions and authorize the county to perform urban services;
- permit counties to create subordinate service areas in order to finance and provide services in specific portions of a county;
- increase county planning, zoning, and subdivision controls in unincorporated areas; and
- extend county powers in relation to local planning and zoning actions.

Several of these may require constitution amendments; others could merely take the form of a statutory enactment. But if just half of the states adopted only one half of these proposals, a new day would have arrived in county government. The local taxpayer, the consumer of services, the counties as well as the other partners in any federal system — all would be the beneficiaries.

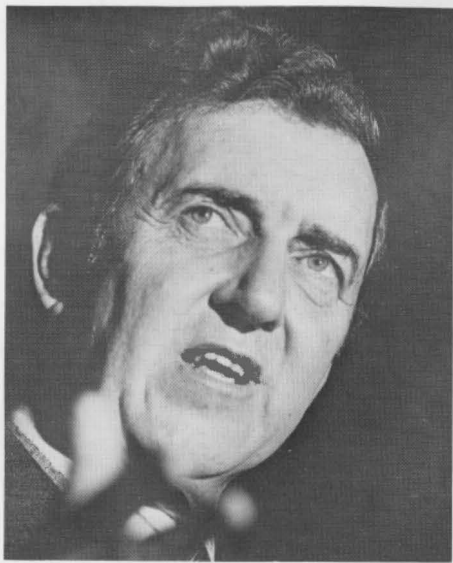
Counties clearly are at the crossroads. Their recent record is impressive. But, the challenges confronting them by no means have disappeared.

In a very real sense, the fate of counties hinges on whether we accept the fragmented servicing strategy of the technocrats, specialists, and single program functionaries or whether we fully recognize the merit of the traditional argument for democratic government. If the latter prevails — and I believe it will — then we must accept the proposition that authoritative, accountable, multipurpose governments are needed between the states and the municipalities. And, we must reject the notion that a maze of special purpose regional mechanisms is an effective, responsive, or responsible approach to handling the mounting planning, financial, and servicing problems facing practically all of our urban and rural substate regions.

When decisionmakers at all levels, as well as the electorate, clearly understand the nature of these basic options, the cause of county reform can only be strengthened.

Conrad M. Fowler has been probate judge and chairman of the Shelby County, Alabama, governing body since 1959. He is chairman of the Alabama Constitutional Commission, former president of National Association of Counties and currently a member of its board of directors, and past president of the Alabama Association of Probate Judges. Prior to serving as probate judge, he was district attorney, 18th judicial circuit of Alabama. Judge Fowler is a member of the Advisory Commission on Intergovernmental Relations.

Revenue Sharing: Renewal Time Approaches



I am glad to have an opportunity to speak to you today on a subject of such great interest to all of us.

I want to begin by saying that I continue to be a firm supporter of revenue sharing. Having made that clear, I want to say also that revenue sharing — as we now know it — faces rough sledding in Congress. The title of my remarks uses the word "renewal" as if reenactment were a foregone conclusion. That may be so, but it will be neither automatic nor easy.

I do not mean to play the role of the alarmist here this afternoon. Nevertheless, I think that candor is in order. For if we are going to insure the continuation of revenue sharing in anything resembling its present form, we cannot afford to overlook or underestimate the opposition that has mounted against it.

Revenue sharing has been an important shot in the arm for our federal system. But there have been problems, and those problems have generated opposition that we must deal with to reenact the program. That opposition is remarkably similar to the arguments raised against revenue sharing back in 1971 and 1972.

Fiscal conservatives then opposed revenue sharing because it separated the easy task of spending money from the difficult one of raising it. Liberals opposed the idea because they wanted Federal money to be spent on specific social programs. Neither group trusted state and local officials to spend the money responsibly.

Arguments Against the Program

But today, there are new arguments that may be raised. Those who opposed the unfettered give away of Federal money three years ago now have an enormous Federal deficit to worry about. It is not inconceivable that they could select revenue sharing as one area ripe for budget cutting. Those who three years ago wanted revenue sharing funds tied to specific social programs have since

By Edmund S. Muskie United States Senator, Maine

seen revenue sharing used to justify drastic cutbacks in the very programs they supported. And they have seen revenue sharing funds going to some communities with little need, and into projects with little social impact.

In the middle, there are many in Congress who are simply indifferent to the fate of revenue sharing. It is not an issue that generally stirs passions in its support. To be sure, the constituents of revenue sharing will be able to rally considerable support for their cause. Working to their benefit will be the current disarray of the economy, which has many state and local governments in their worst fiscal shape since the depression, with promises of harder times to come. That these conflicts will be resolved, through renewal of revenue sharing, may not be in doubt. The form that resolution will take is a different matter.

Those critics who feel revenue sharing is a retreat from national social goals may want to attach more strings to the money or require an application process to insure that only worthy projects are funded. Those critics who feel that revenue sharing is too expensive and that the money is just being thrown away may want to subject revenue sharing to the annual appropriations process or limit the life of the program to one or two years only.

We who support a continuation of revenue sharing — in more or less its present form — must be prepared to meet these efforts, by focusing on constructive alternatives. And it is not too soon to begin that process now.

First and foremost, we must redefine what revenue sharing actually is, and what it was intended to accomplish. During the first years of operation the program has, unfortunately, acquired a mistaken identity. To many, it has come to mean a retreat from social progress, even though it was never intended to replace ongoing social programs. For many others, revenue sharing was a victim of the

expansive rhetoric of the "New Federalism" — a "new American revolution" which promised to reverse overnight the imbalance of generations of increasingly centralized government.

When measured against such a promise, it is small wonder that revenue sharing comes up short. If there is one thing we all should have learned from our experiences of the 1960s, it is that programs which overpromise will inevitably leave hopes unrealized, and confidence undermined.

As we begin anew the debate on revenue sharing, we must now allow that to happen again. We must redefine revenue sharing in terms of its original purposes which were, in fact, quite limited.

Purposes of the Program

First, to relieve the fiscal problems of hard pressed local governments with inadequate or inflexible tax bases.

Second, to reduce the regressive burden of state and local taxes by substituting revenues from progressive Federal income taxes.

And third, to give people at the state and local levels the resources and the flexibility to develop solutions suited to their unique problems.

Returning to these relatively modest — but extremely meaningful — goals is necessary as the Congress considers reenactment.

The proper role for revenue sharing is, and always has been, that of a complement — not a substitute — for a balanced mix of general revenue sharing, block grants, and categorical programs. When measured by this more limited test, we find that the success column for revenue sharing is longer than the critics would have us believe. In most cases, revenue sharing monies have gone into worthwhile programs. Hot lunches for the elderly, improved police protection and health care, and new sewage treatment facilities are just some of the successes. In many other instances, state and local taxes

have been held down because of revenue sharing. And I might add that in many of our urban areas holding down property taxes is a worthy social objective.

The plain fact is that — matching the record with the original goals — revenue sharing is a demonstrated step forward. And once the bugs have been ironed out, its potential is even greater.

The Difficult Questions

Which brings us to the next round of difficult questions. Once we have agreed upon our objectives, we have to make some tough choices about how we want to achieve them. Some of these choices are necessary because of flaws in the program that have become evident since 1972. Others are choices that should have been made before revenue sharing was ever enacted but which were avoided in the spirit of compromise deemed necessary to get any program at all. Perhaps the most difficult question of all is if it makes sense, or if we can afford to give something to everybody under revenue sharing, whether they need it or not. That is what we did in 1972, in order to get a bill. As a result, we gave revenue sharing critics some of their best ammunition.

I personally do not think it does make sense, and I do not think we can afford to give revenue sharing money to certain units of government simply because they exist but serve no substantial governmental function. I don't think it makes sense, nor do I think we can afford to give money to affluent communities with no demonstrated need for assistance, while big cities with big problems have arbitrary limits imposed on the amount they can receive. The old formula gave us a consensus, which was needed at the time. But in the process, we lost sight of our purpose.

So our first tough choice this time around must be to rewrite the revenue sharing formula to insure that greater emphasis is placed on need.

“Revenue sharing has been an important shot in the arm for our federal system.”

We need to raise or eliminate the ceiling that holds down payments to cities, relative to other communities in the same state. We must find a better way to judge the amount all governments should receive, and adjust the formula where it deprives cities of needed funds because they are located in relatively affluent states. At the same time, we need to revise the 20 percent floor where it benefits wealthy communities or governments with very limited functions.

A second difficult question that faces us in renewing revenue sharing is the matter of incentives for tax reform at the state and local levels. During the original debate on revenue sharing, a number of members of Congress, including myself, wanted to explore the possibility of using revenue sharing assistance as an incentive to state and local governments to move toward more progressive tax structures. In the search for a consensus on a revenue sharing bill, that idea was abandoned. This time around, we should consider reopening that question. To be sure, tying tax reform to revenue sharing is going to be unpopular with a good many people. But we must consider the argument of critics that revenue sharing has actually shored up regressive state and local tax systems. For every time a local government has been able to cut property taxes because of revenue sharing funds — as necessary as that may be in some instances — the pressure for reform is weakened.

A third major focus of the revenue sharing debate must be on improved civil rights enforcement. The problem here is not one that we avoided during the original debate, but one which has reared its head since that time. The U.S. Civil Rights Commission has just released a blistering report confirming the poor enforcement of the civil rights provisions of the act. In our upcoming efforts to enact a renewal of revenue sharing, we must make it very clear that simply because these funds are free, they are not a blank check to dis-

criminate. We must also assure that the Office of Revenue Sharing has the staff to enforce the law.

And we must assure for local citizens the opportunity to participate more fully in decisions about how revenue sharing money will be used.

These three major areas of change that I have outlined will not please everyone. If all were adopted, there would be some disappointed governments who would receive less than under the present formula. Some might, in fact, receive nothing at all. But we must recognize that a large part of our present problem is that in 1972 we did try to please everyone, with consequences we may not want to repeat.

Today, in 1975, there is a growing realization that the size of the Federal pie is limited, and that we simply may not be able to afford spending money where it is not needed. Nor may we be able to continue propping up state and local tax structures which do not make the most efficient and fair use of the tax base throughout the nation.

I said at the outset of my remarks that we supporters of revenue sharing must focus our efforts carefully. This means sticking to limited objectives, and not promising more than the program can produce. It also means ensuring that we get the most for our money, by fully considering the tough choices I have described. The health and vitality of our federal system demands the continuing attention of us all. Revenue sharing is only a part of that effort, but one well worth fighting for.

Edmund S. Muskie, United States Senator from Maine, served in the Maine House from 1947 until 1951, as floor leader during the last three years, and as governor of Maine from 1955 to 1959. Senator Muskie chairs the Senate Budget Committee and the Intergovernmental Relations Subcommittee of the Senate Government Operations Committee. He was an original sponsor of the bill that created the Advisory Commission on Intergovernmental Relations and has served on the Commission since its inception.

The New Mix of Federal Assistance: Categorical Grants, Block Grants, and General Revenue Sharing

It is no news to you that Federal financial assistance to state and local government is almost as old as the nation itself. But in our early history — even proportionately to the minuscule total expenditures of government — such assistance did not amount to much. That did not keep it from being controversial then, even as it is today. State and local governments wanted to stay small, and they especially wanted to keep out of the clutches of the Washington bureaucracy.

The great depression of the 1930s changed all that. At least some of you here are old enough to remember that period firsthand. We had WPA, FERA, NYA, and a long list of other agencies set up to help states and localities with their economic recovery efforts.

Just ten years ago, Federal aid added up to only about \$12-billion — compared to more than \$55-billion projected for 1976. Percentagewise, its portion of the total budget increased during this period from about 10 percent to 16 percent — and as a percentage of state and local outlays, from approximately 16 percent to 23 percent. Total Federal outlays within this period have increased only half as fast as Federal aid to state and local governments.

But the overall impact of Federal assistance is obviously greater than the financial figures indicate. Why? Because most of the assistance is conditional, designed:

- to produce action in a particular way,
- to divert state and local budgetary resources to a different set of priorities — primarily to meet national versus state or local objectives, and
- to stimulate additional taxes or borrowing efforts.

In recent years, this indirect effect has become particularly important in such areas as health, education, and income security. Ten years ago,

By Elmer B. Staats

Comptroller General
of the United States

about 30 percent of Federal aid went for highways; in 1976, only 12 percent is so budgeted.

These totals indicate there is plenty of federalism in action, and views on the implications for the future of federalism range from optimism and hopes to predictions of disaster for the federal system — depending on one's political philosophy or perhaps on how hopeful one may be as to our ability to master some of the problems which have risen to plague us, such as:

- excessive administrative requirements;
- inability to respond to changes in state and local priorities;
- inability to delegate decision making to Federal field offices; and
- overlapping sources of funds for the same or closely related purposes — 230 in the health field, to mention a dramatic example.

Improvements in Delivery of Federal Assistance

The substantial growth in the number and variety of Federal assistance programs has been accompanied by increasing criticism and demands for reform, even from supporters of expanded assistance to state and local governments. Recognition of the need for reform in the delivery system of Federal assistance is not a recent phenomenon. Since the mid-1960s numerous attempts have been made by the legislative and executive branches to improve the delivery of assistance to state and local governments. I think it would be helpful to review a few of these efforts.

Intergovernmental Cooperation Act of 1968. Two major steps were taken



“Recognition of the need for reform in the delivery system of Federal assistance is not a recent phenomenon.”

pursuant to the requirements of the *Intergovernmental Cooperation Act of 1968* — the issuance of OMB Circulars A-95 and A-98. The broad purpose of Circular A-95 is to facilitate intergovernmental cooperation by offering state and local governments and others the opportunity to comment on the consistency of proposed projects with state, regional, and local policies, plans, and programs. Circular A-98 (now administered by the U.S. Treasury Department) prescribed a standard process and a standard form for providing timely and uniform notification of grant award data to the states.

Joint Funding Simplification Act of 1974. This act permits the use of simplified and uniform administrative rules and procedures when a project requires assistance from two or more Federal agencies. Prior to enactment of the legislation, the Integrated Grant Administration Program was conducted on an experimental basis by OMB and GSA to demonstrate the feasibility of joint funding.

Comprehensive Health Planning Amendments. The *Comprehensive Health Planning and Public Health Services Amendments* to the *Public Health Service Act* established a program to assist states and local communities to produce comprehensive plans for meeting their current and future health needs.

Sixteen existing categorical grants for health services were consolidated into block grants on a formula basis for comprehensive health services and on a discretionary basis for directing funds to areas of greatest need.

Comprehensive Employment and Training Act of 1973. This act replaced the numerous categorical manpower programs that were authorized by the *Manpower Development and Training Act of 1962* and the *Economic Opportunity Act of 1964* with a new comprehensive manpower program of block grants to state and local governments for planning and operating programs. Previously, appropriations under these laws supported over a dozen categorical manpower programs, including institutional training, neighborhood youth corps, new careers, operation mainstream, job opportunities in the business sector, and the concentrated employment programs.

Housing and Community Development Act of 1974. This act is still another recent attempt to simplify the delivery of Federal assistance to state and local governments. It consolidated seven categorical grant programs into a comprehensive block grant program for community development.

This consolidation is expected to reduce paperwork and red tape, expand state and local responsibility, and help assure greater continuity of funding because of the program's three year authorization.

Congressional Budget and Impoundment Control Act of 1974. An attempt to improve the Congressional budget review and appropriation process, the *Congressional Budget and Impoundment Control Act of 1974*, is important and relevant enough to be mentioned here.

Among other things, it provides for establishing and maintaining a standardized data processing and information system for fiscal, budgetary, and program related data and information to meet the needs of Federal, state, and local governments. It also accepts the principles of

multiyear authorization and advance funding which have been needed for many years.

Federal Assistance Review. To streamline and speed up the flow of Federal assistance, the President initiated the Federal assistance review in March 1969 conducted by OMB and 14 major government departments and agencies. In brief, its purpose was to place greater reliance on state and local governments, move Federal decision making out of Washington, D.C., and reduce red tape. Results of this program to date include:

- the establishment of common regional boundaries and locations for the major grantmaking agencies, and
- the formal creation of Federal Regional Councils, and development of uniform administrative requirements for grants to state and local governments.

Problems in Delivery of Federal Assistance

General Accounting Office studies conclude that, despite the actions taken to improve the delivery system, fundamental problems continue. We have barely scratched the surface — there is still a lot to be done to achieve the objectives of the *Intergovernmental Cooperation Act*. Federal agencies still insist on the "unique" requirements of individual programs and have a general lack of rapport with state and local officials. Many other problems are directly attributable to the proliferation of Federal assistance programs and the fragmentation of responsibility among different Federal departments and agencies.

Our conclusion is that the present delivery system:

- lacks an adequate means for disseminating grant information needed by state and local governments,
- creates a high degree of funding uncertainty due to late authorizations and appropriations

and executive impoundment of appropriated funds,

- fosters complex and varying application and administrative processes, and
- is fragmented with similar programs being administered by different Federal agencies or agency components and with programs too restrictive to meet state and local needs.

State and local governments must devote too much time and effort to simply keep informed of available Federal assistance. In spite of their efforts, available assistance is often learned of too late or offered under time constraints such that state and local governments cannot take advantage of it.

I am aware that these comments may simply repeat these and other criticisms you have heard many times before. Why do the problems persist?

We in the GAO feel that the most important single way to reduce the complexity of the current system is to further consolidate separate programs serving similar objectives into broader purpose programs and to assign programs serving similar goals to the same Federal agency.

There are a number of ways of achieving these objectives: one approach would be to enact previously proposed amendments to the *Intergovernmental Cooperation Act of 1968* which would establish a mechanism for achieving program consolidation. The proposed amendment would direct the President to periodically examine various assistance programs and recommend to the Congress for approval those program consolidations deemed necessary or desirable.

“We at GAO feel that the most important single way to reduce the complexity of the current system is to further consolidate separate programs serving similar objectives into broader purpose programs and to assign programs serving similar goals to the same Federal agency.”



Perhaps equally important is the need for greater use of multiyear appropriations and forward funding of Federal assistance programs as a means of reducing the present high level of funding uncertainty for grantees as well as the program agency involved.

Thus, we have a mix of methods for providing Federal assistance — categorical grants, block grants, general revenue sharing, and tax expenditures — each of which has played an important role in providing Federal financial assistance, a pattern developed through an evolutionary and incremental process over nearly two centuries.

Categorical Grants

At the risk of oversimplification, we can describe in general terms the process which led to the development of categorical grant programs. The Federal government, when it moved to legislate on a problem of national concern, had to determine whether the problem was such that it warranted national administration or a cooperative program with state and/or local governments. Categorical grants rest on the concept of dealing with national problems with a maximum involvement of state and local governments.

For a typical categorical grant, however, there is usually strong direct Federal influence on how the solution of the problem is to be approached. The administrative detail involved usually results in higher administrative costs. Reporting, accountability controls, and grant application and approval systems are inevitable if the Federal government is to be assured that the funds are spent effectively in carrying out the statute involved.

Categorical grants are of limited help in responding to changing needs or different problems since both the grantor and grantee have limited flexibility in directing funds away

from the legislatively defined problems for which they were made available. As new problems are perceived, new categorical grants are created, but old grants build a constituency that often keeps them alive even when the need for them may have passed or have been outweighed by some newer concern. As a result, many similar categorical grants have developed which need to be coordinated. However, their sheer numbers often defy efforts at coordination. Having offered these criticisms, it is important to emphasize that categorical grants have an important role in the delivery of Federal assistance. They are especially valuable for research and demonstration activities or when the overriding objective is to prescribe a minimum level of services.

Block Grants

I will now turn to block grants. Interestingly, proposals for block grants can be traced back as far as 1949 when the first Hoover Commission urged that "a system of grants be established based upon broad categories . . . as contrasted with the present system of extreme fragmentation." I am hesitant to speculate as to what the Hoover Commission would say today in the light of what has happened since that time.

Block grants by definition are broad in purpose, focusing on functional areas. For example, before the passage of the *Comprehensive Employment Training Act of 1973*, which replaced numerous categorical manpower programs with a manpower block grant program, a grantee received funds separately for such purposes as youth employment training and public employment. If the grantee had a greater need for public employment activities than for youth employment training, it nevertheless had to operate with only the funds provided or else supplement these funds with its own resources. Youth employment training funds could not be used in support of separately prescribed public employment activities. Under the new block

grant, a grantee has more flexibility to apply as much of the manpower funds as he feels appropriate to public employment activities.

By our earlier definition, there are currently five block grants, of which only the *Partnership for Health Act of 1966* and the *Safe Streets Act of 1968* have been in operation for any length of time. Both programs are similar in that most Federal funds flow in a block to the states which, in turn, make funds available to their political subdivisions. However, the two programs arose under different circumstances — the Partnership for Health program resulted from a consolidation of 16 existing categorical grants and the Safe Streets program was enacted in response to a national concern for which no comprehensive Federal assistance program existed.

Two principal considerations gave rise to the creation of block grants: (1) reducing the administrative workload and costs associated with categorical programs and (2) providing recipients with greater flexibility in using available funds. No one really knows whether total administrative costs are reduced under the block grant approach. We plan to study this in the future. The record may possibly show that the administrative burden at the Federal level is shifted from the review of multiple applications and proposals for assistance to the review of operating plans. However, it certainly seems logical that, when separate categorical grants are combined into a single grant, administrative costs should be reduced. The matters of administrative costs and flexibility in resource allocation also require further study. For example, we have found that some states receiving funds through a block grant often pass the funds on to their political subdivisions on a categorical basis.

The matter of flexibility, a principal characteristic of block grant programs, raises the important question — some would say dilemma — of just how far consolidation can be pursued without sacrificing the national objective for which the grant was created. Block grants place a major responsibility on states to

- assume leadership in an area of major concern,
- avoid the temptation of excessive categorization of funds provided to the political subdivisions,
- develop and maintain a harmonious working relationship with the political subdivisions, and
- evaluate the results of the broader program objective.

Along with these responsibilities comes a downward shift in the degree of direct Federal influence over the solution of national problems. To the extent this shift can be accomplished — while at the same time maintaining a delicate balance of national, state, and local concerns — block grants will become increasingly important as a method of providing assistance to state and local governments.

General Revenue Sharing

General revenue sharing is the most recent approach to assisting state and local governments. The Congress concluded that aid made available under this program should provide recipient governments with broad flexibility in the use of the funds with only very general guidance from the Federal government. State and local governments automatically receive revenue sharing funds, whereas they must apply or submit a plan for assistance under categorical or block grants. Revenue sharing funds may be used by a local government for priority expenditures in a number of areas broadly defined by the legislation and by a state govern-

“I predict that general revenue sharing will be the most controversial, debated, and studied of all Federal assistance programs.”

ment for generally whatever it decides.

General revenue sharing can be best characterized as general fiscal support payments or — perhaps more accurately — as income redistribution payments. I predict that it will be the most controversial, debated, and studied of all Federal assistance programs.

GAO is directed by law to assist in the Congressional evaluation of the program by reviewing the activities of the Treasury Department and the use of funds by state and local governments. GAO has issued two reports to Congress on revenue sharing and several other studies are currently underway.

In both reports, our chief concern was the inability to identify what has actually happened as a result of the program. Because of the wide discretion recipients have in using the funds, revenue sharing in its simplest terms represents merely an addition to the total resources available for governmental expenditure. Revenue sharing, aid from other governments, and a government's own resources are used to provide the same services. This creates a situation where funds can be easily displaced or substituted. Thus, there are a variety of effects which are not necessarily reflected by the direct use of the revenue sharing funds. For instance,

- its own funds may be freed to finance other programs (new or old),
- it may be able to avoid increasing taxes,
- it may be able to reduce taxes, or
- it may experience a combination of these or other consequences.

Because budgetary choices among competing programs and decisions regarding the methods for financing

a government's budget are typically based on total resources available to the government, it is extremely difficult, and probably impossible, to objectively identify the effects of revenue sharing. This is a problem for us at the Federal level and also for citizens and state and local officials. The data reported merely portrays activities being directly funded with revenue sharing. To be meaningful, such data should be integrated and related to total expenditures for state and local activities by purpose or function.

In a broader perspective, the development of comparable information on the activities of state and local government would be of great value at the national level, not only in evaluating revenue sharing but also in establishing funding priorities for all Federal financial assistance programs.

At least conceptually, tax expenditures that aid state and local governments are similar to revenue sharing or income redistribution programs in that they do not involve the procedures applying to categorical or block grants. The subject of tax expenditures has received new interest with the passage of the *Congressional Budget and Impoundment Control Act of 1974*, which requires the budget to identify tax expenditures and requires the Congress to consider tax expenditures in relationship to total Federal expenditures.

The exclusion of interest on state and local securities from Federal taxable income permits these jurisdictions to borrow at lower rates of interest. In 1976, this will reduce Federal receipts by nearly \$5-billion. Moreover, when individuals are permitted to deduct state and local taxes from their taxable income, the jurisdiction is able to raise a dollar of revenue with less than a dollar net cost to its taxpayer. This is a difficult figure to identify precisely in advance, but it is estimated that it will total about \$16-billion in fiscal year 1976.

Summary and Conclusions

I can certainly agree with the implications of the title of the subject given me today — that different approaches to Federal assistance involve different management and money implications. Probably more important still is the potential implication for the future of our federal form of government. We are undoubtedly going to need all of the present forms of assistance, or at least elements of them. It is not likely that we have seen the end of the growth of Federal assistance. At the risk of being contradicted by all of the papers delivered at this conference, I doubt whether we have fully assessed the dangers which lie ahead — and which are possibly inherent in massive Federal aid — unless we are willing to realize that over a period of time we can, and possibly already have, radically revised our concept of the relationship of the Federal, state, and local governments. The concept of the Constitution as a living and flexible document is no more sharply illustrated than in the financial relationships of the Federal-state system.

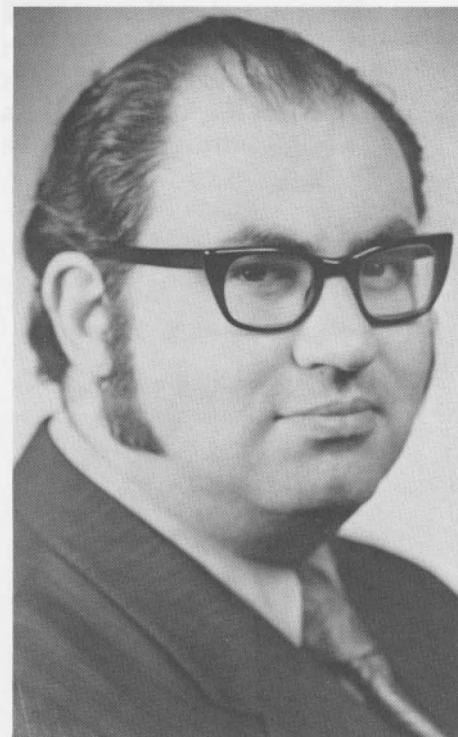
I am not suggesting that this changing relationship is necessarily bad, but we need to understand its potential implications. We need to go back to the hearings which led to the enactment of the *Intergovernmental Cooperation Act of 1968*, to accept that statute as probably the best starting point available, and to see whether we can build upon it. We particularly need to take seriously the concept in that act of a periodic assessment of both the need and form of various assistance programs.

I am encouraged to note that the Advisory Commission on Intergovernmental Relations recently initiated

a broad study to assess the effectiveness of the methods of delivering Federal assistance. More work needs to be done. Efforts at further improvement require the interest and joint participation of policymakers at the Federal, state, and local levels. No one level of government can do it alone.

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Federal Assistance: Its Current Impact and Future Implications



I think that Mr. Staats gave us a very good description of the present mix of Federal assistance programs and their uses, the reforms needed to make them work better, and even the dangers that lie in the whole business. I agree with him that the mix that we have is probably here to stay; I agree that we should move along the lines of reform that he suggested; and I certainly agree with the necessity to remind ourselves constantly of the dangers and problems that this or any set of programs brings. In addition, however, I have three basic comments to make concerning the mix and its component parts. Finally, I would like to suggest that recent findings in political science raise new questions about some of the conventional wisdom that we have come to accept in the intergovernmental relations field and that we must come to grips with their implications.

First of all, I think that, in considering the mix, we should remember that categorical grants are not as narrow as they sometimes seem. I am certain that the research of the academic community on this subject and the experience of most of you in this room would converge on this matter. Fungibility is not difficult with categorical grants and, indeed, the fact that they tend to be controlled by specialists — the very element of categorical grants that has led governmental generalists to criticize them so severely — adds to their flexibility.

An excellent example of what happens when specialists are removed from the Federal plane of government is the recent raid on the U.S. Treasury in the area of social services. There was a loophole in the provision of the categorical grants and the specialists at the state level drove their trucks, at least 50 of them, right down through the middle of that program, running over the

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generalists in the process and showing how broad a categorical grant can be when one knows how to use it. There are other similar examples.⁴ Categorical grants have a certain breadth within them which should not be overlooked and which has certain advantages in allowing both Federal scrutiny and state and local adaptation. And so, I think, it is not entirely accurate to follow the line that has been developing in the last few years that categoricals are necessarily narrow and that when you want to get away from narrowness, you have to get away from categoricals.

Second, block grants are not as broad as they are touted to be. In those block grants operating now, the little research that is available indicates that there is almost no difference in use of money as a block grant or categorical grant. The Partnership for Health program is perhaps the leading example of this. While the block grant has enabled the trimming away of certain peripheral categories or obsolescent programs, most expenditures have been along the same lines as in the past requiring only a different set of paperwork. Not only that, but Congress almost immediately started adding new categories to the block grants. There is a natural tendency on the part of those who are responsible for the appropriation of funds to try to guide the direction of their expenditures — a problem we are facing in connection with revenue sharing as well.

One point where I have to take some slight disagreement with Mr. Staats is in the implication that the states receiving block grants should not categorize when they pass them on to localities. I think that question is one each state should determine on its own. It is not categorization that is bad, *per se*, but whose priorities it reflects that is at issue.

Revenue Sharing

Third, revenue sharing is not as free as it is supposed to be. I think we all know that. There are certain constraints that come automatically. For example, the pressures on state and local governments during an inflationary period have certainly functioned to restrict flexibility in revenue sharing. Innovation and imagination in local governments come second in priority to budgets and budget deficits which have to be covered. Increased salaries must be dealt with first and foremost. Another restriction built into the law is that the state pass through money to the standard list of local governments. Because the standard national pass through was established without regard for local realities, we have counties in New England and townships in the Midwest that receive money to make them into governments that they weren't — not to speak of what this single act has done to the cause of local government consolidation. I am not a particular friend of local government consolidation, but I do believe in the option, and chances are that local, general purpose governments will not be willing to lose their own revenue sharing funds to consolidate.

The same question can be applied to equal rights enforcement. I think none of us in this room are opposed in any way to the enforcement of equal rights. At the same time, there is a question of what happens when this enforcement power is transferred to the Federal government, as it could be under revenue sharing. Since revenue sharing money can touch every aspect of state and local government, a whole set of regulations might be promulgated under the act as it now stands, thereby defeating its fundamental purpose. And finally, we note that there are many conditions being proposed in connection with the discussion over the renewal of revenue sharing, some of which may well be enacted, and any of which would reduce the freedom of

action that revenue sharing was supposed to bring.

What this means, in effect, is that the mix is carrying us along the right lines and moving us in the right direction; it could lead us to a better balance of Federal aids than we have had in the recent past. But every solution creates its own problems, usually based upon unanticipated consequences and, in particular, on the existence of multiple and sometimes contradictory purposes, even on the part of those who unite in its support.

I am reminded of the story of the preacher who was trying to convince his congregation to give up strong drink. In the process of his sermon, he decided that he would give them a demonstration and so he very carefully pulled from inside his pockets two shot glasses, set them on the lectern in front of him, pulled a flask of whiskey and a flask of water, filled one with one, one with the other. He then carefully pulled two worms out of his watch pocket, dropped one in the water and it swam around, dropped the other in the whiskey and it shuddered and died. Then he turned to the congregation and said, "My friends, what does this teach you?" A man in the back row got up and said, "If you got worms, drink whiskey." Sometimes the Federal government is trying to teach the states and localities not to drink, when the states and localities want to get about the business of killing worms.

Despite a tendency to think otherwise, multiple purposes are to be expected and can be good, since that is what federalism is all about. So we must include them in our thinking, allowing and even encouraging them to flourish. This may require some rethinking of our premises.

“The mix is carrying us along the right lines and moving us in the right direction; it could lead us to a better balance of Federal aids than we have had in the recent past.”

⁴For further information on categorical grants, see: William Anderson, "The Federal Equilibrium and the States," *Cooperation and Conflict: Readings in American Federalism*, edited by Daniel J. Elazar, R. Bruce Carroll, E. Lester Levine, and Douglas St. Angelo (Itasca, Illinois: F. E. Peacock Publishers Inc., 1969). R. Bruce Carroll, "Intergovernmental Administrative Relations," *Cooperation and Conflict: Readings in American Federalism*, edited by Daniel J. Elazar, R. Bruce Carroll, E. Lester Levine, and Douglas St. Angelo (Itasca, Illinois: F. E. Peacock Publishers Inc., 1969). Martha Derthick, "Professional Fiefdoms Appraised: The Case of Social Services," *PUBLIUS, The Journal of Federalism*, (forthcoming). Morton Grodzins, *The American System* (Chicago: Rand McNally, 1968). Edward Weidner, "Decision-Making in a Federal System," *Cooperation and Conflict: Readings in American Federalism*. Edited by Daniel J. Elazar, R. Bruce Carroll, E. Lester Levine, and Douglas St. Angelo (Itasca, Illinois: F. E. Peacock Publishers Inc., 1969).

The ideas underlying this conference are the products of the thinking and the research of the period between the 1930s and the 1950s. Some great names come to mind when we think of the men who forged the framework which we are using today: William Anderson, Louis Brownlow, Edward Corwin, and Morton Grodzins.

These men gave us a new sense of how federalism was, and should be, based on cooperation among governments rather than on their separation or isolation. We have come to understand and accept their ideas and see their validity, and we are now just completing the translation of these ideas into practice, as Dr. Staats has indicated.

New Issues in Federalism

Since the ideas of these great men have come to be the common coin of the realm in governmental circles, members of the academic community have been building on those original theories to give us new ideas and new evidence which will have programmatic implications of their own, carrying the earlier ideas a step further. Some of these ideas and the studies related to them are straight forward extensions of what is now the conventional wisdom. Others have revolutionary implications and need to be considered in our thinking today. A few of the questions that are under study or are good candidates for research today, in light of new ideas and new realities, include:

- the role that professionals and categorical grants play in the system that generalists cannot always assume;⁵
- the varieties of relationships that are now emerging among those who are actors within the cooperative framework;⁶
- the uses of conflict as a way to promote the health of the system;⁷

- state and local differences in program administration and the virtues of those differences;
- the locus of coordination and its impact on other governments.⁸

Beyond these extensions of the ideas that are a common currency, we have questions about whether the organizational forms that we have come to recognize, the hierarchical structures that we assume are the appropriate ones for conducting massive programs, are indeed so useful.⁹ Organization theorists are beginning to question the widely held assumptions that duplication is invariably bad, to suggest that in some cases it should be seen as healthy redundancy, a "fail safe" mechanism.¹⁰

Would it be better to tailor organizations to their service needs? The evidence, some of which comes from the ACIR itself,¹¹ indicates there are grave differences in the delivery of services based on the scale of the operations involved. There is substantial evidence, for instance, that small local police forces are more effective than large, consolidated ones for certain very important law enforcement purposes.¹²

What about the ways to achieve interlocal collaboration? There is a great deal of evidence that simple talk among local officials sharing a common professional interest in adjacent jurisdictions goes further to produce very discreet, distinct, and specific forms of interlocal collaboration than all the coordination from

above.¹³ I, myself, have observed in cities adjacent to each other how police chiefs agree to allow drivers to go up to a certain speed above the legal speed limit before ticketing them. These are often very specific agreements, never written down anywhere, never leading to any formal action.

What do we do when we discover that suburbanites don't even go to the center city anymore? The implications of this discovery, substantiated by recent studies, are devastating to many current theories.¹⁴

What do we do when we find out that what used to be regressive taxation may not be and what used to be progressive may not be? Indications are that the Federal income tax, which used to be progressive, now increasingly burdens the middle income wage earners in ways that were never intended because dollar income has risen faster than adjustments in the tax laws. In addition, some states are beginning to talk about taxing the extraction of raw materials in such a way that changes progressivity entirely.

These ideas and studies have yet to be reflected in our agenda for Federal-state-local relations. All lead us back to the first principles of federalism. In the 1970s and 1980s, we will be required to come to grips with them if we are to make Federal assistance work right.

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⁵Martha Derthick, "Professional Fiefdoms Appraised," and

Tyrone Baines, "Categorical Grants and the Local Community: The Delivery of Relocation Services," *PUBLIUS, The Journal of Federalism*, 5, 4 (Fall, 1975, forthcoming).

⁶A. Lee Fritschler and Morley Segal, "Intergovernmental Relations and Contemporary Political Science: Developing an Integrative Typology," *PUBLIUS, The Journal of Federalism*, 1, 2 (Winter, 1972).

⁷Aaron Wildavsky and Daniel Goode, "Federalism, Planning and Organization Theory: A Review," (Berkeley, 1974, Mimeographed). Earl M. Baker, Bernadette A. Stevens, Stephen L. Schechter, and Harlan A. Wright, *Federal Grants, The National Interest and State Response: A Review of Theory and Research* (Philadelphia: Center for the Study of Federalism, 1974).

⁸Daniel J. Elazar, "Cursed by Bigness or Toward a Post-Technocratic Federalism," *The Federal Polity. PUBLIUS, The Journal of Federalism* (Special Issue) 3, 1 (Spring, 1972).

⁹Vincent Ostrom, "Can Federalism Make a Difference?" *The Federal Polity. PUBLIUS, The Journal of Federalism* (Special Issue) 2, 1 (Spring, 1972). Vincent Ostrom, Charles M. Tiebout, and Robert Warren, "The Organization of Government in Metropolitan Areas: A Theoretical Inquiry," *American Political Science Review*, 55 (1961).

¹⁰Martin Landau, "Federalism, Redundancy and System Reliability," *The Federal Polity, PUBLIUS, The Journal of Federalism* (Special Issue) 2, 1 (Spring, 1972), 173.

¹¹Advisory Commission on Intergovernmental Relations, *Fiscal Balance in the American Federal System*, 2 vols. (Washington, D.C.: 1967).

¹²Elinor Ostrom, Robert B. Parker, and Gordon P. Whitaker, "Refining and Measuring Structural Variations in Intergovernmental Arrangements," *The Study of Federalism at Work, PUBLIUS, The Journal of Federalism* (Special Issue) 4, 4 (Fall, 1974), 87.

¹³H. Paul Friesema, *Metropolitan Political Structure: Intergovernmental Relations and Political Integration of the Quad-Cities* (Iowa City: University of Iowa Press, 1971).

¹⁴Joseph Zikmund, II, "Sources of the Suburban Population: 1955-1960 and 1965-1970," *The Suburban Reshaping of American Politics, PUBLIUS, The Journal of Federalism* (Special Issue) 5, 1 (Winter, 1975), 27.

Coming Issues in Public Control Versus Property Rights



Once again, the role of governments, Federal, state, and local, in directly influencing patterns of regional growth and development has become the subject of domestic debate.

For most of our colonial history and for almost 100 years after independence, one of the principal objectives of government at all levels was to provide for, and encourage, the growth and development of our communities and regions. Our objective was to place as much land and resources in the hands of settlers and entrepreneurs as possible, assure them adequate access to markets, and allow matters to take their course.

Having established this framework for development, from the latter 19th century through the first two decades of this century our policy was *laissez faire*: government's chief responsibility was to leave the "invisible hand" of the market alone to work its will. Adam Smith had convinced us that pluralistic decisions working their cumulative impact through the interplay of competition were far more efficient and more likely to achieve outcomes in the best interests of society than any heavy handed attempt by government to direct the course of national development.

Of course, even in the hey day of *laissez faire*, the "invisible hand" of government was employed, sometimes surreptitiously, to favor some forces over others in influencing the national patterns of growth and development.

With the prosperity and seeming abundance of the post World War II years, we embarked on a binge of development and consumption that transformed the face of the country and brought us into the unexplored domain of a trillion dollar economy whose needs were supplied to an increasing degree by a worldwide hinterland rather than the natural largesse of the continent that we had so recently and rapidly developed.

Despite lip service to the *laissez faire*

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faith, government intervention in the operations of the market place accelerated rapidly during these years, but without cohesion or apparent framework of purpose.

At the present time, we have no explicit national policies on growth and development. We have instead congeries of policies and programs, many of them redundant or contradictory; but overall, they add up to a body of policy that, perhaps unintentionally:¹⁵

- promotes the industrialization of American agriculture;
- reacts to, rather than shapes, the economic and social consequences flowing from patterns of private investment and the introduction of new technologies;
- except in the case of large scale Federal public works, requires that public investment follow, rather than lead, private investment;
- leaves to private decisions and information the allocation and direction of geographic shifts of manpower with minimal public attempts to influence these flows;
- leaves depopulated rural regions to their own devices in adjusting to shifts in the patterns of national settlement and economic activity;
- in metropolitan areas, favors the construction of new housing and urban infrastructure on undeveloped, outlying suburban tracts over the conservation and rehabilitation of existing housing and community infrastructure;
- favors the development of raw land on the metropolitan periphery over the use of vacant lands within developed areas;

- encourages the concentration of low income minorities in inner city areas while simultaneously subsidizing the location of employment and housing for middle and upper income groups in outlying areas;
- favors home ownership over tenancy;
- supports and promotes the use of surface and air motorized transport as the prime means of conveyance;
- acquires land for public facilities at the time of need rather than in advance;
- grants benefits accruing from appreciation in land prices related to public improvements to private land owners rather than the general community;
- reacts to the consequences flowing from hidden policies by enacting "placebo" programs to mollify those adversely affected by prevailing patterns of national and regional development;
- until recently, directed that environmental problems be cleaned up after they occur;
- sets national standards for air and water quality;
- sets aside publicly important natural and historic sites for protection.

These characteristics are purposely stated in largely pejorative terms in order to relate them to some of the concerns expressed in the running debate over the feasibility or desirability of more considered policies to guide our future national and regional growth. Implicit in the argument in favor of such policies is the wish for more effective orchestration of national policies and programs to achieve the results we desire. New public concerns over the consequences flowing from such "hidden" policies have prompted calls for revised approaches to national and regional development.

The Rural-Urban Shift

The current discussions and debates over the need for more clearly formulated policies on growth can be said to have started in September 1965, when six Cabinet officers in the Johnson Administration convened a national group to discuss "National Growth and Its Distribution."¹⁶

That opening gun in today's growth debate was followed shortly by the report of the Advisory Commission on Intergovernmental Relations in 1968 entitled *Urban and Rural America: Policies for Future Growth*.¹⁷ During the next several years, a cascade of such reports followed, almost all of them addressed to one aspect of our awakening concern with the national patterns of development: the dramatic rural-to-urban population shift of the previous four or five decades.¹⁸

Yet ironically, by the time these calls to action were issued, the rural-to-urban movements in population were within hailing distance of having run their course. A revolution had occurred in where people live and how they live. However, within another decade and a half that transformation in the nation's patterns of settlement will be almost over and a new and different one begun.¹⁹ The question has become not how to stanch the rural outflow of population and the demise of small communities, but how to restructure governance and access to opportunities in both rural and urban America now that settlement and economic activity have assumed new patterns which no longer match the mechanisms of public finance and public services that our great grandfathers created under earlier conditions.²⁰

Protection of the Environment

However, while recasting our notions about how to cope with these new national circumstances, our awareness extended in another direction adding still newer dimensions to the growth debate.

As the first photos of the planet came back to us from the cameras of

¹⁶"National Growth and Its Distribution," Symposium on Communities of Tomorrow, December 11 and 12, 1967, U.S. Department of Agriculture, Washington, D.C.

¹⁷Advisory Commission on Intergovernmental Relations, *Urban and Rural America: Policies for Future Growth* (Washington, D.C.: 1968).

¹⁸David K. Hartley, Milton Patton, and Ralph R. Widner, *Elements of Growth Policy* (Columbus, Ohio: Center for Contemporary Problems, 1974).

¹⁹Economic Research Service, U.S. Department of Agriculture, *The Economic and Social Condition of Rural America in the 1970's* (Washington, D.C.: 1971).

²⁰National Advisory Commission on Rural Poverty, *The People Left Behind* (Washington, D.C.: 1968).

¹⁵David K. Hartley, Janet Patton, and Lucia Findley, "The Regional Impacts of Federal Policy," *Background Papers: National Public Works Investment Policy*, U.S. House of Representatives (Washington, D.C.: 1974). See also Carl W. Hale, "Impact of Federal Policy and Technological Change on Regional and Urban Planning Problems" *Land Economics*, February 1971, and testimony by Anthony Downs before the Committee on Public Works, U.S. House of Representatives, November 1, 1973.

“But now and in the future, unbridled pluralism is and will be in jeopardy in the face of potential scarcities that will require different approaches to the allocation of resources than we have known in the past.”

the astronauts, popular awareness dawned that spaceship earth is a fragile and limited vessel upon which only so many demands can be placed without jeopardizing the self-renewing natural systems that support us. In face of this awareness, the growth policy debate became less preoccupied with the rural-urban dichotomy and centered more upon the management of the pressures of human development to keep them within the tolerance of regional environments. States and communities concerned with the depredations of economic and population growth upon the physical quality of life within their jurisdictions began to undertake actions to control, prohibit, or channel development with such preservation in mind. In Vermont, Maine, Florida, California, Washington, Oregon, and Hawaii, new approaches were launched to control and manage the location of growth.

More recently, the oil embargo and impending shortages in other raw materials have sensitized us to still another dimension of the problems of growth. We have come to realize that the conspicuous consumption of energy and materials — the failure to conserve and re-use — is a short-term luxury at best.

Anticipatory Democracy

Finally, a fourth dimension has been added to the debate. It relates to the many undesired and unanticipated results that have flowed from well meaning, but single purpose policies, programs, and decisions.

The complex structural consequences of the energy crisis; the effects within the economy of the sale of wheat to the Soviets; the second and third order effects of environmental policies; inflationary pressures that cannot be controlled by traditional fiscal and monetary policies; the resulting involvement once again in wage and price controls; the increasingly critical state of national and international economies; the collapse of much of the nation's rail transportation system; the impending shortage of a number of critical materials

— all these and more have led to fundamental questions being raised about whether we any longer possess an adequate set of legislative and executive procedures for the governance of a rapidly changing, highly interdependent, metropolitanized society. In a metropolitanized world, nearly everything is connected to everything else. In earlier days when the government's role was restricted to custodial functions, pluralism had more advantages than disadvantages. But now and in the future, unbridled pluralism is and will be in jeopardy in the face of potential scarcities that will require different approaches to the allocation of resources than we have known in the past. It is this potential development that now lends the growth debate special urgency.

National Planning

In December 1973, Herb Stein, chairman of the Council of Economic Advisors in an Administration devoted to the devolution of powers back to state and local governments, reluctantly admitted to an audience at the annual meeting of the American Economic Association that “maybe we need an economic planning agency like the Japanese or French.”²¹

He added: “If the government is going to be as much involved in details as it is becoming, then the concept of the little Council of Economic Advisors — with 16 professionals — focusing mainly on fiscal and monetary policy will be inappropriate.”²²

The *New York Times*, in reporting Stein's observations, pointed out that he was not alone in his feelings that the U.S. might be compelled by necessity to develop new national planning capabilities. One of Stein's predecessors at the council, Otto Eckstein, who served under President Johnson, feels that the CEA is “in desperate need of a successor agency

to deal with narrower problems than fiscal and monetary policy.”²³ Eckstein also pointed to the Japanese planning experience as a useful example.

John Dunlop, chairman of the Cost of Living Council, had urged the creation of some entity to concern itself with structural problems in the economy and Marina Whitman, a former Nixon appointee to the CEA, remarked at the same conference Stein addressed that “There is a dynamic in the United States and elsewhere of a very marked increase in the responsibility governments have to manage the economy. This imposes a dynamic on the council.”²⁴

Certainly, it is not difficult to detect such a dynamic at work in the American economy. To some, it may seem cruelly ironic that just as we were recoiling from the excesses of interventionism in the 1960s, the urgent realities of present crises are moving us into further interventions before we are any more certain of what to do.

We are being impelled in the face of crisis after crisis toward the formulation of policies on growth and programs for the control and allocation of resources which only a few years ago would have been unthinkable.

What Kind of Planning and Policies? Five Questions

But what kind of policies can we now accept in the face of these conditions? Certainly, we are unlikely, except under the extremities of wartime conditions, to tolerate the heavy handed, clumsy forms of bureaucratic planning, the image of which, heretofore, has been invoked to stifle any open and honest consideration of such matters in the United States.

We have gained from our disillusionment with the 1960s a healthy skepticism about what we know and do not know about the social system and the effects of public policy upon it. In much of the thinking about future directions for public policy, there is a disavowal of old planning and organizational concepts that arrogated to the technician some omniscient wisdom about what the society requires and what policies and programs will meet those requirements. The old notions of planning in which goals are set, targets selected, courses plotted, and resources allocated are — or should be — dead as the Dodo.

No one has clearly defined the new forms and approaches that should replace these dead ones, but they are glimmering on the horizon. They are more open ended, less reliant on the so called expert, based on social learning and continued adjustment derived from continuous societal auditing and evaluation.²⁵

To steal a leaf from the French, planning in the U.S. might be more indicative in character with the Federal government establishing standards and goals and state, local, and private instrumentalities bearing most of the responsibility for implementation.

What must be added is a new capability for assessing probable consequences in advance of policy adoption and continuing evaluation and adjustment of policies and programs to better assure the outcomes we desire. We must also become far more specific about the outcomes we do want.

To make sense out of existing policy, one leading student of the debate has suggested, we need to be able to answer five questions:

- Can we agree on what problems we wish to correct?
- Can we distinguish by priorities what we wish to achieve?
- Can we agree on the cause and

²³Ibid.

²⁴Ibid.

²⁵See for example, John Friedman, *Retracking America: A Theory of Transactive Planning* (Anchor Press and Doubleday, New York: 1973); and Edgar S. Dunn, Jr., *Economic and Social Development: A Process of Learning* (Published for Resources for the Future, Inc., by John Hopkins Press, Baltimore: 1971).

²¹*New York Times*, December 31, 1973.

²²Ibid.

effect relationship between policies, programs, and their results?

- Can we agree on the basic decision levers which would have to be pulled to bring about the results we desire?
- Can we agree on the social costs for various alternatives for change?²⁶

What are the Problems?

By no means is there a consensus about either the problems we face or what should be done about them. But most of our concerns with the problems of growth now center upon the undesired consequences that flow from the development of a metropolitanized, land hungry, high energy, high consumption society.

We might pose at least the following eight sets of questions to define some of the problems about which current debates about growth policy have been concerned:

- How to avert unintended, undesired consequences for the nation's social, economic, and physical development which flow from single purpose public and private decisions, policies, and programs adopted without anticipation of their probable cumulative impact on national growth.
- How to reduce the overall energy and material consumption levels of a metropolitan society by more nearly approximating the selfrenewing cycles of nature itself.
- How to minimize the adverse environmental consequences that spring from present patterns of metropolitan development. How to avoid excessive, regional concentrations of settlement and economic activity that overload regional ecosystems, jeopardizing health and safety. How to encourage less wasteful patterns of land use

and less ugly and wasteful patterns of metropolitan sprawl which are likely to breed the expensive renewal needs of future decades.

- How to protect fragile environments or areas of special public interest from development.
- How to devise more appropriate procedures of governance for metropolitan and non-metropolitan areas now that the shift in our national settlement structure is virtually completed. Should some public services be regionalized to achieve economies of scale, while others are decentralized to produce greater responsiveness to the needs of those being served?
- How to minimize the economic and social costs of change in metropolitan and non-metropolitan areas. What policies should be developed to assist older cities facing substantial economic transition? What new approaches to the delivery of services in rural areas can be devised to provide a quality of life comparable to that enjoyed by urban residents now that the worst is over in the rural to urban shift?
- How to correct the mismatch between the structure of tax policy at the state and local level and the changing patterns of growth and public demand in both metropolitan and non-metropolitan areas.
- How to overcome the extremely corrosive and destructive problems that spring from the enforced isolation of minorities in the inner city through racism; a situation that can only lead to the continual loss of invaluable human talent, continued social estrangement, and ultimate confrontation. Despite racial progress on several other fronts, the nation has not made impressive headway on this problem.

Conflicts in Values

In the final analysis, many of the

issues we now face in considering how we might shape the nation's future growth and development are rooted in conflicts between two or more sets of values. How we establish the tradeoffs we willingly would accept among these values provides the grist for political decision about the future direction of our national and regional growth; for example, equality versus competition.

Equality Versus Competition

One of the basic elements of the American credo has been the right to equality of opportunity. At the national level, and to a lesser extent at the state level, through legislative, judicial, and executive actions we are once again redefining what we mean by equality. These redefinitions have important implications for the kind of social objectives any growth policy might contain. Many Federal and state actions in recent years have emphasized the maintenance of minimum standards of equality. At the local level, however, our emphasis has traditionally been upon "competition" or a free market, i.e., people should be able to buy what they are able to pay for in the public marketplace as well as the private market.

Centralization Versus Decentralization

Debates over what must be done to improve the quality of, and access to, public services and employment in metropolitan and rural areas are engendered by conflict between our values of "freedom" and "efficiency," or, if you will, centralization and decentralization.

Proponents of regional government, consolidations, or multijurisdictional substate districts to replace the balkanized pattern of local government that exists in most metropolitan and rural regions have traditionally pointed to the savings and efficiencies that they believed could be realized through elimination of over-

lapping and conflicting jurisdictions and the regionalization of certain basic public services.

Yet in many cases, constituents have shied away from such proposals at the ballot box either because they see no particular gain in putting public services under the monopolistic control of one public agency or because the new government would be too remote and unresponsive to their needs or because they feel their self-interest might be threatened by becoming integrated into a larger community, the majority of members of which are not of their own kind.

Preservation Versus Development

Many of the actions which have been taken in the area of growth policies at the state and local level in recent years have been taken in the name of environmental protection. The bulk of public actions have been regulatory and negative in character; they set forth what is not permitted. There is little exercise of affirmative powers to direct where something should happen with the possible exception of some instances where sites for power plants have been identified.

Yet the nation has social and economic objectives which must be weighed equally with environmental and preservationist objectives.

To cite the extreme: if state after state adopts policies severely curtailing further growth and development, what are the implications for future Americans in terms of their freedom of choice to live and work where they wish?

Public Interest Versus Private Property

Few values have been more sacrosanct in the American value system than the concept of private property. Applied to the ownership of land, that concept has passed through

²⁶Lowden Wingo at a meeting of National Growth Study Committee, Academy for Contemporary Problems, Columbus, Ohio, January 31, 1973.

several distinct stages during our national history.

During the Colonial period, lands belonged to the Proprietor of the Colony under charter from the King. After independence, lands not already deeded to private landholders became part of the public domain to be disposed of as the states or the Federal government saw fit.

For most of the past 150 years, our objective was national economic development and our purpose was to get land and resources into the hands of as many settlers and developers as possible to be tilled, or mined, or logged, or built upon. Once that land was in the hands of private citizens, it was at first their right to do with it whatever they deemed proper. But it soon became apparent that there had to be some restrictions after awhile to protect all property holders from the abuses of any single property holder. We entered the period of regulation when through a variety of measures some control was exercised over the broad uses to which many property owners in cities could put their land. The ideological conflicts over zoning and land use planning which ensued were bitter and deep. Yet in most of the country today these rather modest means for regulating the uses of private land inside of communities are readily accepted and judged by many to be largely ineffective.

The Limits of Zoning

Criticism directed toward the practices of local zoning and subdivision regulations have been aptly summarized by the American Law Institute:

The attempt to guide development of land by prohibitions and restrictions, without using the power of public acquisition and disposition of land and the power of public spending to secure the desired development, is likely to be an ineffective method of ordering land development.

The unrestricted grant of power to the smallest unit of local government (town, village, city) has

produced a distortion in metropolitan growth and almost impotence in our ability to attack regional problems such as pollution, inadequate supply of decent housing, proper management of the environment, transportation, and the like.

The unrestricted grant of power to local governments has produced in many cases incompetent planning, and in many others administrative processes which run counter to many concepts of fairness and orderly procedure.

The concept of a "static master plan," i.e., a map representing optimum civic design in its ultimate form, has failed to guide land development because no legal significance has been assigned to such plans under most statutes and ordinances, and because the concept itself is faulty since the forces of urban growth and decay are too dynamic to be ordered in such a rigid fashion.

Ordinances enacted under existing laws by a host of small but growing urban communities at the periphery of large metropolitan regions have been unable to deal effectively with large scale development. "Industrial parks," "residential subdivisions," and "regional shopping areas" may result from existing zoning districts, but the relation of industry to housing of the work force and the relation of each to a whole complex of urban services such as schools, hospitals, day care centers, neighborhood shopping areas, and the like are often ignored—in part because the unit of government regulating development is too small to plan comprehensively for these services.²⁷

New Objectives

Now the nation enters into a new chapter in its attitude toward land. The special pressures on the national

environment which have followed intensive industrialization and metropolitanization have brought about a still stronger public recognition that land is no longer an unlimited nor unexpendable resource. There is a vital public interest in protecting certain vital land and water resources and the ecologies of certain fragile regions. Few local jurisdictions are large enough to control the use or disposition of such areas. There is a tide of opinion pressuring state and Federal affirmative action (not just regulation and control) to identify where growth and development should and may occur and where it should not and may not. This concept of public responsibility is a substantial departure from our modified *laissez faire* traditions with respect to private land development during the last 100 years.

Further, there is increasing recognition that the public has frequently been required to bear excessive costs for acquisition of lands that have appreciated substantially in market value because of nearby public improvements such as highways, airports, mass transit lines, or water and sewerage lines. It is also recognized that traditional hop-sotch patterns of speculative private development in metropolitan areas impose still other short and long term costs on the public that might be avoided through more affirmative public actions to channel and direct the development of land.

It is well and good for us to exclude further development in fragile areas. But it is equally incumbent upon us, under any policy for growth, to identify where and how we shall develop the housing, employment, services, etc., required for a growth population. The underemphasis upon social and economic objectives in many recent

attempts to control land use has been best summarized by Frederick O'R. Hayes, former Budget Commissioner of New York City:

A development policy is as important as a land use policy and, in fact, it is critical to a land use policy. The country needs housing for an expanding population and to rehouse the illhoused. It needs commercial, industrial, educational, medical, recreational, and transportation facilities to serve and employ the population. It must economize on other resources — energy among them — as well as land. It must deal with the price and transport effects of changes in land supply.

The point deserves underlining with particular emphasis upon housing markets. An adequate supply of land subject to reasonable subdivision and construction standards is crucial to expeditious progress toward the nation's housing goals. The effect of suburban land use regulation and land use for construction to date has been a very substantial increase in minimum new housing costs. Even after adjustment for price increases, the threshold income for entry into the new housing market has been increasing much faster than incomes all over the country.

In truth, in many areas of metropolitan development, we need some decontrol of land to open up clearly exclusionary zoning in the suburbs and to provide a feasible basis for large scale development. A restructuring of the present balkanized system of land use control is necessary as is the use of a wide range of tools other than land use regulation.

“The special pressures on the national environment which have followed intensive industrialization and metropolitanization have brought about a still stronger public recognition that land is no longer an unlimited nor unexpendable resource.”

²⁷American Law Institute, "A Model Land Development Code," Tentative Draft No. 2 (Philadelphia: 1970).

“It would appear that, as in the past, the states are serving as diversified laboratories for testing new social, economic, and environmental policies.”

It seems fair to say that, with a few rare exceptions, contemporary attempts by states to shape and influence their patterns of growth are generally negative in character, i.e., for the most part, they are intended to prevent development from occurring in certain areas.

But it must be presumed our future policies should be positive in character as well. They should determine what may and should happen as well as deter what should not happen.

Objectives in Present Growth Policy Proposals

A pattern is now evolving out of the confused growth policy debate as a result of Federal, state, and local actions and court decisions over the past several years.

We can discern a pattern of objectives that can be pictured as a three legged stool. One leg is social policy, one leg is economic policy, and one leg is environmental policy. The purpose of growth policy is to orchestrate the cumulative outcomes that flow from these policies.

States and localities that have adopted growth policies are trying to shape and direct the way the land and related resources are used to meet social and economic objectives and still be consonant with the objectives of environmental protection by:

- Providing for more conservative use of land, water, air, energy, and material resources;
- Providing for the disposal and elimination of pollutants and wastes in ways that will minimize environmental disruptions and promote the re-use and conservation of material resources;
- Attempting to channel population growth and economic expansion away from areas suffering from environmental overload;

- Attempting to channel development toward areas with greater residual "carrying capacity" for development;
- Attempting to protect fragile and unique environments as well as areas of special public interest;
- Establishing aesthetic and health standards designed to improve the quality of life in both metropolitan and non-metropolitan areas.

While state and local growth policies have been preoccupied with environmental objectives so far, they are evincing growing concern with equalizing access to certain public services (now being redefined by the courts), employment, and housing. For the most part, these efforts are addressed separately to the problems of metropolitan and rural areas.²⁸

They cover a wide range of actions from state assumption of responsibilities for certain services, reforms in public finance, restructuring of local government, and the creation of new instrumentalities to shape and direct the patterns of future urban development.

Present State Actions

No single state has yet developed a fully orchestrated set of policies. However, there are many instances of innovation, bellwethers of a changing attitude toward our future national development. It would appear that, as in the past, the states are serving as diversified laboratories for testing new social, economic, and environmental policies.

Only Hawaii has found it practicable so far to engage in statewide comprehensive land use management, perhaps because of its insularity and particularly vulnerable ecology. But Vermont, Maine, Florida, North Carolina, and several other states have enacted statewide land use control legislation.

The most comprehensive growth policy statement adopted so far by any state was a 1974 concurrent resolution of the Florida legislature.

Coming Issues in Public Control Versus Property Rights

With three-quarters of its population living along the coasts, Florida is in danger of overburdening, possibly destroying, its coastal zone and interior wetlands.

The procedural provisions of Vermont's new Land Use and Development Act are perhaps the most significant of any enacted by any state so far. The act contains two basic provisions: (1) a permit system regulating in a largely reactive manner all private and public residential developments of consequence and (2) a planning system, largely prescriptive in intent, which calls for three kinds of land use plans.

In 1970, the Maine legislature passed a site location law and created a department of environmental protection which expanded the duties of the existing environmental improvement commission. The legislation was motivated by proposals for several major oil terminals in areas of Maine where local governments had not passed any land use regulations. The state, realizing how little protection it had in coping with such developments, enacted the 1970 law.

The law sets forth the framework assumptions of a state policy on growth:

... that the economic and social well-being of the citizens of the State of Maine depend upon the location of commercial and industrial developments with respect to the natural environment of the state; that many developments because of their size and nature are capable of causing irreparable damage to the people and the environment in their surroundings; that the location of such developments is too important to be left only to the determination of the owners of such developments; and that discretion must be vested in state authority to regulate the location of developments which may substantially affect environment.

General Patterns of State Action

Already some patterns are beginning to emerge.

- There are those states, primarily in the South and West, which face the problems of rapid growth — frequently jeopardizing a highly prized environment.
- There are basically rural states close to metropolitan regions, such as Maine and Vermont, where similarly treasured rural surroundings are threatened by exurban expansion, recreational developments, second homes, and the location of major industrial installations.
- There are the older urban-industrial states facing declines in population and economic activity as our birth rates drop and national migration flows shift increasingly toward the South or West and away from the Northeast.
- Finally, there are those basically rural states that are isolated from the mainstream of national commerce and which have already lost population over a protracted period of time and now possess an "aged" thinly dispersed population. Most of these states are in central Appalachia, the Upper Great Plains, and along the more isolated sections of the nation's northern border.

States in the first two categories have been the first to undertake the development of a new generation of policies on growth and development.

Present indications are that metropolitan areas in the manufacturing belt of the Northeast-Midwest will lose both population and their former economic paramouncy in the

²⁸See "Experiments in Growth Policy" by David K. Hartley, Milton Patton, and Ralph R. Widner with Lucia Findley and Patrick Peter-sillia, Academy for Contemporary Problems, Columbus, Ohio, 1975.

coming decades. It is significant that overall metropolitan population losses show up in the 1973 interim Census survey for a belt beginning in Pittsburgh and continuing through Cleveland and Detroit, yet few actions have yet been undertaken in these regions to cope with the profound land use implications of accelerating urban neighborhood abandonment and metropolitan restructuring that are bound to follow these demographic shifts.

Just as the nation was not prepared socially or fiscally to deal with the social and economic consequences of the rural to urban shift during the first half of this century, so it appears that we are currently illprepared for the coming alterations in the country's metropolitan structure. And there are painfully few examples of successful state land use actions to deal with the problems of depopulated rural regions as well.

Federal Action

To date, the Federal government has lagged behind states and localities in its response to these new conditions. Its actions have been guided more by crisis than forethought.

Yet study after study has identified the role which Federal expenditures, public works, and regulatory activities have had on the patterns of national growth.²⁹

We confront the task of identifying the Federal decision levers having the greatest effect on our national and regional development patterns.

It is perhaps a commentary on the pluralism of the American federal system that we have never undertaken an overall assessment of the impacts of major policies at each level of government on patterns of national and regional development. All we have to draw upon are a few very general surveys and many evaluations of specific programs.

A cursory overview of research on the probable cause and effect relationships between patterns of national growth and national policy and programs leads to tentative observations that:

- National policy has objectives other than those embodied in aspirations for "balanced" national development. For the most part, therefore, it has followed or reinforced growth and development trends rather than attempting to consciously influence them.
- National policy has reinforced rather than ameliorated the impacts of new technologies upon the nation's patterns of development.
- National policy has been reactive rather than prescriptive, i.e., it has responded to problems after they have occurred rather than anticipating consequences in advance. For the most part, ameliorative programs designed to mitigate the consequences of such problems, have failed.

Overall, it seems fair to say that the powers of the national government are at their most potent when employed to influence the flow of private capital. This has had some considerable influence on the patterns of migration and growth in the United States whether through the outright procurement of goods and services, through Federal expenditures or through the aggregate effects on the national economy of fiscal and monetary policy.

The powers of the Federal government have been least effective when they attempt to influence the location of population and economic activity through grant-in-aid programs. And except for the public domain, the Federal government exercises little influence over the specific uses of land in the country.

From all this, it is possible to conclude that if we were to have a national growth policy, Federal responsibilities could best be met through the effective use of economic policy, Federal regulatory powers, and the establishment of minimum social and environmental standards that would apply nationwide.

The Tragedy of the Commons

The vessels of government and public finance we have constructed over a period of less than 200 years to provide for our needs are under stress to meet the dramatically altered needs of a metropolitanized, land hungry society with voracious appetites for energy, food, and raw materials.

We now enter upon a new era in the face of conditions quite different from those that existed when our great, great grandfathers conceived the Constitution, developed our states, and marked off the boundaries and powers of our local governments.

While their efforts were undertaken in the context of an awaiting continental abundance of virgin resources, ours now seem to be constrained by potential scarcities not just national, but global in magnitude. The issues that now face us arise from the dawning perception that we must find ways to constrain and manage the distribution of economic and population growth to comport with the limits of energy, food, materials, land, water, and clean air available to us. Today's questions arise in an economy and polity that has matured into a very different commonwealth from the land of yeoman farmers envisioned by Thomas Jefferson — a land of

metropolitan people who for the most part are engaged not so much in the production of food and fiber and goods as in the consumption of goods and the provision of services to each other.

In the judgment of many, we are living what Garrett Hardin has chosen to call the "Tragedy of the Commons!" If a community has a common green upon which all the villagers are allowed to graze their sheep, it is obviously in the interest of every villager to try and graze as many sheep as possible in order to maximize his profit. But at some point, the green can support no more sheep and some new method must be found on the basis of which grazing rights can be allocated.³⁰

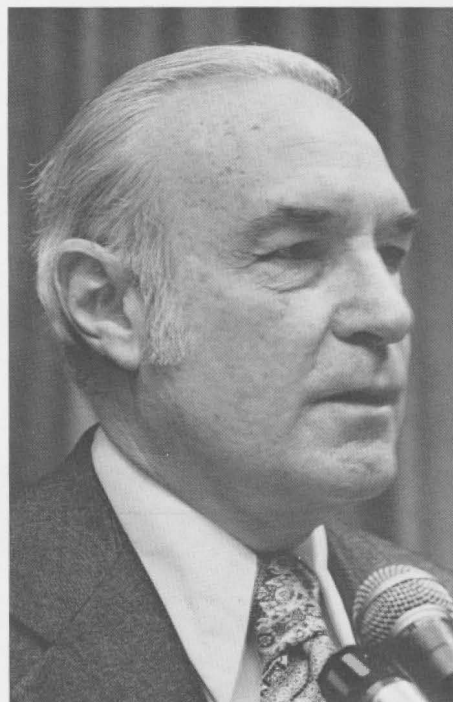
It is on this presumption that many proponents for the development of national growth policy now base their case!

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²⁹Op Cit., "Regional Impacts of Federal Policy."

³⁰Garrett Hardin, "The Tragedy of the Commons," in *Exploring New Ethics for Survival: The Voyage of the Spaceship Beagle* (New York: Viking Press, 1972).

We Took Our Eye Off the Ball



In February of 1975, the institutions of the American nation, and especially its plurality of governments, are the object of more grumbling than at any time in the two centuries of our durable democracy.

"Congressmen Find Voters Back Home Disillusioned and Disgusted," the *New York Times* headlined last Monday, on the transplanted birthday of George Washington and Abraham Lincoln. Americans are sore at inflation, at bureaucracy, at corruption — at too much of it, anyway — at being out of work, and at entanglement in other people's wars.

At the same time, the general opinion of the non-American majority of mankind is generating more international flak at our expense than at any other moment in the history of our international relations. In the recent international meetings about "a new international economic order," we have been accused (by people who have benefited from our bounty and attended our universities) of wasting resources, profiteering on energy, building weapons we don't need, polluting the air and the oceans, feeding our babies too well, consuming too much ourselves, and contributing to the poverty and starvation of others. That there is color of truth in these charges does not make them easier to take: in political polemics, it's the half-truth that hurts the most.

We Americans have a strong penchant for personalizing our likes and dislikes. The Gallic shrug and the Russian cliché that mean something like "It doesn't matter; what can anyone do about it?" have their counterparts in most cultures. In America we want to find a scapegoat and blow our poisoned darts at his person. But governments and leaders can take special notice these days of a new mood: Americans are apparently coming to believe that the problems are too big to be handled by ordinary mortals, which they know their political and executive leaders to be.

That mood in some other societies

By Harlan Cleveland

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has produced a turn toward men on horseback — usually updated by the use of armored cars. But in the nations such as ours, where people have gained the habit of thinking for themselves, the wide angle frustration has some chance of producing a thoughtful introspection. The *Times* interviewed a J.C. Penney executive in Titusville, Florida, about his Congressman. In other times, such a man might have relieved his spleen by unloading on Congress, or the President, or at least a local politician. Not last week. "It's not his fault," said the executive. "It's everybody's fault. We took our eye off the ball."

The beginning of wisdom is here: We took our eye off the ball. A sense of destiny — a shared feeling that we knew where America was going and what it was supposed to mean to a watching world — held this nation together for 187 years, provided the social energy to develop a continent and become the citadel of business enterprise, the opportunity culture, the polity of rapid and mostly peaceful change. A special sense of mission — a manifest destiny about what it is to be an American — had been part of our popular morale and our political leaders' rhetoric ever since John Winthrop observed in 1630 that, because the colony of Massachusetts would be "as a city upon a hill," she would have to conduct herself, under the scrutiny of the world, according to the highest ideals.

But beginning about a dozen years ago, a succession of traumatic experiences, seeming denials of what Americans thought they meant to do and to be, have greatly weakened this sense of destiny. Three political assassinations, our first unwinnable war, an unprecedented White House scandal, the quite sudden sense of being unsafe on familiar city streets, the collapse of the dollar as the world's key currency, the visible damage of industrial growth to the environment, the new fusion of recession and inflation, sudden shortages of food and oil, and the frustra-

tions of global politics in a disorderly world — each by itself might have provoked an orgy of national selfdoubt. Coming together, they produced something like a certainty: that the strength and reach of American power, far from spreading our traditional values overseas, did not even ensure their protection at home.

One way to get our eye back on the ball is to think hard about what government is for. One high official who resigned from a White House job, early in the first Nixon Administration, complained afterwards that he had never sat in a meeting in which the question under discussion was "Why?"

You have been considering how our federal system can be made to work better, which is to say more equitably. Let's not forget to ask "Why?" and "For whom?"

Search for Equity

The search for equity is a big part of the story of civilization. And in modern times, a desire to be treated fairly seems to be the engine of change, the spur to upward mobility, the object of revolutionary violence, the stuff of political leadership, the drivewheel of public administration.

Any organized society must therefore be judged by whether and how it serves the most basic needs of the human person. What are those needs?

Once upon a time, with a group of young colleagues in the Washington of a generation ago, I tried to figure out what I thought were the basic needs of modern man. Let's see if they are helpful in the contemporary context.

- *A sense of welfare* — a minimum standard of "enough" in material living. How much is enough would of course vary from society-to-society and from time-to-time. But at any moment in any society there could exist a practical consensus on a minimum standard. . . . Minimum

wages, unemployment benefits, and legislative definitions of the poverty line are contemporary efforts to quantify "enough."

- *A sense of equity* — the individual's feeling that he or she is being treated justly, not as measured by some ultimate or universal standard, but as compared with the treatment accorded to other persons in comparable situations.
- *A sense of achievement* — the individual's feeling that the group of which he or she is a part is making progress in some generally accepted direction. For people in organized society, high morale seems to depend not so much on what goals people choose as on their shared feeling of movement toward them.
- *A sense of participation* — in deciding what those goals will be. Modern man (of whichever sex) needs to feel that he has some control over his own destiny and can influence the basic decisions on which his welfare, equity, and achievement depend.

This enumeration of the needs of modern man assumed an awareness by the individual of his interdependence with society. It implied that he cares about his destiny and would not passively accept what fate or the gods or foreign rulers or his own family had provided in the way of environment. This is of course a comparatively new state of mind for most of mankind, dating in the West from the Renaissance and the Reformation, spreading to the East through colonial governors, navies, armies, missionaries, traders, and reformist politicians, all of them from different motives stirring up ancient societies by providing new wants to want and an exciting presumption of change.

The basic needs of citizens in any society can, of course, only be measured in the light of their own expect-

“You have been considering how our federal system can be made to work better, which is to say more equitably. Let's not forget to ask 'Why?' and 'For whom?'”

tations, in their time and place. Words about desirable values work the way the United States Constitution works — old words acquire new meanings as they are applied to new situations. When Americans were poor, "welfare" tended to be quantified in dollars and calories and square feet of living space. "Equity" focused on fairness in apportioning material things. "Achievement" was measured by rungs on an income ladder. The urge for "participation" was to be fulfilled in decision making about economic status and opportunity.

But in our latterday affluence, "welfare" extends beyond the quantity of groceries to the quality of life. "Equity" picks up meanings in race relations and political arithmetic. "Achievement" is reinterpreted to include life styles in which success cannot be measured in dollars or political power. "Participation" broadens out to include many kinds of community cooperation and international consultation that used to be reserved for businessmen and lawyers from early arriving ethnic groups, and for professional diplomats.

Still, the people's question about their institutions is the same: How well do the institutions provide for the people's basic needs, as they see their basic needs?

Social fairness

One durable American idea about our institutions — one of the balls we took our eye off of — is the usefulness of checks and balances, the desirability of devices that prevent any one person or group from gaining too much advantage at the expense of others. Five kinds of social fairness are overdue for attention in our federal system.

Equity between and among individuals has been the subject of much lip service in the courts and schools of the law. Procedures in courts are supposed to reflect "equal justice under law"—and increasingly do

so now as the non-white and the poor are beginning to be better represented in legal process. But we are still primitive in our efforts to express in law and practice the rights of individuals to the use of what they can only own and control in common — clean air and water, safe streets, uncluttered living space, honest dealings with each other — and the right to a minimum standard of privacy in the age of bugs and computerized dossiers.

Equity between individuals and organizations has long been unbalanced; civilization has "advanced" by favoring organizations, by treating them as people — and then relieving the real life people who make the organizations' decisions of their personal liability for their actions. The doctrine of a corporation as a person, born by an act of public incorporation which seems to have less and less to do with ensuring public responsibility, has to be high on any list of obsolescent clauses in the social contract.

Equity between "private" and "public" organizations was unbalanced for too long in favor of private organizations performing public tasks without representation or public review. From time to time, some scandal or outrage would produce a *Public Utility Holding Company Act* or a Securities and Exchange Commission. But this kind of ad hocery is no match for the sensitive and important issues involved, for example, in the current deadlock of environmental and energy production interests. The balance has now been redressed somewhat by a vigorous private environmental movement and the growth of public interest law firms. Now there is a problem of ensuring the public responsibility of private citizens who presume to speak for the public as a whole; the growing costs of openness are threatening to swallow up its benefits.

Equity between levels of government has been a prime topic in the discussions at the unique gathering we have been privileged to attend here.

No magic solutions are available, but I have a strong hunch that a growing proportion of the public business is going to leak out of the national level of government — some of it into international institutions, and a great deal of it into regional, state, and municipal government.

It was sad that the sound rethinking of practical federalism which produced the notion of revenue sharing was distorted by the effort to use it as a disguise for budget cutting in social programs — and sad, too, that the Presidential leadership required to make this good idea also popular was drowned in its own corruptive reach for power. Let's get our eye back on that ball, too: the idea of collecting revenues at the Federal level and spending them in more decentralized ways is worth a better break in a different climate.

Equity between the separable branches of government has been increasingly out of kilter. The claim of "national security" placed most of Congress and the courts outside the charmed circle of those who "need to know" executive secrets. And on a widening range of subject matter especially in foreign relations and military affairs, the "separation of powers" has come to mean separating Congress from the power to make policy.

The new budget setup is a good first step in reversing the flow of power. Other such steps should follow in quick succession, before the lessons of Watergate are mellowed by the passage of, and the dimming of, memories. For example:

- The claim of executive privilege, buttressed as it is by a widespread system of security classification, should be defined more specifically and interpreted more narrowly.
- The White House staff should be defined and established by statute, and its members made accountable "in another place" (Capitol Hill and the courts) for their actions, as distinct from their advice to the President.

- The Comptroller General should be put into business to act, as an agent of Congress, with the full range of necessary powers such as subpoena supported inquiry and prosecution of executive agents in the courts.
- The Supreme Court should be encouraged — or if necessary enabled — to interpret the law in timely fashion through advisory opinions.

International Concerns

Building a federal system in which all parts keep their eye on the same ball and none gets too far offside would be hard enough if the United States could work out its destiny in peace and isolation. But our new effort to make our federalism work for people, and not against them, comes just when most of the major destiny decisions, affecting the life and health and future of every American, can only be arrived at by a complex process of planetwide bargaining.

So a sixth kind of balance our federal system has to seek involves all those other people who aren't Americans and don't want to be, but who also have basic needs and are increasingly insisting on being treated fairly according to their concepts of equity. The most important ball to keep in view is the biosphere.

Each of us has to face it now:

Present trends in population growth, urban immigration, inflation, unemployment, food production and distribution, energy supply and demand, pollution of the air and of inland and oceanic waters, military technology, restrictive ideologies, and inward looking nationalisms, all taken together, are clearly adverse to the self-fulfillment of nearly all human beings, and to the survival of a very large minority of the human race. These problems are so inter-related that action on any of them requires thinking about all of them. Even if commenced now or soon, the reversal or control of these trends

will require enormous changes in attitudes and styles of living and will also require a generation of time — say, the rest of the 20th century. Meanwhile, shortages and the desperation and rivalries they intensify will provoke acute conflicts. The arms available for use in these conflicts, which are not only conventional and exotic military weapons, but also economic and monetary and psychological and biological and meteorological weapons, will no longer be available to an oligopoly of a few so called "powers."

Somewhere near the center of these multiple conflicts will be, as always, the ancient confrontation between rich and poor. Somewhere near the center of a strategy for survival and beyond will be a planet sized bargain that promises to define and provide basic human needs, and promises to keep advanced societies from advancing past prudent limits in using scarce resources — to protect the only biosphere we have.

One thing is certain about the global politics of the future: the United States of America will be there. Perhaps you recall what George Bernard Shaw said when a young reporter asked him "How do you make a play?" It's simple, the great playwright replied. In the first act the man says "I love you," and the woman says "I adore you." In the second act the man says "I love you," and the woman says "I adore you." And in the third act the man says "I love you" and the woman says "I adore you." But how can you make a play out of *that*, the young man wanted to know. It's simple, said the old man. In each act the man is the same, but the woman is different.

The drama of world politics keeps changing — Korea, Vietnam, Sinai; oil, food, money — but the United States of America is on stage in each act. In the political bazaar where the planetary bargains are struck, Americans will be found bargaining in every boutique. Moreover, there is a new condition of international

order — not just faraway negotiators, but whole populations are part of the scene. The collective behavior of individual Americans may indeed largely determine whether the environment's "outer limits" are irreversibly breached, and whether "minimum" human needs are met worldwide.

No one who sat in line at a filling station in the fall of 1973 can doubt the intimate interconnection between faraway causes and highly personal effects. What is in doubt is the willingness of Americans to adjust their personal habits for faraway reasons — we have done so on a national scale only in wartime.

We can tell that our willingness is in doubt because so many American political leaders still calculate that we are not prepared to do what they say in speeches needs to be done. They don't think we are yet willing to conserve fuel, limit our appetites, revise our economic expectations, or care enough about starving foreigners to rescue them. (Other nations' leaders similarly doubt their people's capacity to cope. The government of India is still reluctant to concede that food supply and population growth are disastrously out of balance.)

Coping with interdependence begins with wide public understanding of the need for adjustments in practices and policies we Americans have long regarded as essentially private, personal decisions — how much to buy, what to eat, how fast and far to drive, how many children to have, whether to pollute, what to produce and sell, how hard to work, what to aspire to.

Our capacity to rise to the occasion is partly a function of education — what we learn about the realities of interdependence in school and college, from the media, and from each other. It is also partly a function of leadership. Americans were vaguely aware in 1947 that things were dangerously awry in postwar Europe, but it took a stunning act of leadership, the Marshall Plan, to convert

that general knowledge into a 1948 plan to do something decisive about European recovery.

But today, the prospects for mankind cannot be transformed merely by the efforts and enactments of political leaders. The complexity of our predicament is such that no person or small group can be effectively in charge, so all of us find ourselves partly in charge. The new requirement is for whole populations to develop the personal sense of direction, the world outlook, the feeling of individual responsibility for the collective outcome, which only a few leaders, educated in elite institutions, used to need.

Is it unrealistic to suppose that millions of Americans can change their minds about growth, about diet, about energy use, about family size, about productivity, about the very purpose of life and work?

Of course it isn't. Consider the rapidity with which we are all becoming aware of the new limits — an "upper limit" to warfare which the weapons of frightfulness have brought about, an "outer limit" to the physical capacity of our globe to sustain human life, and a potential "time limit" on the very existence of the human race: we are the first generation which knows that it is literally possible for our grandchildren or our great grandchildren not to be there at all.

We can change our collective minds in a hurry, it seems, when we know we need to. Who would have thought, in the 1950s, that attitudes toward population growth would bring the United States below replacement fertility rates by the mid-70s? Who would have predicted the charisma of the environmental movement? Who would have thought that a war could be stopped, not by winning or losing it, but by a decision, starting at the grassroots, that it just didn't any longer make sense?

Yet these rapid changes in personal philosophy and social action have come about in a decade or two, often under pressure from the young,

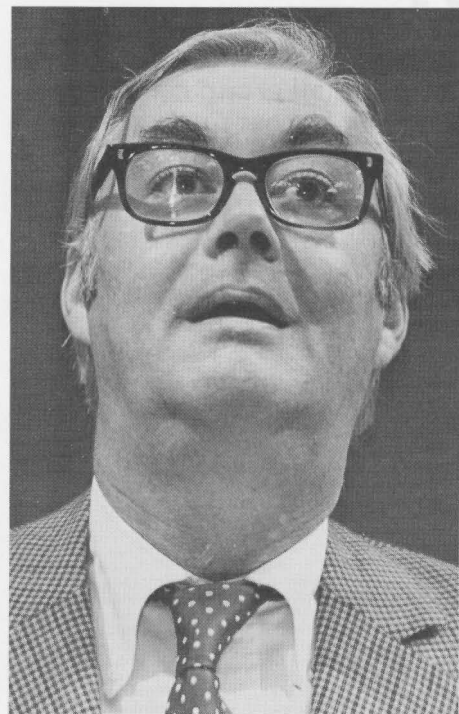
without much help from our major public and private institutions — national or local governments, corporations, trade unions, professional societies, churches, schools, and colleges. American higher education, for example, has only recently been discovering the relevance to general education of family planning, the assessment of environmental impacts, the systematic analysis of conflict. How much faster could we adjust if colleges and universities and other "leading institutions" were leading, rather than following, their students in responding to the imperatives of interdependence?

So the capacity to cope with interdependence is there, in our impressively adaptable human nature. But it has to be energized — in the United States and in other nations — by a new kind of leadership. The best of the leaders that emerge among us in the next few years will be those who understand that narrow nationalism can be popular at the same time that it is inoperative.

Charlie Brown is right, for most cases, when he says that "No problem is so big and complicated that it can't be run away from." But the humanistic management of interdependence is the exception to his rule. It is not in the American character to shrug and declare even the biggest problem insoluble, or up to some one else to tackle. As Charlie Brown also said, "There's no heavier burden than a great potential." And the United States of America still has the world's greatest potential — if we keep our eye on the ball.

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“The complexity of our predicament is such that no person or small group can be effectively in charge, so all of us find ourselves partly in charge.”



Social prediction is the measure of social science and is deserving of more sympathy and guarded respect than it has perhaps received from the putatively practical world. This latter point may be put in stronger terms. It was said of the British in their imperial days that they insisted on respect but would settle for fear. The social sciences are in no position to set the terms on which they will treat the great world which is their subject, but, the extent to which that relationship is influenced by friendly or hostile attitudes and expectations on either side ought not to be underestimated. As social science becomes more technical, and hence less accessible to lay persons, the scientists are either going to be taken seriously or they are likely to set about casting all manner of evil spells in the form of forecasts of folly, futility, and ruin which are at once too concrete to ignore and too complex to refute. Is it not, for example, now to be expected that those who were abused in the 1960s for their findings of the relative weakness of various forms of social intervention will, in the 1970s and 1980s, repay their detractors by systematically dismantling the assumptions on which the politics of intervention was based during the middle third of the century? Rejected as establishmentarians — which they had thought themselves to be — they were probably now to become systematic subversives.

As there is enough subversion, I would like to propose a more friendly scenario, contending that mutual respect is possible and fear need not too much intrude itself into the relations between those who manage the society and those who study it. In 1974, I published a book entitled *Coping: On the Practice of Government*. My theme was that in public affairs a certain, limited, prudential foresight was possible, and much to be encouraged.

Intelligent observers can with effort acquire a sense of how political issues of the moment will

work themselves out: the limits, the probabilities. A corollary exercise seeks to form a judgment as to which relatively quiescent situations of the moment are likely to become political issues of the near future. It is no great feat. In a chess master it involves considerable intellectual elegance, but politics is mostly checkers. It is no great thing to estimate the various possibilities for the next move but one.

In evidence, I submitted 22 essays written over a dozen years, asking, in effect, had these not demonstrated some predictive value. The book was on the whole well received, but this theme was quite ignored, at least by reviewers. And yet I would rather have learned that my predictions were quite wrong than to have had my attempt at prediction quite ignored. Maurice Cranston has said of politics that it is first of all an argument about values, and second of all an argument about the future, or, more narrowly, "about the future consequences of proposed lines of action." I will contend that the second set of arguments affects the first more than is generally seen. A society that is increasingly bewildered by arguments about the future is likely to find itself opting for values which emphasize certainty rather than chance. It is in this sense, for example, that socialism represents a kind of failure of capitalist nerve. As I shall contend elsewhere, the ironic effect of the beginnings of knowledge about social systems is for there to be a considerable increase in perceived ignorance: hence also an increase in the demand for greater certainty. All of which may well account for the general retreat back from freedom into regulation which is the curious seeming cycle of modernity. If this is only speculation, it concerns a significant enough subject to warrant attention to the proposition that we may be underestimating our ability to forecast.³¹

Under the circumstances, I would like to persist in the perhaps hapless

cause advocated in *Coping*, undertaking here to examine the rather more formal predictions concerning American federalism which I prepared for the American Academy of Arts and Sciences Commission on the Year 2000 of which Daniel Bell was chairman. My short study was completed almost a decade ago.³² There have been considerable events since, including most importantly the advent of general revenue sharing, a measure which will soon require reauthorization, which will occasion considerable debate in both specific and general terms. I will contend that in the main these events could have been and were anticipated, from which it follows that American federalism has been following a fairly regular course which will not easily be reversed, or even very much diverted.

A note on method, or the absence of it, is in order. Fred Charles Ikle, in the volume of *Daedalus* in which the commission reports were published, noted that some predictions can be based almost exclusively on logical truths. Thus it may be said that if the birth rate in the world today does not go down, the death rate must go up. Other predictions are "based primarily on induction" (with the assistance, if we are lucky, of theories and laws).³³ Obviously most social science predictions are of the latter variety, there being but few logical truths about society from which deductions can be made. Nor are there many theories or laws which inspire great confidence. The predictor depends on the persistence in the future of regularities observed in the past. This mostly means extrapolating trends, but not always or only that. Dialectical oppositions appear with a formidable regularity all their own, but that too is the point. There is a regularity with which some trends continue, and

others produce the very opposite trends. Spotting the difference is what much of prediction is about.

Commission on National Goals

Prior to the convening of the Commission on the Year 2000, the most ambitious official effort to enquire into the future of federalism was the President's Commission on National Goals, established by President Eisenhower, which published its report in 1960. The commission desired to "ensure the dispersion of power" — it endorsed the concept of "shared power" as the "key to the miracle of effective democratic government of a vast and diverse country" — and implicitly recognized the trend otherwise by calling on an "increase in the financial resource of state and local governments." The president of the AFL-CIO dissented from this general position, contending that the report at best "grudgingly recognizes the role and responsibilities of the Federal government and, when it does recognize it, sees it only as a last resort." He wanted the "superior resources of the Federal government, collected through fair, equitable, and progressive taxes and administered through a truly democratic structure . . . more greatly utilized." Mr. Meany, then as now a man of forceful views, was possibly a bit severe on his colleagues. They were if anything rather in advance of their time, and its administration, in advocating greater Federal activity. (I will distinguish later between advocacy and practice. The Eisenhower administration did its share of centralizing, as did all the others of the middle third of the century.)

Morton Grodzins was a consultant to the Eisenhower Commission on National Goals and prepared a paper for it. He was not unsympathetic to local government, but I believe it is no disservice to the reputation of a great and original scholar to say he viewed local government in the conventional terms of the time, which is

³²Daniel P. Moynihan, "The Relationship of Federal to Local Authorities," *Daedalus* (Summer 1967).

³³Fred Charles Ikle, "Can Social Predictions be Evaluated?" *Daedalus* (Summer 1967).

³¹See Daniel P. Moynihan, "Science Introduces Ignorance," *The Public Interest*, forthcoming.

to say that it was the natural preserve of conservatism in America. This would not, of course, have been the liberal view in Jefferson's time, and one may speculate whether in the interval local government had changed or liberals had changed. The view, in any event, had emphatically changed. Consider Grodzins' list of the influential voices that help shape policy at that level of government: "the Rotary club . . . the city council . . . the Chamber of Commerce . . . the mayor, . . . eminent citizens . . . political bosses." Only the latter was likely to have been a man of the people, and it was the fashion of academe, then and now, to have grave doubts as to whether men of the people ever truly desire the good of the people. In a word, none in Grodzins' catalogue could be expected to bring his influence to bear for progressive purposes. He was in any event a political scientist and tried to see power for what it was — and in this case where it was. He saw which way it was moving in the federal system: "in the balance of strength between the central and peripheral governments, the central government has on its side the whole secular drift towards the concentration of power."

As a man of intellectual vigor, he was bemused to the point of acerbity by the foreordained futilities of the succession of commissions established by Presidents Truman and Eisenhower to reverse this trend — the First Hoover Commission, the Second Hoover Commission, the Kestnbaum Commission, the Joint Federal-State Action Committee. (The latter was not strictly speaking a commission, but it evolved into one, the Advisory Commission on Intergovernmental Relations.) Each, in varying degrees, had worked to "separate

functions and tax sources." A political scientist knew that this would not happen. His summation of the prospects for enactment of the proposals of the Joint Federal-State Action Committee would have served for its predecessors as well: "None of them was, none has been since, and none is likely to be." (A scholar, having assured a patron that his most cherished beliefs were nonsense need not rub it in, but Grodzins could have noted that President Eisenhower, for all his fondness for commissions, went ahead with the interstate highway program, the largest public works program in the history of the world, a program which put a Federal stamp on every state and every urban area of the nation. Nothing comparable has occurred since. Mind, we should not dismiss the possibility that somewhere at West Point or somewhere along the line, Ike had learned that if you mean to charge ahead—or bulldoze ahead—with your left flank, it is well to feint with your right.)

Grodzins was in favor of getting state governments to raise more taxes — specifically income taxes — by a device similar to that used for legislation enacted during the New Deal, which is to say for the Federal government to levy a tax which would go to the Federal fisc unless individual states enacted identical taxes. He thought the Federal government might make this offset scheme dependent upon periodic reapportionment of state legislatures, a considerable issue prior to *Baker v. Carr*. Obviously he was proposing that the Federal government reform state and local government — not sharing its powers at all, although "shared power" was his term, but exercising them in a decisive and coercive manner. (As, with respect to reapportionment, the Supreme Court was to do only a half dozen years later.) The danger, in his

view, was "that the central government is doing too little rather than too much." He was all for a "mild chaos" in the federal system, but insisted that "The centrifugal force of domestic politics needs to be balanced by the centripetal force of strong Presidential leadership."

What Morton Godzins wanted was John F. Kennedy as President, and of course he got him. And Kennedy, of course, was followed by Johnson. The days of decentralizing were over, or so it was asserted in the symbolic acts of the time. It was simply the fact of the long preceding era of American life that for persons of political sensibility, the state and local levels of government stood for inertia, for insensibility concerning the needs of the time. There was a class bias of sorts in all of this, and a certain inconsistency. (The term "political boss," for example, was clearly pejorative. Yet what that vanished American was accused of was having accumulated enough power in one place to *make* things happen the way he wished them to happen.) Kennedy was not insensitive to either of these deficiencies in the fashionable doctrine of his period and his following. He once got John Kenneth Galbraith to send a letter to *The New York Times* suggesting that the big city bosses had in fact been the sponsors and patrons of much of the progressive legislation of the first half of the 20th century. But this was a minority — one is tempted to say a politician's view. Political scientists such as Roscoe Martin labored hard and not unsuccessfully to demonstrate that the "grass roots" of American tradition were places of formidable *immobilism*, while public servants such as Paul Appleby patiently annotated their own experience that when the argument was advanced that such and such a government program was no doubt a good one but ought to be carried out at the "local level," one could be near to certain that the individual or interest advancing the argument, first, did not think the program was a good one and, second, was confi-

dent that if consigned to the "local level" it would never be carried out.

Nationalization of Policy

It was in this context that I prepared my paper for the Commission on the Year 2000. I asserted that there were four conditions — past events, if you will — which would determine the future of federalism. First was "the nationalization of public policy," an event which followed from the achievement of a genuinely national society. If there were a goodly supply of local problems, I wrote, there were "fewer and fewer specifically local subjects."

Political scientists such as E. E. Schaatschneider had argued that in the American federal system, groups that wanted change with respect to a particular issue of public policy in the main tried to move upwards the level of government at which that particular policy was decided. This was because openness to change was seen to increase as one rose through successive levels of government. In the past, this presumably had been one motive behind the efforts expended on governmental reorganization, notably the consolidation of urban areas. I contended that if local policies were more and more to be set at the national level, there would be less and less of this pressure, save in the area of education, for the translation — to use that word in its older meaning — was still incomplete with respect to some issues, notably race and education. But the trend was irreversible. This meant that state and local governments, and special purpose governments such as school districts, would inevitably be following Federal policy direction in the years ahead. And as a result, in the future, those who wanted policy change would less and less find

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themselves pursuing this objective under the banner of charter reform or metropolitanism or whatever. If you consider the extraordinary energies devoted to such issues in the first half of the twentieth century, it may be agreed that if my contention was correct it marked a considerable change. And have not such movements greatly receded? (Those who argue that ethnic sensibilities have intervened are, in my view, simply being insensitive to the ethnic sensibilities of the past.) In a word, the singular structure and seeming chaos of the American federal system faces no serious challenge in this period. Schaatschneider's law continues in effect in the sense that groups pressing for active social policies much prefer to do battle in Washington. This is logical enough. It is only necessary to fight one battle in Washington: 50 in the states; 236 in the city councils of municipalities with more than 100,000 population. Hence, the AFL-CIO successfully prevented the proposal of revenue sharing when it first "surfaced" under the Johnson Administration; and comparable groups are rather disapproving of revenue sharing today, now that it has been enacted and must be reauthorized. But this seems in part a lag in perception. The policies such groups are concerned to advance are set at the national level and routinely attached to programs of aid to lower levels of government. Witness the quite elaborate provisions concerning civil rights and such issues which were attached to the *State and Local Fiscal Assistance Act of 1972*.³⁴

The point to stress is continuity in a trend. If Congress attached civil rights conditions to revenue sharing, it also attached the *Davis-Bacon Act*, that monument to the propensity of the Hoover administration to subvert the independence of local government by bending to trade union pressures in Washington. This act, it will be recalled, requires local governments expending Federal funds to pay "prevailing" rates of wages. A random survey of comments on

revenue sharing by local government officials suggests that the near half-century old Davis-Bacon provisions have had as much or more impact on local practices than their more up-to-date successors.

Rise of Federal Fisc

The second condition I cited concerning the future of federalism was the "rise of the Federal fisc as the primary source of discretionary public expenditure." Convention has it that this is owing to the superior revenue raising potential of the national government, and it does seem that this is the *de facto* condition. In 1950, state and local government spent 7 percent of the GNP; by 1974, this had grown to only 11.6 percent, excluding in both cases Federal grants-in-aid. By contrast, Federal expenditure grew from 14.3 percent of GNP to 21.4 percent. As a portion of Federal expenditure, grants-in-aid all but quadrupled, growing from 0.8 percent to 3.1 percent. (Note, however, that state and local expenditure as a proportion of GNP increased by two thirds during this period; Federal expenditure increased only by half. None should doubt the vitality of subnational government; but sheer size gives a primacy to the national fisc.)

Much of this, we are told, derives from the greater power of the graduated income tax to generate revenue, and obviously this is in part the case. But states have income taxes nowadays — adopted voluntarily — and in the first half of the 1970s, many experienced substantial revenue surpluses. But few took initiatives associated with expenditures. One cannot easily imagine the equivalent state university systems being built in the years ahead. This is not to deny state initiative. It can be considerable. In the 1940s, for example, a number of states led by New York enacted dis-

ability insurance programs at a time when the Federal government — Congress — was near immune to such thoughts. More recently states, led in this instance by Massachusetts, have adopted no fault automobile insurance well in advance of national action, and indeed, by any reasonable judgment, precipitating it. Policies do rise in the federal system, albeit that few political scientists writing today would call attention, as Grodzins did in 1960, to the number of governors in the United States Senate as evidence of the impact of local concerns on national policy. If pressed, the professor of government today is more likely to suggest that governors are sent to Washington — when they are — to see if they can't get the national government to do something that obviously the state government can't do.

In the mid 1960s, the case that the Federal fisc had become the "primary source of discretionary public expenditure" was certainly bolstered by the then current concern about "fiscal drag" which is to say, the doctrine — for it had a doctrinal air about it — that the Federal tax structure was such that revenue tended to flow in faster than expenditures flowed out, thus depressing economic growth. It was then becoming a point of principle for Federal executives to find new ways to spend money. Those days, for the moment, seem past, but the events that followed seem only further to confirm the assertion that initiatives now come from Federal funds, for we see that when revenues run out, the Federal government cheerfully and consistently incurs a deficit. The deficit, for fiscal year 1976, as an example, is likely to be almost as large as the whole of John F. Kennedy's budget.

Federal Grants-In-Aid

Third, I asserted that "the tradition of decentralization and the fact of federalism is greatly inductive to the grant-in-aid as the principal form of

Federal expenditure on domestic programs." Certainly there is no evidence that this is to be anything but an enduring aspect of federalism. In 1969, as Assistant to the President for Urban Affairs (a post, as I have written, which I was the first to hold and hopefully will prove to have been the last), I was associated with the proposal of the two more important measures affecting federalism of the post war era: a Federal guaranteed income and Federal revenue sharing. The distinctive quality of both these measures is that they were not grants-in-aid. Family assistance, as it was known, would have provided income directly from the Federal government to the individual. Revenue sharing was to be without strings. These measures, it will be recalled, were proposed jointly in a Presidential address in 1969, along with a third measure to greatly devolve the Federal administration of the manpower programs that had grown up in the 1960s. There was a harmony to these measures taken as a whole, and a certain theory of government behind them. On the one hand, the Federal government was giving money directly to individuals, to do with as they liked. On the other hand, it was giving money to state and local governments to do with as they chose (given compliance with constitutional mandates about non-discrimination). Simultaneously, and in between these opposite actions, it was giving state and local governments more say so about a large set of programs recently launched in Washington. The idea was to increase the options both of individuals and of institutions. Yet the proposals were only partially successful. The general guaranteed income twice passed the House; but in the end, the Senate would not have

³⁴The Revenue sharing bill: the contention will be made that these provisions are not rigorously enough adhered to, and such a contention always deserves a careful hearing. Yet in the large, the fact of Federal conditions is the important one. Imagine such provisions being attached to the *Surplus Distribution Act of 1837*, when Congress divided up a Federal surplus and distributed it to the states. No strings were attached to what the states might do with the money, and indeed one state divided its share and distributed it to its population.



“Participation in government is a good which Americans actively seek, especially as they become more educated and have more discretionary time and resources.”

it, or rather would not risk voting on it. (A guaranteed income of sorts, the Supplemental Security Income program, was, however, established for older and disabled persons.)

What is called revenue sharing was enacted, but not as an automatic pass through of a certain percentage of Federal revenues to other levels of government. Rather it emerged as a fixed annual appropriation to be distributed for general use, but with eight “priority expenditure categories” in the “operating-maintenance” area, and another such list for “capital expenditures.” The change in the manpower programs was more successful, but it was always contemplated that this would remain a grant-in-aid program. And so at most a partial success may be claimed, and even that is not certain, for in the process of considering welfare reform, Congress added all manner of gratuitous and even onerous conditions to the continued receipt by state and local government of Federal grant-in-aid for the relief of needy persons. I would thus testify from experience that the tenacity of the grant-in-aid procedure is as formidable or more so than that which I described in 1965, adding only that Morton Grodzins was wholly correct in identifying the Congress as the primary advocate, and presumed beneficiary, of this arrangement. Then as raises the money spend it: preferably in discrete amounts that may be announced regularly, district-by-district. And that is about all there is to say on the subject, save to note the periodic seizures of real or feigned alarm at the growth of centralized power which result in predictable — and short lived — schemes for consolidation and decentralization. In this connection, I wrote in 1955:

This maze of programs will produce periodic efforts to collapse activities into larger, more general categories, but the process is likely to be one of alternating prolifera-

tion and consolidation, and the grant-in-aid will persist.

Citizen Participation

The last of the conditions I posited for the future of federalism was perhaps a more novel one and may even now find difficulty of acceptance. I wrote that “the diffusion of the middle class ideal of participation in public decision making will add a considerable and, in a sense, unanticipated utility to the complexity of the American government structure, which requires such great citizen participation to operate.” This was an assertion more or less directly opposed to the critique of American federalism that underlay three generations of government reform movements calling for the installation of professional city managers, metropolitan consolidation, and such like measures of rationalization. In effect, I stated that participation in government is a good which Americans actively seek, especially as they become more educated and have more discretionary time and resources. Obviously this has proved so. Especially in the later 1960s, far from seeking to simplify federalism, Washington actively engaged in creating whole new layers of governments, semigovernments, paragovernments, and even antigovernments. No single event was as revealing, perhaps, as the creation of the community action programs in the “War on Poverty” where participation was viewed openly as a therapeutic: not only a right, but a remedy. It was prescribed for the poor. This development took on considerable dimensions. Witness the extraordinary fall out of the *National Environmental Policy Act of 1970*. All of a sudden, the most seeming simple acts of government became subject to the most exhausting scrutiny by citizens who chose to concern themselves

with the matters at hand, and formidable numbers chose to do so. A further event occurred in 1973, when the U.S. Supreme Court ruled that citizens had legal “standing” in court on environmental issues affecting the public as a whole, and as such could sue.

There is of course a price paid for this. After asserting that participation would become an ever more valued product of government, I wrote in 1955:

This is not to say that government will become more efficient as the “quality” of the electorate improves and the proportion of persons taking an active part in public affairs increases. The opposite might well be the case: the more persons involved in making a decision, the more difficult it becomes to reach one.

This process is cruelly in evidence in Cambridge, Massachusetts. A decade ago that community, acting for, and in a sense with, the nation, resolved to build a memorial to John F. Kennedy to be associated with Harvard University. A decade later it is clear the project is all but dead. It has been killed by citizens exercising powers and acting for organizations that scarcely existed when John F. Kennedy came to the Presidency and vowed to get America moving again. Well, his memorial never got moving at all.

Were I rewriting my 1955 paper I would, if anything, expand the emphasis on participation as a product of government, noting especially its importance in a multiethnic society such as ours. The symbolic importance of representatives of ethnic groups attaining elective or appointive government office has been but little studied.³⁵

And, of course, these events are substantive as well. And here once more we see the utility rather than the disutility of complexity in the American federal system (and, similarly, the division of powers within any given

level of government). There is no ethnic “group” that can’t find some office to which one of its members can get elected or appointed, if it so desires. Most find many, or at least a sufficiency, and some, at a certain point find a veritable plethora. Here again one encounters a further unsuspected utility. The diffusion and complexity of government power in the federal system is such that few offices are that important. Hence, the process of ethnic succession is eased. Those “in” do not that much mind stepping aside for those “out.” The “ins” know that not that much is at stake, really.

Those who might tend to underestimate the value of this opportunity rich system may wish to contemplate the hard history of Northern Ireland over the past half century. A perfectly democratic system has been in place there, but it has been a British democratic system, which is to say a unified system in which the majority in Parliament possesses all power, sharing it not at all with the minority. This works well enough — some say it works incomparably well — when there is a recurrent transfer of power as broad based political parties win and lose their parliamentary majorities. But in a situation of confessional parties — ethnic parties — of which one possesses a numerical majority, under a British system the ins are always in and the outs are always out — and the outs have nothing. Consider and contrast the profusion of offices and, indeed, of powers, which a political minority can obtain under the American system, especially where that minority is a majority with respect to a particular unit of a multilayered government such as a county, or a city, or even a ward! Certainly the years since 1965 have seen this process dramatically at work. Federalism makes for an opportunity rich politics. This includes opportunities for new groups to enter the active part of the political system. More accurately stated, it came to seem important to educated and higher class groups who in the past had

³⁵See Daniel P. Moynihan and James Q. Wilson, “Patronage in New York State,” *American Political Science Review* (June 1964). Also, Nathan Glazer and Daniel P. Moynihan, *Ethnicity: Theory and Practice* (Cambridge, Harvard University Press, 1975).

tended to deplore it in the working class politics of the great cities. But the politicians, as one of them put it at the turn of the century, had only seen their opportunity and taken it. In this case, it was the opportunity to build coalitions by taking advantage of the profusion of offices under federalism to reward ethnic groups. Now in the 1960s, this practice came rather to be celebrated by those who had previously deplored it. One may make bold to say that those whose avocation it had been to improve American government commenced to learn something about the techniques that keep it from collapsing. Thus, having a decade ago, set forth these conditions in which it seemed the federalism of the future would develop — as seen in the perspective of the Commission on the Year 2000 — I then made bold to announce "Six Themes for the Last Third of the Twentieth Century." Let's look at how these hold up, not quite a third of the way through that third.

I. Wedding Cake Federalism

Varying the image of "marble cake federalism" which several political scientists used to describe as the mixing up of functions between the putatively separate levels of the federal system, I contended that nonetheless "a multitiered system of bureaucracies and government activities" was assuming permanent shape, surmounted by the person of the President (and increasingly the person of the First Lady as well). This pattern holds: it even becomes more pronounced as the growth rates of expenditure and employment at the lower levels of the federal system continue to be generally greater than those higher up. From 1950 to 1974, as noted, Federal expenditure as a proportion of GNP increased by half, but that of state and local governments by two thirds. In 1973, Federal employment, excluding defense, was 1.7-million. State employment,

excluding education, came to 1.7-million. Local employment, excluding education, 3.6-million; state and local education accounted for 5.7-million. Since 1960, Federal employment has increased by a quarter to a third; state employment has gone up by half; local employment has gone up by two thirds. Education employment has doubled. In the future, we may expect that Federal funds will play a yet increased role, but also that this wide at the bottom, narrow at the top pattern will also increase. It is at least likely that government under a variety of pressures will increasingly be in the business of deliberate job creation. Presidents at the top of the system will want this policy, but they will want the results to show up at the bottom of the system. As we run out of school children, for example, we will find ourselves creating another year or two of school — "pre-school" — which will provide jobs for teachers. The money will be mostly Federal: the jobs mostly local.

II. New Varieties of Government

Because, I wrote, "multipurpose metropolitan government is not likely to emerge, special purpose governments are likely to multiply." There is no census of special purpose governments, and so no hard data come to hand on this point, but other evidence suggests that the trend continues. In this respect, I wrote that "the lines of authority and communication within the federal system are more likely to assume a triangular form in which each government has direct relations with the other two clusters of public activity." Here we encounter the overwhelming case of revenue sharing. In their fine new book, *Monitoring Revenue Sharing*, Richard P. Nathan, Allen D. Manvel, and Susannah E. Calkins show that revenue sharing as first proposed in the 1960s was a scrupulously proper Federal program: one level of government would assist the level immediately below it, and that would be that.³⁶ But, they note, as the discus-

sion continued into the late 1960s, both Walter Heller and Joseph A. Pechman, along with the Advisory Commission on Intergovernmental Relations, advocated that "any revenue sharing arrangement should specifically direct a portion of the funds to principally urban local governments." A cutoff point of 50,000 population was thought reasonable, involving fewer than 800 jurisdictions. In 1969, when revenue sharing was first actually proposed, this was the outcome contemplated. But in the end, a far more detailed system was enacted. Two thirds of the shared revenue went to 38,000 local governments. Nathan and his colleagues assert that

it seems likely that only a minor fraction of all the local jurisdictions that now receive shared revenue had ever before received grant funds directly from the Federal government.

In all, they conclude, the measure "departs much more substantially from traditional American federalism." I would only add that it does not at all depart from the second theme of my 1965 paper.

III. Metropolitanism in Education

Education (and educators!) have for long been quite the most flexible level — or function — of the federal system, expanding, contracting, multiplying, diminishing, from one generation, even one decade, to another with unmatched adaptability and, one may say, grace. In the main, the trend has been to fewer units and larger jurisdictions. (President Hoover's Commission on Recent Social Trends noted that in 1926 there were 25,000 fewer public school buildings than there had been in 1916). In 1965, I suggested that despite a growing interest in "decentralization" in "very large urban districts" there were still gains to be had from further mergers.

In the event that no significant measure of integration occurs in housing in the near future, there are certain to be growing demands

to bring an end to the racial isolation of Negroes in public schools by establishing metropolitan school districts that encompass both the central city Negro areas and the white suburbs.

Clearly I was wrong here in the sense that such a movement is not notably in evidence. Instead, a somewhat different movement developed, that of busing for racial integration, but withal a movement directed specifically to this issue. Busing has encountered opposition, of course; but metropolitan reorganization always encounters opposition. It may be, however, this opposition will direct efforts back to a more formal metropolitanism. The theme will continue with us.

IV. National Social Accounts

In the middle third of the 20th century, I wrote, with an innocence so profound as to defy embarrassment, "the most powerful development in government was the emergence of a political economy capable of comprehending, predicting, and directing economic events." I proposed that the most powerful development of the last third of the century would be

the emergence of a social science coupled with and based upon a system of social accounting that will give government an enlarged capacity to comprehend, predict, and direct social events. . . . It will be imperfect, but serviceable. In one political climate this may take the form of controlling society. In another it may produce a governmental system more effectively responsive to the wishes of the electorate than any society in history. . . . At present, the social sciences are extremely rudimentary, and the likelihood of a major breakthrough is small. Indeed, the

³⁶Richard P. Nathan, Allen D. Manvel, and Susannah E. Calkins, *Monitoring Revenue Sharing* (Washington, D.C.: The Brookings Institution, 1975).

major discovery of the next generation may be that such developments are impossible. But it is certainly probable that sheer lack of information will have less influence on events in the future than it has in the past, and that will make a difference in outcomes.

This theme has been much in evidence since, although with consequences not everyone anticipated. It was, for example, a practice of optimistic policymakers of the mid 1960s to provide for the evaluation of the social programs then being inaugurated in such profusion. In the main, these evaluations have had a depressing effect. Results were never so positive; never so emphatic as had been hoped for and expected. David Riesman epitomized the sequence: "Innovation and euphoria; evaluation and despair." It should not be thought, however, to be an experience peculiar to the 1960s. It has been with us for some time and will continue to be. Our society has had so much success, it has done so many of the things that can be done, has conducted so many natural experiments that not much that is new is readily discovered or unambiguously desirable. But this need not occasion quite so much gloom as evidently it does. As an example, recently, in the *New England Journal of Medicine*, Joseph P. Newhouse, Charles E. Phelps, and William B. Schwartz published a quite striking study, "Policy Options and the Impact of National Health Insurance." One of their conclusions was, I submit, predictable enough.

*Realistically, then, policymakers must recognize that even a substantial investment in delivery of more health services is not likely to produce any clearly measurable change in any dimensions of health, whether length of life or physical well being.*³⁷

³⁷Joseph P. Newhouse, Charles E. Phelps, William B. Schwartz, "Policy Options and the Impact of National Health Insurance," *New England Journal of Medicine*, Vol. 290, No. 24 (June 13, 1974).

Why could this conclusion be said to have been predictable? Because anyone familiar with the data knows that the United States already spends a very good sum on health services, and that our health in consequence is quite good. Success! Yet, the recent tendency has been to be annoyed by such findings. Alexander at the Indus wept to think there were not more worlds to conquer; and we may yet prove his heirs. (One may speculate whether this frustration is not a source of the relative inability of the United States, and of the West, to evoke ideological allegiance, when far less successful societies such as the Soviet Union do. Is it that being less scientifically developed — and less scientific — they can still think the future holds wondrous things? Chiliastic movements live in the future. The contrast is notable. For half a century new nations have desired a future different from ours. Yet individuals who desire to improve their situation in the present, migrate by the hundreds of thousands to the United States — as many as we will take. How many migrate to the Soviet Union!) But whatever the consequence, social accounting is increasingly an aspect of public affairs in the United States. With respect to government programs, it has assumed a role of presumptive normalcy alongside the financial audit functions of earlier years. We now publish an annual volume of social indicators compiled by the Executive branch: Congress has greatly expanded its staff support in this area; while a small, if nervous, industry of social science firms has grown up to provide design and evaluation services to various levels of government, much as engineering firms earlier on were established to advise on, and design, public works projects.

Still, there is a suggestion here for federalism, or at least I came to think so as these findings began to accumulate in the late 1960s. The case can be made that government activities whose function is well understood are most appropriate to the national

level; whereas the more personal and elusive programs are best located further down where modest success or even, where such is the case, failure is sufficiently fragmented as to threaten national morale, or seem to indict the whole of the social and political system. In days of unambitious government, this was not a subject students of federalism need have given great heed to. But I submit that the experience of the 1960s commands our attention. I would suggest, for example, that the *Voting Rights Act of 1965* — and the social accounting in the form of voter participation data that has followed from it — was a splendid example of appropriate and effective national legislation. The *Safe Streets and Crime Control Act of 1968* was, by contrast, poorly advised. The Federal government knew nothing about crime prevention that was not known at other levels of government, and the record should be clear enough that it has not done much about it. Which is to say that little has happened that wasn't going to happen anyway, except that we are spending more.

V. The Quest for Community

One of the striking themes of the 1960s was the spread of concern about alienation in society and rising prestige of localism. In his book, *The Quest for Community*, published in 1953, Robert A. Nisbet wrote that "Schumpeter, in his great book *Capitalism, Socialism and Democracy*, wrote that one of the flaws in capitalism is its inexhaustible capacity for alienating the intellectuals." Nisbet judged that the situation had got by then to the point where the quest for community, the effort to overcome or prevent alienation, had "become the dominant social tendency of the 20th century."

One could only agree, and the evidence is hardly contrary. One of the curious twists of recent past is that in the 1960s much of the "left" in America adopted many of the traditional positions of the "right," arguing for government close to the people, close to the grass roots, far from corrupting temptations of power. The Johnson Administration said it believed this. The Nixon Administration said it believed this. The Ford Administration will surely say the same. But with small consequence. Nisbet wrote carefully when he suggested that the quest for community would be a dominant theme of the century: a quest as for the Holy Grail. Never ending. In modern societies power concentrates. Indeed it could be argued that in recent years the Federal government, seeking to enhance something poorly understood called community, has in fact impaired something quite adequately understood — namely local government.³⁸ By establishing competing paragovernments with access to local funds and proliferating administrative and court procedures for appealing, protesting, and frustrating decisions of local officials, the Federal government has contributed to the steady diminution of the capacity of local government to act. As this capacity diminishes, the value of this most important of all local communities diminishes also. In 1969, when revenue sharing was first proposed, its most important feature, to my mind, was that no program obligations went with it. One recalls Dr. Johnson asking Boswell to lend him a shilling "not

³⁸A 1975 article on the dispute over the renewal of revenue sharing notes among the objections to it:

That freedom given to mayors and others has prompted part of the criticism of revenue sharing mostly from community organizations that assert they have little or no say on how the Federal largess is used in their areas.

“It is reasonable to expect that the quest for community will continue as a theme in American life and hence in American federalism, and that it will continue as a countervailing influence to centralization and uniformity, a force, as it were, for paradox.”

to be repaid.” This was to be money for local government to spend on things it thought to be significant. Unless important choices are made by local government, local government itself will not be seen as important. But as has been noted, Congress in the end did not choose to set priorities and attach conditions to revenue sharing much as to any categorical program. If, as is likely, revenue sharing adds momentum to the proposal to establish a unified public sector budget for all government, then it would probably have to be judged that the net effect will have been yet further centralization, for surely such a budget implies that increment to central control that seems to accompany enlarged information gathering.

Here, as in so much that attends American federalism, trends seem to run counter, one to the other; outcomes seem always somehow paradoxical. There is no data to suggest that “community” in America is eroded. Statements about community have a certain palindromic quality, running equally well in both directions, for to assert the decline of community is to evoke its persistence, and to assert its persistence is to voice a concern that verges on the acknowledgment of decline.³⁹ The question of religious community is an example. In 1890, 34.4 percent of the American population belonged to a church. By 1965, this proportion had near doubled to 64 percent. By 1972, it had declined to 62.9 percent. What then is happening? Similarly, for all “revenue sharing” extended Federal “controls” to yet more remote reaches of the federal system, in that very process it considerably enhanced the ability of the last 10 or 15,000 of those “general purpose governments” to resist moves to consolidate and rationalize the maze of local jurisdictions that persists in the system. Thus centralization produces decentralization, and the “mild chaos” which Morton Grod-

zins described at very least persists. Further, it is reported by talented writers such as Neal R. Peirce, and studied by scholars of the quality of Daniel J. Elazar at Temple University’s Center for the Study of Federalism. (One may note the welcome appearance of *Empire State Report*, a journal devoted to the affairs of state and local government in New York.) It is reasonable to expect that the quest for community will continue as a theme in American life and hence in American Federalism, and that it will continue as a countervailing influence to centralization and uniformity, a force, as it were, for paradox.

Clearly, however, the power of the Federal fisc can be ruinous in this regard when wielded unthinkingly. Surely the most remarkable form of political community to arise and to persist in America is that of the political party. But what will be the effects of the recent Federal decision to finance Presidential primary and election campaigns? Will party disappear in the turmoil and confusion of Federally financed campaigns, a demise which even David S. Broder in his study, *The Party’s Over*, did not foresee? A political scientist might well question whether anything describable as national political parties will survive this usurpation of function. Perhaps this exaggerates. Hopefully it does. But there is little in the record to suggest that this was thought to be a serious consideration when the decision was made to use public monies for a function which for two centuries had been sustained by private monies. One understands the decision of French rationalists that the state should provide the income of the churches there. Was this a similar decision? Of course it was not. But who considered that it might have a similar effect?

VI. The Rediscovery of the Market

On this final theme I wrote:

As government tries to do more, it will find it accomplishes less. This amounts to the discovery that administrative ability is not a free good, and in the absence of it the best intentioned programs can turn out to be calamities. . . . Moreover, as “easy” problems are disposed of, the more marginal, intractable ones come into prominence, and the return on government efforts manifestly diminishes. All this is likely to lead to what Charles E. Lindblom has termed the “rediscovery of the market” as a means of accomplishing social objectives.

Lindblom had argued that the market mechanism could be serviceable to planned and unplanned economies alike, to both public and private enterprise, and that the discovery of the significance of this “may soon dwarf what we have seen of its consequences so far.” I wrote that “the logic of events is very much on the side of Lindblom’s assertion.”

Now in this I was wholly wrong. Nothing of the kind has happened. More impressive efforts, some considerable, to move policy in this direction did take place in the years after which I wrote — but almost without exception they failed. The most important example was the Family Assistance Plan, surely the most significant piece of social legislation proposed since the New Deal. It would have provided a guaranteed income to the poor, letting them purchase their goods and services in the market, along with everyone else. It almost became law, but it did not. And I will stand by my statement of July 1970, that if the measure were not enacted in the 91st Congress, it would not be enacted in the 1970s. Instead we have had a huge increase of provisions in kind — food stamps — and a continued increase in publicly provided services of various kinds, notably medical services. Other “income strategies” ranging from experimental school voucher

programs to housing allowances have come to little or nothing. To the contrary, government direction grows. One must conclude that the logic of Lindblom’s argument has not been found compelling. I must conclude I have proved mistaken in the last of my six themes for the last third of the 20th century.

Why is this? The most I can say is that my last theme was the only one in which I dared to predict that events would commence to move differently from the way they had been moving. The five first themes were well established at the time I wrote, even though not everyone noticed this, or wished to admit it. The sixth theme was not. I chose it nonetheless — lastly, to be sure — because it seemed to me too good an idea not to change minds. As this has not happened, I conclude that the forces that have been shaping federalism in recent decades are immensely powerful and are not likely to be reversed by anything save a large movement of opinion: not expert opinion, but public opinion. And what are these forces? They are, very simply, the growth of government at every level, in every form; the conquest, in Schumpeter’s term, of the private sector by the public sector. And what movement of opinion might overcome these forces and reverse events? Nothing less than a genuine political and cultural decision by Americans that government — at all levels, and in every form — is large enough and ought not to get larger. (Or even that it ought to get smaller.)

We are just now passing the point where one third of our GNP is accounted for by government expenditure. As he left government after completing the budget for Fiscal Year 1976, Roy Ash noted that over the preceding 20 years that while outlays for direct government opera-

³⁹It is not such an argument, and the matter of fact way in which it is reported, evidence of the degree Washington organized quest for community served to delegitimize local government. Who but the mayor and his council is supposed to dispense public funds? Do they not represent the community? If they do not, who does? How are they to be identified? Of course there is a venerable tradition of the college educated in American cities to assume that those elected to public office are somehow not truly representative.

“In the near future, however, we will continue as we have done: increasing the strength of national governments in the name of increasing the strength of state and local government.”

tions had grown at a rate substantially less than GNP — real defense spending having actually declined — payments to individuals rose at 8.8 percent per year, twice the growth of GNP. On this basis he forecast — or rather he submitted a projection which indicated — that by the year 2000 “government would lay claim to more than 55 percent of the nation’s output . . . even if real defense spending were held constant.”⁴⁰

Now this is not a possibility that occurred to me in 1965, when in the main we were still coming out of that period in our history when it was difficult indeed to induce governments to spend money. To recall, the problem of “fiscal drag” was seen to arise from this propensity not to spend. Has there been some change since? The statistics suggest there has been, and this at least suggests that there can be yet further change. A forecast seems in order. Through the 1980s, the tendency of government to grow will continue of its own momentum, but in the process the political generation that was shaped by the assumption that American government does not tend to grow will be replaced by a generation that from its own — and different — experience knows that it does. The advantage in argument of the late 1950s will have been reversed, with the burden of proof having devolved onto those contentions it will be that government still does too little, and ought to do more. The government interest, of course, will be stronger. Neal R. Peirce writes in *National Journal*:

... between 1955 and 1973, while private industry earnings were increasing 129 percent, Federal employees obtained wage increases of 183 percent and workers in state and local government saw their wages rise 165 percent.⁴¹

To one who was involved in the early Kennedy years in the successful effort to establish the principle of “comparability” in the pay of Federal employees and workers in the private

sector, these are striking patterns. Clearly the old imbalance, if that is what it was, and that surely is how it was seen, has been set right. In forecasting a slackening of the growth of government — barring a corporate statism imposed on us by events from abroad — one does not draw on any rules, much less data. But it is the case, as I believe that within the middle classes, where as James Q. Wilson reminds us, most real political divisions occur, there is a disposition to fair mindedness and balance which was aroused on behalf of government growth in the middle third of the century but which is just as likely to find itself opposed to this in the latter third. Hence, I would judge that well before government is taking half the income of the country, somewhat past the 40 percent point, we will taper off. And at that point issues of federalism will once again assume a true saliency, for we will be discussing the distribution of power and resources in a relatively stable state. In the near future, however, we will continue as we have done: increasing the strength of national government in the name of increasing the strength of state and local government.

If this seems not an especially promising proximate future, one may consider some alternatives. In February 1975, as is the pleasant custom of some duration, a member of the British cabinet happened to be in the United States and came to Cambridge to have dinner with a group of faculty. He arrived in a snow storm, a bit late, and quite baffled by the apparent fact that the taxi driver he had engaged in Boston seemed never to have heard of Harvard University. I took the liberty, another pleasant and enduring custom, of explaining to him that the British were to blame

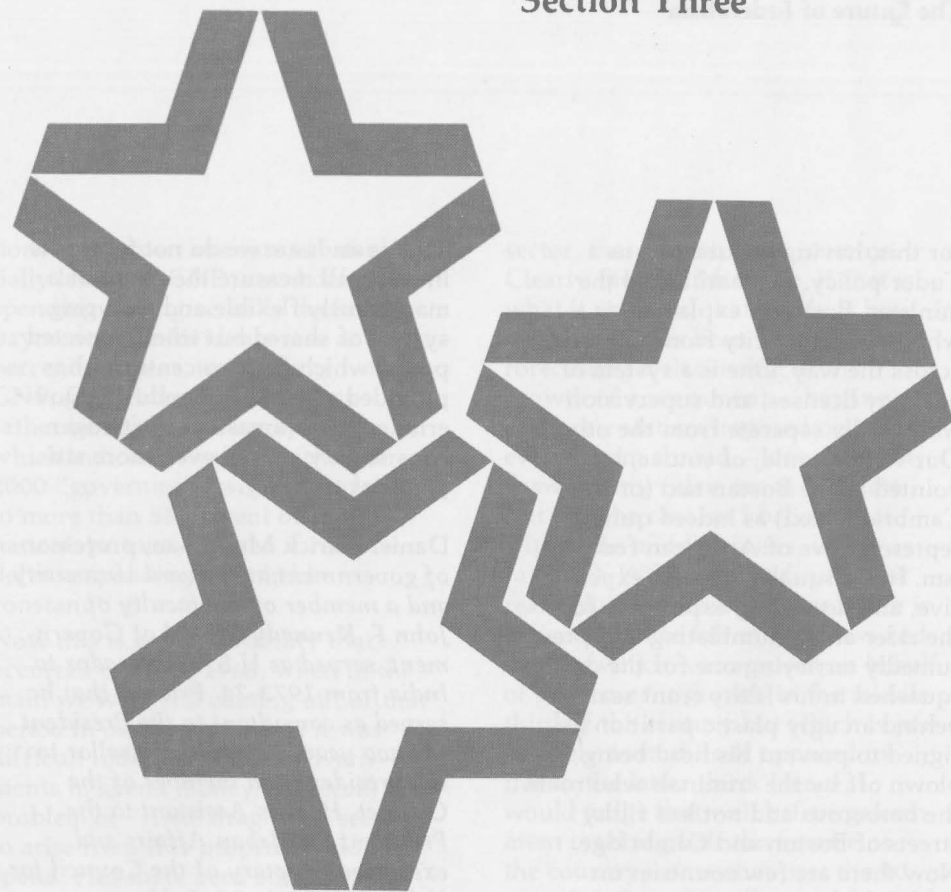
for this, having bequeathed us a Tudor policy. A what? asked the minister. Boston, I explained, is a wholly different city from Cambridge across the way. One is a system of hackney licenses, and supervision was wholly separate from the other’s. Our visitor could, of course, have pointed to the Boston taxi (or the Cambridge taxi) as indeed quite a representative of American federalism. It is a squalid, unsafe, expensive, and degrading experience for the rider and a humiliating and presumably terrifying one for the driver, squashed in his filthy front seat, behind an ugly plastic partition designed to prevent his head being blown off by the criminals who roam the barbarous and not less filthy streets of Boston and Cambridge. Now there are few countries on earth which put up with such failure of government — at this level of government performance — but we do. And this is the price we pay for the government arrangements we have. And yet on the same evening another aspect of American federalism was touched on, if indirectly. After dinner, the minister was being questioned on the prospects for Britain remaining in the European Common Market. He discussed these with knowledge and insight, but then said that if the company really wished to know what was on his mind, it was not whether Britain would federate with a yet larger system of governance. What concerned him was whether the United Kingdom was going to break up.

That is an issue we do not face. It is in no small measure the result of a marvelously flexible and enduring system of shared but interconnected power which for two centuries has provided a stable and enduring government over a vast and heterogeneous society and an even more stupendous territory.

Daniel Patrick Moynihan, *professor of government at Harvard University and a member of the faculty of John F. Kennedy School of Government, served as U.S. ambassador to India from 1973-74. Prior to that he served as consultant to the President for two years, then as counsellor to the President and member of the Cabinet. He was Assistant to the President for Urban Affairs and executive secretary of the Council for Urban Affairs in 1969. He was a member of the United States Delegation to the United Nations in 1971. He has also served as special assistant and executive assistant to the Secretary of Labor, assisting and acting secretary to the governor of New York and director of the Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University. He has authored and coauthored several books including Maximum Feasible Misunderstanding and Coping: On the Practice of Government.*

⁴⁰The Office of Financial Analysis of the Department of the Treasury subsequently released tables on government receipts as a percent of Gross National Product for the period 1929-2000. The growth rate for 1929-74, projected to the year 2000, would raise the proportion from an estimated 33 percent for 1974 to 45 percent by 200. The growth rate of the years 1955-74 would bring the proportion to 56 percent.

⁴¹Neal R. Peirce, “State-Local Report/Fiscal Crisis Illustrate Growing Interdependence,” *National Journal* (February 22, 1975).



"In the near future, however, we will continue as we have done: increasing the strength of national governments in the name of increasing the strength of state and local government."

"The Office of Economic Analysis of the Department of the Treasury has recently released a study on government's impact on a national Gross National Product for the years 1950-1970. The growth rate for 1950-74, projected to the year 2000, would take the gross product to an estimated \$100 billion by 1974 to \$150 billion by 2000. The growth rate of the years 1950-74 would bring the projection to \$150 billion."

"Paul E. Peters, 'State Local Supervised Care: A Study of Growth, Interdependence,' National Journal (February 22, 1973)."

"Between 1950 and 1970, while private industry earnings rose 120 percent, federal employees received wage increases of 183 percent and workers in state and local government saw their wages rise 100 percent."

"To one who was involved in the early Kennedy years in the successful effort to establish the principle of 'comparability' in the pay of federal employees and workers in the private

Thursday,
February 20

12:15-1:45 p.m.

American Federalism: A Paradox of Promise and Performance, a speech by Robert E. Merriam, Chairman, Advisory Commission on Intergovernmental Relations.

2:00-2:45 p.m.

Thirty Table Discussions: What Are Today's Major American Intergovernmental Problems?

3:00-3:45 p.m.

Thirty Table Discussions: What Are The Most Promising Solutions to the Identified Problems?

3:45-4:45 p.m.

Round-up of Problems and Solutions. Discussion Leaders: Representative Clarence Brown, Jr., Ohio, and HEW Secretary Caspar Weinberger, ACIR Members.

Moderator, Tom Fletcher, President, National Training and Development Service.

Friday,
February 21

6:30-7:30 p.m.

Reception for Participants.

9:00-9:45 a.m.

Functions in Flux, Alan Campbell, Dean, Maxwell School, Syracuse University.

Presiding Officer: Jack Maltester, Mayor, San Leandro, California, ACIR member.

9:55-10:40 a.m.

Regionalism: Paper Tiger or a Real Challenge?

(Three parallel sessions on this topic, each on a different aspect.)

Session A—Some Viewpoints.

Presiding Officer: John H. Brewer, County Commissioner, Kent County Michigan; Member of ACIR.

Speakers: Francis Francois, Past President, National Association of Regional Councils; County Council Member, Prince George's County, Maryland.

Edward Regan, County Executive, Erie County, New York.

Robert B. Hawkins, Jr., Chairman, Governor's 1974 Task Force on Local Government Reform, Sacramento, California.

Session B—How It Works.

Presiding Officer: Senator Robert P. Knowles, Wisconsin State Senate, Madison, Wisconsin; Member of ACIR.

Speakers: John Boland, Chairman, Minneapolis-St. Paul Metropolitan Council, Minneapolis, Minnesota. Lex Hester, Chief Administrative Officer, Jacksonville-Duval County, Florida.

Session C—Metropolitan Area Solutions.

Presiding Officer: Farris Bryant, President, National Life of Florida Corporation; Former Governor of Florida; Former Chairman of ACIR.

Speakers: Anthony Astrachan, Foreign Correspondent, New York, New York

Howard Hallman, President, Center for Government Studies, Washington, D.C.

Scott Fosler, Director, Governmental Studies, Committee for Economic Development, Washington, D.C.

12:45-2:30 p.m.

2:45-3:35 p.m.

10:50-11:35 a.m.

State, County, and City Modernization: The Rhetoric, the Record, and Relationship to the Servicing Role.

Presiding Officer: James Falk, Associate Director, The Domestic Council, Washington, D.C.

Speakers:

The States: Dan Evans, Governor, Washington; Member of ACIR.

The Counties: Conrad Fowler, Probate Judge, Shelby County, Alabama; Member of ACIR.

The Cities: Richard Lugar, Mayor, Indianapolis, Indiana; Member of ACIR.

3:45-4:45 p.m.

11:45-12:30 p.m.

Urban Transportation: An Old Service Sector with New Institutional and Fiscal Problems.

Session A—ACIR's New Findings and Recommendations.

Presiding Officer: Arthur Naftalin, Professor, University of Minnesota; Former Mayor of Minneapolis.

Speaker: John H. Poelker, Mayor, St. Louis, Missouri; Member of ACIR.

Commentators: Bruce Barkley, U.S. Department of Transportation, Washington, D.C.

Edwin G. Michaelian, Past President, National Association of Counties; Member, New York Metropolitan Transportation Authority.

Session B—Where It's Happening.

Presiding Officer: John Hanson Briscoe, Speaker, Maryland House of Delegates; Member of ACIR.

7:00-9:00 p.m.

Speakers: Harry Hughes, Secretary, Maryland State Department of Transportation.

B. R. Stokes, Executive Director, American Public Transit Association.

Revenue Sharing: Renewal Time Approaches.

Presiding: Robert E. Merriam, Chairman, ACIR.

Speaker: Senator Edmund S. Muskie, Maine; Chairman, Senate Budget Committee; Chairman, Senate Intergovernmental Relations Subcommittee; Member of ACIR.

The New Mix of Federal Assistance: Project, Formula, and Block Grants—Different Approaches with Different Management and Money Implications.

Presiding Officer: Robert D. Ray, Governor, Iowa; Member of ACIR.

Speaker: Elmer B. Staats, Comptroller General of the United States.

Commentator: Daniel Elazar, Director, Center for the Study of Federalism, Temple University, Philadelphia, Pennsylvania.

In Search of Solvency—Strengthening the State and Local Fiscal Systems.

Part I—State Revenue Sharing and Building Strength and Equity into State Revenue Systems.

Speaker: Wendell Anderson, Governor, Minnesota.

Part II—The Property Tax of Tomorrow.

Speaker: Ronald B. Welch, Retired Assistant Secretary for Property Taxation, State Board of Equalization, California.

Reception and Buffet for Participants at John Quincy Adams Suite at U.S. State Department.

Saturday,
February 22

9:00-9:35 a.m.

9:45-10:30 a.m.

10:35-11:15 a.m.

11:20-12 Noon

12:20-2:00 p.m.

2:00 p.m.

Conference Overview and Summary.

Presiding Officer: Senator Robert Knowles, Wisconsin State Senate, Madison, Wisconsin; Member of ACIR.

Speaker: William G. Colman, Governmental Consultant, Potomac, Maryland; Former Executive Director, ACIR.

Managing the Economy and Assuring Productivity.

Speakers: Edgar Fiedler, Assistant Secretary, Economic Policy, U.S. Department of Treasury, Washington, D.C.

Arthur Okun, Senior Fellow, Brookings Institution, Washington, D.C.

Coming Issues in Public Control Versus Public Property Rights.

Speaker: Ralph R. Widner, Director, Academy for Contemporary Problems, Columbus, Ohio.

We Took Our Eye Off the Ball.

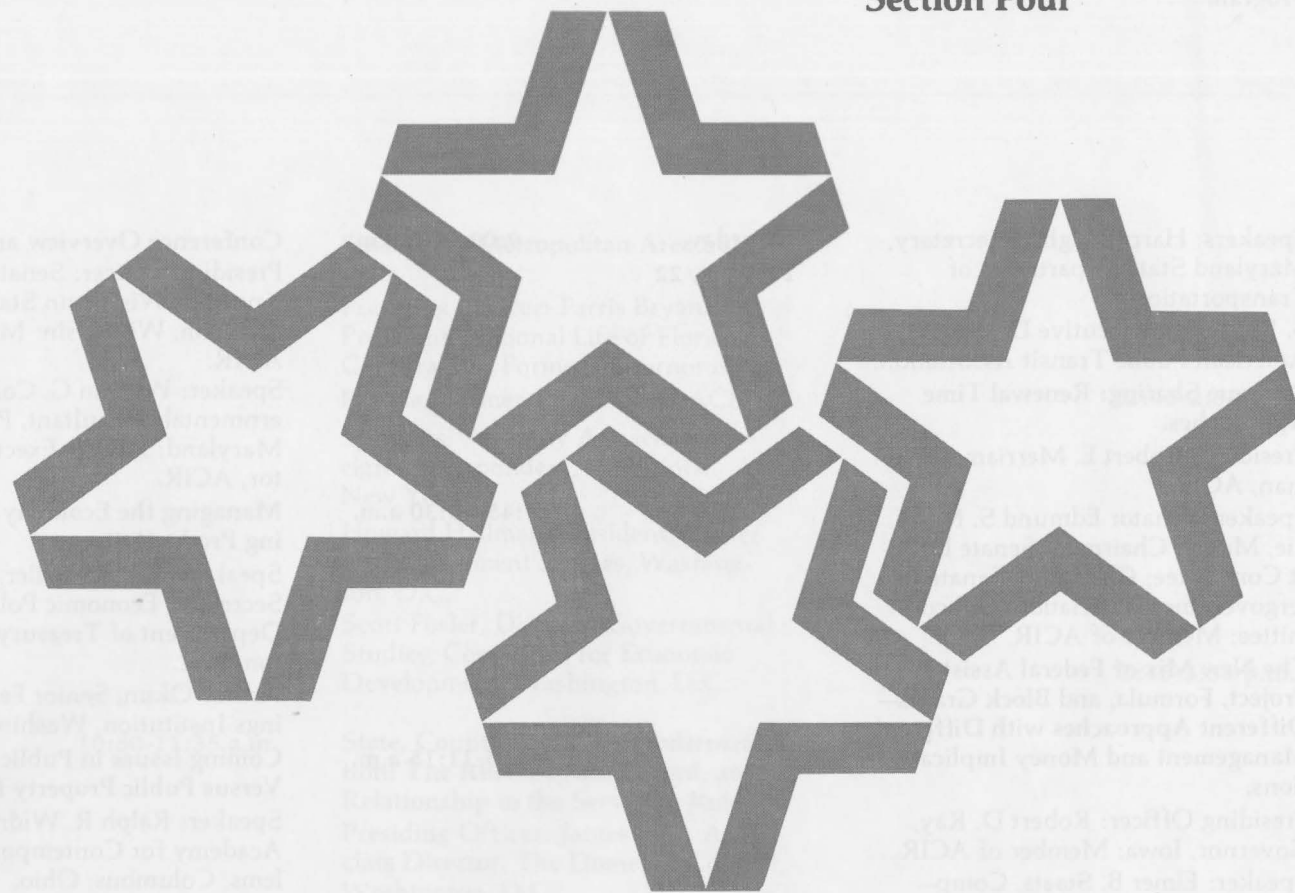
Speaker: Harlan Cleveland, Director, International Programs, Aspen Institute for Humanistic Studies, Princeton, New Jersey.

Closing Luncheon.

The Future of Federalism.

Speaker: Daniel P. Moynihan, Professor, Harvard University.

Conference Adjournment.



Participants in ACIR Conference on American Federalism in Action

The 393 participants in the *National Conference on American Federalism in Action* represented all levels of government, numerous colleges and universities, and a broad range of national public interest organizations and private citizens.

The largest single category of participants was that representing city government (21 percent of the attendees were mayors, city managers and their employees, school board members, representatives of councils of government, and regional bodies). Those representing academia totalled 15 percent of the group; the Federal government, 12 percent; and state government, 14 percent. County governmental representatives comprised 9 percent of the participants and private citizens 12 percent. Persons representing public interest groups comprised 13 percent of the total.

Seventeen foreign visitors attended the conference under arrangements made by the U.S. Department of State and the National Academy of Public Administration.

Participation in the conference was by invitation. The state, county, and city officials were nominated by the national associations representing them: The Council of State Governments, International City Management Association, the National Association of Counties, the National Governors' Conference, the National League of Cities, the National Conference of State Legislatures, the U.S. Conference of Mayors. Invitations were also extended by the Commission to federal government representatives, civic leaders, academics, and ACIR alumni.

A list of attendees in alphabetical order follows.

Jack Abrams
County Commissioner
Okanogan County, Wash.

Mamdough Abdel Hamid Ahmed
Secretary General
Nat'l. Institute of Mgmt. Dev.
Cairo, Egypt

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Law Enforcement Asst. Admin.
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John H. Altorfer
Peoria, Ill.

Ms. Joan G. Anderson
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Metro Sanitary District
Chicago, Ill.

Wendell Anderson
Governor
St. Paul, Minn.

Harold Antoine
General Manager
Human Development Corp.
Metro. St. Louis
St. Louis, Mo.

Meg Armstrong
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Denver, Colo.

Anthony Astrachan
New York, NY

Anne E. Avery
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Genesee-Finger Lakes
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Massachusetts Selectmen's Assn.
Duxbury, Mass.

Bruce Barclay
US Dept. of Transportation
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The Herman Bennett Company
Brownwood, Texas

James A. Barnes
Sacramento, Calif.

Timothy A. Barrow
Mayor
Phoenix, Az.

Richard Barton
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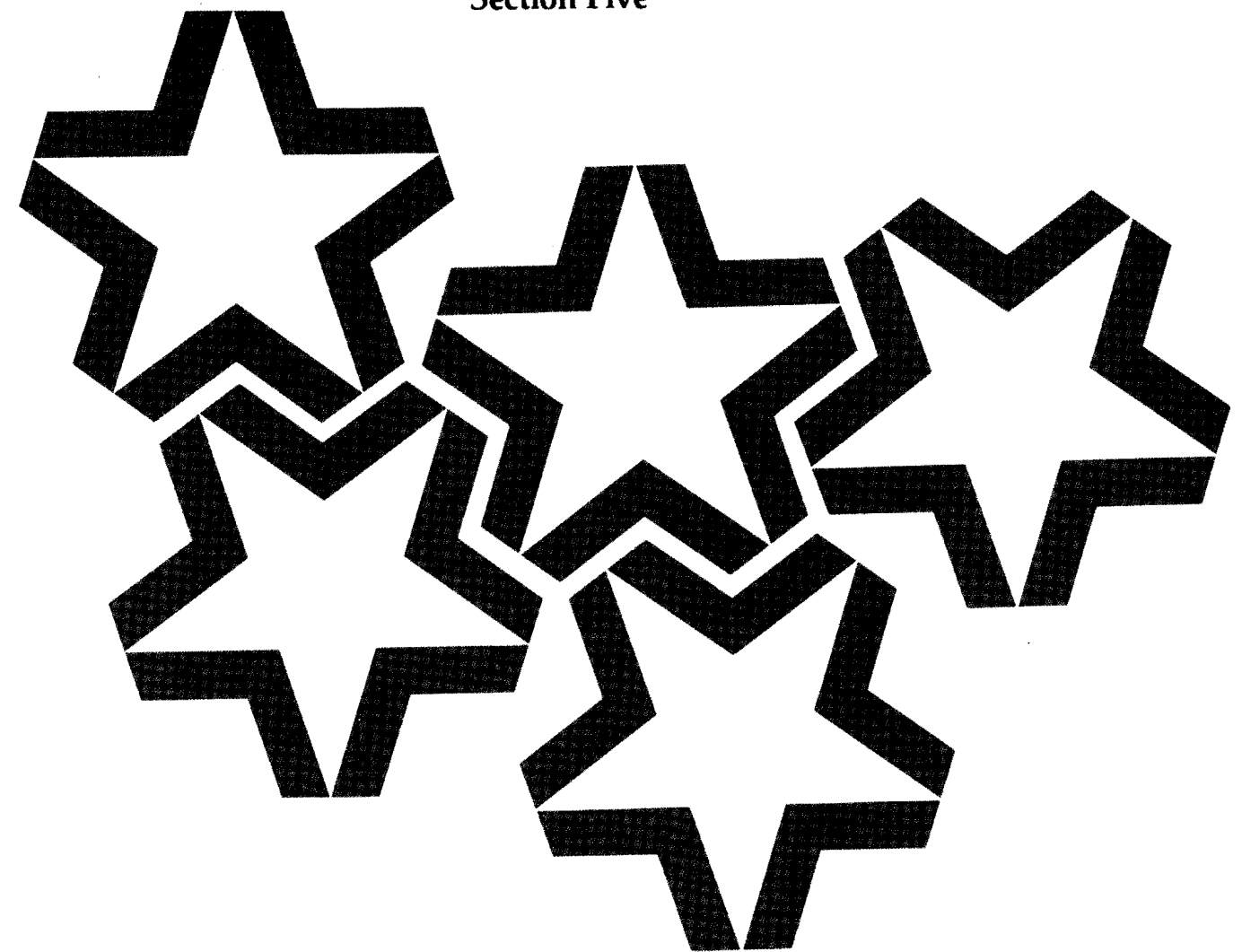
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The Advisory Commission on Intergovernmental Relations

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, state, and local government and the public. The Commission is composed of 26 members — nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20 — three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from states nominated by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House. Each Commission member serves a two year term and may be reappointed.

As a continuing body, the Commission approaches its work by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning of the federal system. In addition to dealing with the all important functional and structural relationships among the various governments, the Commission has also extensively studied critical stresses currently being placed on traditional governmental taxing practices. One of the long range efforts of the Commission has been to seek ways to improve Federal, state, and local governmental taxing practices and policies to achieve equitable allocation of

resources, increased efficiency in collection and administration, and reduced compliance burdens upon the taxpayers.

Studies undertaken by the Commission have dealt with subjects as diverse as transportation and as specific as state taxation of out-of-state depositories; as wide ranging as sub-state regionalism to the more specialized issue of local revenue diversification. In selecting items for the work program, the Commission considers the relative importance and urgency of the problem, its manageability from the point of view of finances and staff available to ACIR and the extent to which the Commission can make a fruitful contribution toward the solution of the problem.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.

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Washington, D.C. 20575
August, 1975

