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This month

Where do state agencies
get their advice?

Social problems become
fiscal problems

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Student unrest

Federal grants and inter-
governmental relationships

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Home at last. This month's cover photo features the replica of the statue of George Washington by Antonio Canova that was destroyed when the original Raleigh capitol burned in 1831. The new statue, carved in Italy from the original model, was ensconced in the State Capitol with due ceremony on May 30.



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*Excerpts from the report of the president of the
University of North Carolina to the Board of Trustees
May 25, 1970*

STUDENT UNREST

at the University of North Carolina

By WILLIAM C. FRIDAY

THE MOST PRESSING and controversial issue of the year has been and continues to be student unrest. This phenomenon, national and pervasive, has caused much distress to all age groups in our society.

The fact that these student demonstrations have continued now for a period of several years is causing public tolerance to wear thin. It is essential, under such circumstances, to provide as much factual information and objective interpretation as is possible, in order to maintain reason and fairness in our evaluation of these events.

It is clear that student activism has objectives that are diverse, ranging from individual campus concerns to matters of major domestic policy and to the conduct of war and foreign relations. It is a continuing phenomenon in which all sections of the nation are involved and virtually all elements of our society are brought under scrutiny.

President Nixon is now giving the matter close attention. On two occasions, in company with seven other university presidents, I have visited the White House at his invitation. Only last Saturday, one of his aides visited me in Chapel Hill.

I shall continue to respond to Mr. Nixon's request for counsel and assistance. As our President he deserves every assistance we might give in resolving this crisis.

DURING THE LAST several weeks the campus responses to the military action in Cambodia and the deaths by violence on several campuses of the nation have vastly increased the number of demonstrators. We are no longer talking about a small minority of our young people; literally thousands of North Carolinians have been involved in the current protests.

There are some few students who would disregard the law, close down institutions, destroy property, and provoke violence and threaten human life. I share in the public indignation generated by overt disregard for the law. The University has both the right and the obligation to protect itself and its members from destructive forces. I have said before and say again that the laws of the state and the regulations of the

University devised to deal with such actions will be enforced. We will not compromise with the willfully destructive, and I assure you that the University has cooperated fully with and received full cooperation from all law enforcement agencies in our government.

I should point out that certain constitutional requirements, as interpreted by the federal courts and incorporated into current Trustee regulations, do not permit arbitrary, summary expulsion of students. Such disciplinary proceedings must be attended by the elements of due process, including the specification of charges against a defendant, the right to confront accusers, the right to counsel, and a fair hearing. However, those who would jeopardize the physical integrity of the institution or endanger life will be dealt with promptly.

IT IS MY CONVICTION, based upon extensive knowledge, that only a few deliberately provoke violence on these campuses. So, we must ask ourselves who are these other thousands of young people who have gathered to express themselves in recent weeks on our campuses and on the campuses of Duke, Wake Forest, East Carolina, and other institutions? We should also seek to understand the concerns which, to their credit, they have expressed in a nonviolent way.

To my knowledge, the vast majority who have participated in these demonstrations on our campuses and others are our own sons, daughters, nieces, and nephews. During all the years before enrolling in the University, these young people have been developing their sense of values, their standards and judgments by what they learned from us as parents in our homes and by what they were taught in our schools and in our churches. It is our task to help each student build on this base, to broaden his knowledge, to deepen his understanding of our society, and to qualify himself for a useful and meaningful life. No institution should seek to impose upon a student any preconceived dogma. However, a university must strive with all its resources to help him in his search to find himself and to identify himself with those great moral and human values that sustain mankind.

Those graduates who will receive their degrees next week have been exposed, throughout their entire collegiate career, to the fact of a continuing undeclared state-of-war. They feel deeply about this involvement. They have seen their elders become involved personally in the great issues of pollution, civil rights, housing, adequate schools, prevention of crime, the problem of drugs, and the availability

of jobs. Out of these and other experiences, many students have become committed to building a better world and a world of peace.

It must be acknowledged that the cultural and educational advantages which the students have enjoyed do not necessarily provide wisdom. It is our responsibility to contribute to their valid experience and to encourage their mature reflection, and in all such efforts we must take care not to crush their healthy idealism.

Throughout this year, and especially during the last three weeks, we have given of our best energy and thought in meetings with all segments of this student generation and other members of the University community. Doors have been kept open on all campuses; and students, faculty, and administrators have been at work.

DURING THESE WEEKS I have received several hundred letters and messages from citizens across the state expressing their views. Where appropriate, each has received a reply. However, it is not always possible in a time of crisis to give as full and complete an analysis of current activities as we would desire. On issues of intense controversy there are no easy answers. Indeed, in such a rapidly changing situation, it is not always clear what the right answer is.

At all times we have sought to make clear that the University is going to remain open; that the laws of the state will be enforced; and that the obligation of any administrator under such circumstances is to do his best to prevent unnecessary direct confrontation. We will not engage in an effort to buy peace at any price.

Disruption, destruction and violence have befallen many American educational institutions. Deaths have occurred. I am profoundly grateful that on the campuses of the University of North Carolina we have been spared these most regrettable consequences: No building has been destroyed; no troops have been summoned; no shots have been fired; no gas has been used; no building has been forcibly occupied; no campus has been closed. Speaking more positively, free and open discussion has occurred and the demonstrations have been essentially peaceful and free of violence.

EACH ALLEGATION made charging violation of your Disruption Policy by students, faculty or staff members is being fully examined and will be dealt with.

I received from Chancellor Sitterson a petition signed by several hundred persons stating the following:

We, the undersigned members of the University of North Carolina at Chapel Hill, declare that we have violated the Disruptions Policy and recognize that our disruption is equivalent to that of the Black Students being tried currently by the University.

The first step in processing such a petition is to validate the status of each signer to determine whether he is a student, teaching assistant, faculty, or staff member. This task has been substantially completed. Each signer will receive soon a formal letter concerning his activities and, thereafter, the procedures established to deal with infractions of this policy will be set in motion promptly.

YOU WILL AGREE that we should all be grateful for the responsible manner in which the vast majority of students have conducted themselves. And we should extend this expression of gratitude to each of our Chancellors for their splendid efforts, to the elected and appointed leadership of the student bodies who have acted so responsibly, and to those members of the faculty and staff who have worked so hard in these trying circumstances.

I am glad to report that these concerned, non-violent students are working within our established system of government to effect change. They are seeing their elected leaders, writing letters to their senators and representatives, visiting their home towns and friends, seeking to be heard. This is a commendable undertaking.

In times of crisis, an institution does not conduct its affairs in the traditional manner. The greater the stress, the more difficult it is to keep faithful to the steady course of sound teaching, research, and service. There has been the distraction that comes when thousands of people are personally involved, but I believe the interference, comparatively speaking, has not been great and that out of this experience we have learned valuable lessons.

WHILE INDIVIDUAL MEMBERS of the University community deserve our support as they speak and act in a responsible and constructive manner, it must be clearly understood that the University itself, as an institution, must remain non-political. No one, not even a majority of the members of the University community, can legitimately purport to speak for the University or for any other member of the University community on any political question. Involvement in the moulding and shaping of

society through scholarly study and the expression of divergent views and free and responsible discussion of ideas are essential to the University's very existence. Political neutrality of the institutions guarantees these freedoms and, therefore, must not be violated.

It necessarily follows that I do not favor any proposal to close the University next fall to permit students, faculty, or staff members to engage in political activity. The University will expect its faculty and staff to meet their assigned responsibilities, and I have full confidence in their intention to do so.

I believe it is a constructive and wholesome thing for students to engage in political activity. It is encouraging to see their energies and talents so constructively channeled. In our society responsible citizens are expected to meet concurrently their civic obligations and the demands of their daily work. No less should be expected of responsible students. Those who fail to meet their academic responsibilities for substantial periods of time must be prepared to accept the consequences of their actions.

The future requires more than just the maintenance of peace as essential as that is. It requires that the campuses continue the functions for which they exist, in a peaceful atmosphere, with assigned responsibilities being met and essential freedoms preserved.

In all of these expressions I have the unanimous concurrence of the Chancellors of the campuses.

* * *

The University of North Carolina was founded in the spirit of the American Revolution. It is a child of that Revolution. Throughout its long and noble history it has served the state effectively and well. It has succeeded in this mission because it has been a free institution and because those who love it and care for it are willing to stand in her behalf in times of great concern. As a vigorous and productive institution, the University has always been the object of criticism, and this is a healthy circumstance in its growth in service. Our state and its old University have thrived and grown great because its people are free to have their say. I fervently hope that we never lose this faith and never fall into a pervading fear that the institution cannot survive the exercise of this freedom.

I trust that you feel my sense of pride and my faith in the University in this significant year.

Federal Grants and Federalism

By H. RUTHERFORD TURNBULL III

If we examine the major characteristics and functions of federal grants to state and local governments, the evolving characteristics of federal grants during the 1960s, and the major criticisms of those grants, we inevitably come to some of the proposals recently advanced for reforming the federal grant program and to the implications of the present program for intergovernmental relationships. Clearly, the federal grant program originated in response to the fiscal incapacities of state and local governments. Grants always have been premised on the fact that federal income on a per capita and absolute basis is greater than, and grows at a higher rate than, state and local income. This is the result of both the federal government's extensive use of the income tax and many states' reluctance to resort to this tax.

Characteristics of Federal Grants

First, grants are purposeful. They seek to redistribute wealth among state and local governments by using "equalization" formulas. These are criteria for allocating federal aid in such a way that the "poor" states usually receive more federal funds per capita than the "wealthy" states. Redistribution aims at increasing the "fiscal equity" among the states—at making all states more nearly equal in the amount of public benefits that they can provide. Federal grants also seek to achieve interstate equalization of costs and benefits of public services; they seek to put into balance the public revenues (on the cost side) and the public benefits (on the service side) by providing revenues to purchase benefits. On a national scope, the tendency is to balance out revenues and benefits. Naturally, any redistribution of wealth between governmental units also involves redistribution among persons. The method for this interpersonal redistribution is the federal income tax, which, because of

its progressive nature, effects redistribution. The redistribution of wealth from high-income to low-income persons is part of an effort to achieve "vertical equity"—to narrow the disparity in wealth between persons at the top and those at the bottom of the income scale. At the same time, grants tend to achieve "horizontal equity"—equal treatment of all persons in the same circumstance. For example, if a person needs medical attention and cannot afford it, it is beyond argument that he is as much entitled to that care as a person who can afford it: this disparity in ability to buy medical assistance is an illustration of the disparity that "vertical equity" attacks. Further, a poor person in one state who needs medical attention and a poor person in another state who needs the same kind of medical care are in the same circumstance and should be treated equally; this similarity is an illustration of the similarity of circumstance that "horizontal equity" seeks to achieve.

Second, federal grants are nationally oriented. They seek to involve state and local governments in

The author is an Institute staff member working in the fields of local government and public finance. His article entitled "Federal Revenue Sharing" appeared in Popular Government for November, 1969.

solving national problems in supportive roles, as aides to the federal activities. Implicitly, the grant program recognizes that there is a national interest in the particular activity being federally financed. In financing activities on the state or local level, grants also attempt to promote national standards for the activities by specifying what constitutes an adequate level of performance by the state and local governments, even though the activity might be administered by state or local governments.

Third, grants are restrictive in their purpose and use. Traditional restrictions have been highly specific; usually funds can be used only on a particular project. Grants are specific tools to promote, stimulate, and assist a federal objective through specific programs and activities, locally administered.

Fourth, grants are conditional. Normally they are conditioned on the performance of certain services, the implementation of particular programs, the construction of certain facilities, and so on.

Fifth, they usually require a local contribution to the federal funds. In lieu of this traditional "matching funds" requirement, some grants have contained "recapture" provisions that entitle the federal government to recover some of its funds after the object of the grant has been achieved. Recapture often is based on the successful operation of the program—for example, recapture of federal funds after completion of a water and sewer project is achieved through federal recourse to some of the revenue of the project.

Sixth, grants seek to correct "spill-in" effects of local decisions. This statement refers to a common phenomenon of our political economy. Many decisions made by state and local governments are almost exclusively internal in nature. Those governments look only to what their own citizens will get from a particular program and seek to finance only those programs that will directly benefit their own citizens and not indirectly benefit citizens of other jurisdictions. The decisions are inward-directed; they contain "spill-in" of benefits and no "spill-out" of benefits. But if every state and local government were to take an exclusively spill-in point of view, there would be

some gaps in the types of public services furnished by those governments—or inadequate levels of services. Federal grants seek to fill up those potential gaps or raise those potentially inadequate levels. They require an overview—a bird's-eye view—of the total effect of spill-in financing by all state and local governments. For example, it may be that a particular state will decline to finance a program needed by its citizens partly because the program also will benefit citizens of neighboring states; the benefit to those nonresidents might be deemed too great to justify the program. However, a federal grant might finance the same program for those very reasons: the citizens of several states need it, but it can best be provided by or is most needed in the state that is particularly reluctant to act.

Finally, grants seek to promote a more desirable balance between the public and private sectors of the economy of a particular state or of the nation as a whole. Many states have tended to be fiscally and programmatically inactive, to be uninvolved in the economy of their jurisdictions, and to leave to the private sector the furnishing of certain services to their citizens. In assuming this posture, they have not always insured that services in fact have been provided by the private sector. Sometimes the result has been that the citizens have been without those services, even though citizens in neighboring or other states, where a different political economy prevails, have enjoyed them; although people in the one state appear entitled to receive these services, the public sector has decided not to finance them and the private sector likewise has not responded. To assure that the services are provided, federal grants have put money into the local economy, thereby reducing state action and assuring that some portion of the services is furnished by federal funding. They also have stimulated greater public activity where there has been an undesirable tendency toward private monopoly or private inadequacy in furnishing the services.

Criteria for a "Good" Grant

One criterion for determining whether a grant is "good" is whether it generates spill-outs (externalities)—that is, benefits for persons not in the jurisdic-

tion of the state or local government providing the services. Sometimes the benefits are in the private sector exclusively, sometimes in the public sector exclusively, and sometimes overlapping public-private or public-public sectors. Grants to education are a good example of grants with many externalities. People move into North Carolina, they study in schools that receive federal funds, and then they move out of the state—taking with them their education, skills, and training—and benefit the jurisdiction into which they move.

A second criterion is whether there is a favorable balance of spill-outs over spill-ins. Does the grant result in more externalities than internalities?

A third significant criterion is whether the benefits generated by a grant are important locally, regionally, or nationally. The more a grant generates national benefits, the more likely it is—from the federal government's viewpoint—to be a "good" grant.

A final criterion is whether a grant causes expanded production of government facilities, i.e., stimulates state or local government to take particular action. Usually, expanded government production will cause the public to use public services more, and thereby will produce higher living standards.

Advantages of Federal Grants

First, grants tend to have low costs to state and local governments. Some grants require no matching funds and contain no recoupment provisions; they provide entirely "free" money. Many have matching requirements, but those requirements are tending to shift from a 50-50 to a 80-20 or 90-10 matching ratio. Also, grants have tended to involve low administrative cost to state and local governments; unfortunately those costs seem to be increasing as the grants become more numerous, innovative, restrictive, and bountiful.

Grants tend to achieve interstate uniformity, providing minimum equal services to all citizens ("horizontal equity"). And they effect interpersonal redistribution of wealth ("vertical equity").

Open-ended grants—those that are flexible in the amount of funds available to state and local governments—tend to minimize distortions in state and local governmental budgets. On the other hand, closed-ended grants, which fix an absolute dollar sum, tend to maximize budget distortions. Budget distortion is the result of having to twist state or local government's budget resources and allocations (especially allocations) in order to obtain federal funds. The local government makes a choice that it might not otherwise make except for the availability of federal funds; the choice to take advantage of the federal funds forces other budgetary decisions, and in the process there results a distortion.

Grants help state and local governments improve their administrative expertise, their planning capaci-

ties, and their decision-making abilities. These effects occur because not all state or local governments automatically accept federal aid. To minimize budget distortions or for other reasons, those governments tend to examine closely the cost/benefit factors involved in a federal grant and the effect of the grants on state or local budgets and policy. It is in this close examination that state and local administrative, planning, and decision-making functions are involved and tend to become more proficient.

The grant system also fosters "horizontal communication" between persons in state and local government and persons in federal government. One who is involved in the administration of an education grant in local government frequently will have a colleague at the state and federal levels involved in the administration of the same or related grants. These people necessarily communicate among themselves, exchanging their abilities, knowledge, and information. This trading-off helps everyone along the line, although some people think that state and local governments benefit more than the federal government.

Paradoxes of Federal Grants

The grant programs seem full of internal contradictions. For example, while grants tend to strengthen state and local governments by providing financial and technical assistance, they simultaneously tend to weaken those governments by causing them to rely too heavily on federal funding of programs and services that appear to have essentially local benefits (but which, if a grant program is "good," have aggregate national benefits).

Moreover, they can cause a distortion of state and local budgetary revenues and allocations by making it financially attractive to participate in federal programs. This is especially true where there are matching-fund requirements. Unfortunately, state and local governments may have pressing needs for which grant programs do not exist that will not be taken care of—or so well taken care of—because their revenues are being dedicated to matching-fund requirements or to securing federal funds.

Finally, the availability of federal grants causes the states to underallocate their own tax resources and to reduce their own efforts to raise taxes locally. Those governments come to depend on federal funds in lieu of their own.

Characteristics of the 1960s— Grants in an Evolutionary Process

The 1960s have brought marked changes in the federal grant program. Those changes involve the characteristics of federal grants and the impact of

the grant system on the concepts of federalism that underlie our constitutional system.

The Characteristics. First, federal intervention in local and community affairs has been massive. Hardly a community in the nation has not been directly involved in one way or another in the grant system.

Second, the amounts of federal funding are at historic peaks. The scope of grants has expanded; more projects and services are being financed by federal funds than ever before, and the number of federally supported functions has expanded enormously.

Third, these trends toward federal intervention in local affairs and expansion of the grant system have created greater fiscal interdependence among federal, state, and local governments. At the same time, the role of federal technical assistance has been enlarged and federal insistence on joint planning and program coordination among state and local governments has been required. One natural result has been greater dependence of state and local governments on federal financial assistance. In addition, federal grants have stimulated state and local governments to initiate their own programs that in turn have frequently supplemented and complemented federal programs. Finally, not only the horizontal communications between state and local governments but also the vertical communications have been intensified. More and more mayors and governors are traveling to Washington to seek additional financial aid from the executive or legislative branches of the federal government.

Also, federal policy judgments are increasingly being substituted for local judgments. The federal government before the 1960s was never loath to impose its own ideas about the types of projects it would finance and consent to have administered on a local basis, but it also seemed (to some, at least) to be more amenable to state or locally initiated suggestions. Nowadays, state and local officials report that policy initiative comes more and more from federal officials.

Finally, the achievement of national purposes through the grant system seems to have required greater federal restrictions on the use of federal funds. Moreover, Congress appears to be inclined to give federal agencies more leeway to deal with local agencies and programs, especially with respect to the antipoverty agencies. (Along with increased federal controls and agency involvement, however, has come a reduction in the matching-fund requirements; the state and local governments are required to put up less and less of their own money in order to qualify for federal funds.)

Impact of the Grants System on Intergovernmental Relations—Problems of Federalism. In the view of some observers of the federal grant system, an almost irreversible trend has been initiated to bury the con-

cept of dual federalism. Dual federalism is the traditional concept of our constitutional system which postulates that the federal government should be a co-equal of each of the states, and that these governments are sovereign and independent of each other. Exactly how sovereign and independent the states can remain when they are so closely tied to the federal government through the grant system is a matter that troubles many. And the increasing dependence of the state and local governments on the federal government prompts those people to argue that dual sovereignty is (or is about to become) a thing of the past: the partnership of equals has become an association dominated by the federal government.¹

Another development of the 1960s has been the growing realization that community problems really are national problems. A problem for one community is also a problem in practically every other community in the country; in the aggregate, these community problems are national problems. From this recognition has grown congressional acceptance, with the general acquiescence of the electorate, of the federal government's responsibility and duty to help solve these problems. This attitude in turn leads to the conclusion that no limitation need exist on the extension of federal responsibility except as imposed by financial or administration circumstances prevailing at any given time. The premise of "Great Society" legislation is that ours is one society, not several societies—that the singular "Great Society" should be designed on a national level and achieved with the use of federal funds and the assistance of state and local governments.²

It is not altogether clear, however, that the burial of concepts of dual federalism and the achievement of the singular society have been achieved or are about to occur. The Johnson and Nixon administrations both have expressed concern about restoring the states to their traditional roles as equal partners of the federal government; an ideological debate has been waged for several years about "creative federalism,"³ the phrase describing the efforts at restoring the federal-state partnership. In light of the President's commitment to sharing federal revenues with the states for their use on an unrestricted basis,⁴ perhaps these predictions of death will not come to pass in the 1970s and creative federalism will become a reality instead of a slogan.

1. SUNDQUIST AND DAVIS, *MAKING FEDERALISM WORK* 6-12 (The Brookings Institution, 1969).

2. *Id.* at 12.

3. *Creative Federalism*, Hearings Before the Sub-Committee on Intergovernmental Relations of the Committee on Government Operations, U.S. Senate, Ninetieth Congress, 1st Session (1967).

4. See, e.g., Turnbull, *Federal Revenue Sharing*, *POPULAR GOVERNMENT* 1-9 (Nov., 1969); Turnbull, *Federal Revenue Sharing*, 29 *MD. LAW REVIEW* 344 (1969); Turnbull, *Restricting the Unrestricted Grant*, 2 *URBAN LAWYER* 63 (1970); and *Revenue Sharing*, Hearing Before the Sub-Committee on Fiscal Policy, Joint Economic Committee, Congress of the United States, Ninetieth Congress, 1st Session (1967).

Criticisms of Federal Grants⁵

Generally speaking, until recently federal grants have had relatively little effect in reversing or ameliorating the trend toward "metropolitan fiscal disparities." That phrase means the trend of cities to become relatively poorer than their suburbs, increasingly unable to resort to their previously productive tax base (because of their loss of wealth to the suburbs) and more and more obliged to support public services at higher cost for more high-cost citizens than their suburbs are. Historically, federal grants opened up the suburbs by such programs as FHA- or VA-insured mortgages for single-family residences and by highway construction that enabled people to live in the suburbs and commute to work sites inside or outside the city.

In addition, *state* budgets have been distorted in part by the lure of federal funds; the distortions have tended to result in state funds' being put up to match federal funds that have not significantly benefited the cities—and, indeed, may have been in the cities' worst interests. In turn, the tendency has been toward less state money shared with or allocated to the cities. While it is true that recent federal grants have circumvented the states to provide direct aid to the cities and that federal grants to the poor through antipoverty programs have tended to put more money per capita into the cities than into the rest of the states as a whole, the metropolitan fiscal disparities remain and are growing.⁶

A second major criticism is concerned with "excessiveness" in the federal grant system. There have been excessive proliferation of the number of grants, over-categorization of the projects for which federal funds are available, undue complexity in the administration of grants, and a resulting increased cost in obtaining information about federal grants.⁷

Closely tied to the criticism of excessiveness is a criticism of a serious lack of coordination of the components of the grant system.⁸ Competing programs operate at the federal level, and competing agencies administer these programs. With the overlapping that occurs between the programs and agencies comes the inevitable plethora of coordinators, but even these come into competition and tend to duplicate each other's efforts.

This criticism is directed at inefficiency and waste, but much of it is also directed at the inevitable tension and conflict that grants create because of the duplication and waste. The competition and duplication at the federal level are mirrored and reflected at the state and local levels; each federal program

has its own reflection in the states and communities: the name, structure, organization, function, clientele, traditions, and channels of communication of the federal agencies are duplicated locally.

Third, significant problems have arisen relating to federal controls. Surely some state and local governments can be trusted to use the federal funds on the specified projects in conformance with federal standards, or in any event to use unrestricted federal funds wisely. On the other hand, some state and local governments are remarkably unworthy of such trust.⁹ The problem is to sort out the trustworthy from the untrustworthy. Another problem is to adapt detailed controls to the great variety of conditions existing in the several states and to eliminate controls that have outlived their justifications and are no longer defensible.

Fourth, as noted previously, grants have tended to curtail local autonomy and impair the adaptability of programs to local needs and changing conditions (especially when grants are highly rigid, programmatic, and restrictive). They sometimes have undermined state and local initiative to raise funds from local sources and to spend them wisely. They have caused a centralization of power in the federal government and a deterioration of dual sovereignty. The controls have created increased paperwork and administrative costs for state and local governments that generally has been absorbed out of the funds provided by the grants, with the result that less money is available for the actual project or program.

Finally, federal grants have caused some serious problems for intergovernmental relations. Often basic purposes of federal aid have not been identified: equalization (horizontally, vertically, and intergovernmentally), stimulation of state activity, demonstration of how to do a job, and provision of general financial support.¹⁰ Also, a balanced program of support for both state and local governments has not been developed; federal grants have tended to ignore either the state or local governments in preference for the other.¹¹ This failure seems to jeopardize the federal-state relationship when large-scale grants have been made directly to local governments (primarily cities) and the states have been bypassed, thereby undermining their position in the federal partnership.

A New Direction: Proposals for Reform

None of these problems, paradoxes, and criticisms is particularly new. However, many of them point to a trend in intergovernmental relations—to the centralization of power in the federal government to such a degree that the states eventually may find their usefulness largely outlived, their sovereignty impair-

(Continued on page 16)

5. See, e.g., ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, *URBAN AMERICA AND THE FEDERAL SYSTEM* 1-17 (1969); and MUSHKIN AND COTTON, *SHARING FEDERAL FUNDS FOR STATE AND LOCAL NEEDS* 11-23 (1969).

6. Advisory Commission on Intergovernmental Relations, *Metropolitan Fiscal Disparities*, 2 *FISCAL BALANCE IN THE AMERICAN FEDERAL SYSTEM* (1967), and as revised and updated, 1969.

7. MUSHKIN AND COTTON, *op. cit. supra* note 5, at 11-23.

8. *Id.*; SUNDQUIST AND DAVIS, *op. cit. supra* note 1.

9. *Revenue Sharing, supra* note 4, at 1082.

10. ACIR, *op. cit. supra* note 5, at 15.

11. *Id.*

the state treasurer talks
to the Winston-Salem Rotary Club

A REPORT ON THE NORTH CAROLINA ECONOMY

By EDWIN GILL

Notwithstanding the uncertainties of the moment, North Carolina continues to be in excellent financial condition. Our debt is moderate; our budget is in balance. In the light of current conditions, we will end this biennium with some surplus. By the uncertainties, I mean such things as the war and inflation that are adversely affecting the economy of our country.

Yet no matter how much we may attempt to go our way, we are affected by national and world conditions and must accept our share of the benefits of good times and the problems that go with adverse conditions. Today, inflation, one of our great problems, is tied to the tremendous spending of the federal government, especially for our national defense. So, in a sense, the economic future of the state and the nation will be affected by the ultimate outcome of the war in Asia.

Although we operate under a free enterprise system, we are still subject to federal regulations and to the extent that Congress, the Federal Reserve System, and the

Treasury act in connection with our fiscal and monetary system, we do have, in some respects, a managed economy.

Under the leadership of the President and the Congress and the other agencies involved, we are engaged in the delicate but very necessary process of "cooling off the economy." The Treasury insists that the administration is committed to do all within its power to reduce inflation without allowing the country to slide into a serious recession. I am optimistic enough to believe that the non-partisan efforts of the national administration and the Congress will succeed in stabilizing our economy.

While we may experience some unwelcome surprises along the way, I believe 1970 will be a good year. We are still collecting revenues somewhat in excess of official estimates. The immediate future for North Carolina is bright, and although we are experiencing some of the pangs of an economic readjustment, the situation will not be serious enough to propel us into a fiscal crisis.

As we move into the '70s, our most cherished possession is our AAA rating. Regardless of what the market is when we market our bonds, we get the benefit of the best rating that any state can have. This does not mean that we can buck the market, for the market is, in the end, our master. It does mean that whatever the market is, North Carolina, with its excellent rating, can sell its securities at a fraction better than the national market. This may seem a small benefit, but considering the size of our borrowings, this fractional advantage has literally meant hundreds of thousands—even millions—of dollars to the taxpayers of North Carolina. During the '70s, we must see that our habit of good government is continued, that we do not incur debt beyond our reasonable ability to pay, and to assure that in every way our fiscal house is kept in order.

My optimism about the future of North Carolina is based on certain favorable economic factors, as well as on the independent, stable character of our people. North

Social problems become

Carolina does not have the acute problems that afflict those states with large metropolitan areas. We have our share of economic and social troubles, but with our diffused population, much of which is small town and rural, we have a chance to correct mistakes of the past with greater ease and at much lower cost.

In this connection, it is heartening to observe signs of a steady and substantial growth in our economy. When I became Treasurer of the state in 1953, the total assessed value of all property for taxation in North Carolina was \$5,215,937,259; while in the current year, the total assessed value of all property has risen to \$14,874,831,000. Although the state has not resorted to ad valorem taxation since 1933 (that source of revenue being left to the local governments), the substantial increase in the taxable value of all property is indirect evidence of the capability of our state to meet its obligations.

One more evidence of the tremendous growth of our state can be shown by comparing the growth of earnings of Treasurer's investments over a ten-year period. For instance, in 1959, earnings were \$3,361,305.61, compared with \$31,033,287.59 earned in 1969.

Another way to emphasize the growth of North Carolina is to observe that in the fiscal year 1952-53, the total collections in the general fund were \$180,978,102, while in the last fiscal year ending June 30, 1969, our total collections were \$770,663,172! This figure, although it includes some inflation, is evidence of the basic growth and prosperity of the economy of North Carolina.

I have talked to you mainly about North Carolina but I think it is in order to give you some

general observations about the problems facing not only North Carolina but also the nation. Looking back to the '60s, we can see a great deal of material progress. Science has taken the lead, its achievements culminating in putting a man on the moon; but we must admit our failure to achieve much progress in the matter of human relations. *The past years have been turbulent and violent. They have been scarred by crime, by war, by pollution; and almost every phase of our economic life has been afflicted with inflation.*

Why should we assume that we can do better in the next ten years? As bad as the last ten years have been in the areas that I have mentioned, we can truthfully say that the '60s have tended to define the issues of our day. In the parlance of the medical profession, diagnosis should precede treatment. It may be that, in regard to the issues defined and thoroughly analyzed in the '60s, we will approach a satisfactory solution in the '70s.

During the next ten years, I hope and believe that North Carolina will do its part in cleaning up our environment and protecting it from pollution. Surely our industrial development and the growth of our great cities will find a way to combat this great evil. This is no time, however, for name-calling or denunciation; it is rather a time for our state and its people to realize that this problem cannot be solved except by the united determination of all of us. However, this tremendous problem is national in scope and it would be a mistake to consider it in a fragmentary way; it is not enough to blame this or that industry, or this or that municipality. *Pollution is in fact a by-product of civilization.* This truism was not

obvious until the population explosion resulted in the congestion of our great cities. Today it is proper to say that *quite innocently mankind has become the enemy of the good earth.* And it is, therefore, up to all of us to accept our individual responsibility and see that something constructive is done about it.

The decade of the '60s has witnessed an all-out attack on existing educational standards. Nearly every institution of learning has been challenged by those who protest the existing methods and curricula. Rioting students have seized the physical facilities of educational institutions and have held the administrators as hostages. Occasionally, their violence has been expressed in the actual destruction of records and has been characterized generally by the use of force in order to accomplish their demands.

It seems to me and to many other people whom I regard as well informed that universities and colleges and even the public schools should always be open to new ideas and be willing to listen to honest criticism. However, we believe *that you cannot have learning without discipline* and unless there is discipline, including self-discipline, there is no education in the true sense.

What hope do we have for the future if the rising generation does not come to consider its *duties* at least on a par with its *rights*, and that a man cannot master anything unless he can first master himself!

The last decade has been blighted by violence both at home and abroad. Law and order is being defied. Organized crime is literally stalking the streets of our cities. Protest and dissent have become fashionable. These forms of disagreement are perfectly legal

and are protected by the Constitution *provided that they are not seditious and provided that they are not accompanied by violence.* The tragedy of today is evidenced by those who lace dissent with unreasoning violence. They become, in a sense, rebels without cause! For when people commit crimes, with or without reason, they must answer to the law.

War is a world problem and there is no state control over it. We think of our nation as peaceful, yet since birth, it has been almost constantly at war. We have fought two wars with England, one with Spain, and one with Mexico. There were also World Wars I and II, followed by the Korean conflict, and now we are involved in the Far East. We can only hope that the most powerful nations in the world will ultimately see the folly of pursuing war as an instrument of public policy.

On the other hand, crime is very much with us, and there is something that we can do about it here in North Carolina. For instance, when an officer of the law subdues an unruly suspect, or reconnoiters to make an arrest in

the lonely hours of the night, he should carry with him our loyalty and confidence. He is our champion and our defender, and everytime he answers an emergency call, he may be placing his own life in jeopardy. We should give our allegiance to the orderly administration of justice and give our moral support to judges as they try to administer the criminal law in an orderly way. There have been recent examples of defendants who have blatantly defied the courts and ridiculed the very spirit of justice. In this connection we should always keep in mind that the accused has more rights guaranteed by the Constitution in a criminal court in America than he would have in any other nation in the world.

It is to be hoped that the experiences of the '60s will give way to a time of ordered reason, and that people will lower their voices and speak to each other as rational human beings. Instead of violence, we should have a civic armistice calculated to lead us in the direction of a peaceful and just settlement of important issues. The progress of the world ultimately requires that men of good will

get together and settle their differences by an exchange of views rather than by threats of violence.

Perhaps our people will also learn that tolerance and sympathetic understanding come voluntarily from the heart and are not created by statute or by judicial decree; these flowers of civilization are the natural product of the wishes of free men who have an honest desire to work together in behalf of a great and good cause.

You may wonder why I have detoured from fiscal affairs to a discussion of the great social problems of our day. It might be said that social problems become fiscal problems. Crime, war, and pollution are costly, and anyone who plans a budget either in Raleigh or in Washington cannot possibly ignore them. These are unusual, abnormal times. Profits are down, unemployment is up, and, of course, the problem of inflation is still with us. Here in North Carolina, we are only about half way through the biennium, and we do not know for sure what the second year will bring. Common sense dictates a sense of optimism balanced with caution.

ATTORNEY GENERAL'S RULING: Property Tax Foreclosure Actions

23 March 1970

A.G. to J.R. Sugg

Question: Is the superior court division or the district court division the proper trial division in which to bring an action to foreclose a tax lien in the sum of \$5,000.00 or less?

Answer: Although G.S. 105-391(d) provides that foreclosure actions shall be in superior court, G.S. 7A-240 now provides that the superior court division and the district court division of the General Court of Justice shall have concurrent jurisdiction of civil actions and G.S. 7A-243 further provides that (with certain exceptions not here applicable) the district court division is the proper forum for the trial of civil

actions in which the amount in controversy is \$5,000.00 or less. A foreclosure action under G.S. 105-391 in the nature of an action to foreclose a mortgage is a civil action. Under accepted rules of statutory construction the later enacted statute, G.S. 7A-240, is controlling; therefore, if the aggregate of tax liens to be foreclosed is \$5,000.00 or less, the district court is the proper forum in which to bring the action. If the action is brought in the improper forum the judgment rendered therein will not be void or avoidable "for the sole reason that it was rendered by the court of a trial division which by such allocation is improper for the trial and determination of the civil action or proceeding." G.S. 7A-242.—W.A.C.

policy advice to state government agencies in North Carolina

THAD L. BEYLE and OLIVER WILLIAMS

A major problem facing state and local governments today is obtaining the necessary information for setting priorities, making decisions, and taking action. As our society, its institutions, and problems have become more complex, the actions governments take must be equally complex. This complexity is either a change in fact or a change in the realization of those involved in and studying government and governmental problems. Either way, it has brought about new patterns of governmental behavior. Thus, the type of advice sought and information needed to make decisions and take certain directions in policy is a most interesting subject. Have our governmental institutions changed their ways of obtaining the necessary data and informational inputs? Where, in fact, do our governmental units turn to keep abreast of the latest scientific advice that might be available? Do they have internal capabilities for doing this, or must they turn elsewhere? If elsewhere, where?

These questions are especially pertinent at a time when scientific technology can perform exotic space and military miracles and the possible spin-offs from this technology seem so seductive. The flamboyant California experiments with aerospace technology in the areas of waste disposal, transportation, criminal justice, data management, and the welfare system were of great interest for those in state government.¹ While these efforts may have created more problems than they attempted to alleviate, they served as an exciting landmark in state government activities.

1. Governor Edmund G. Brown, "Aerospace Studies for the Problems of Men," *State Government*, 39 (Winter, 1966), 2-7.

Several different organizational structures have been established and programs attempted to bring the newer expertise to bear on state problems.² The variety of structural forms ranges from scientific advisory committees for chief executives or specific agencies, to grant dispensing foundations or commissions, to nonprofit corporations dedicated to research and development on governmental problems.³ A current study, funded jointly by the National Science Foundation and the Economic Development Administration, is directed toward evaluating these various prototype efforts across nine states.⁴ While no definitive statement can be made now on how well these efforts have worked, the research to be reported in this article might indicate some of the problems and potentials of obtaining the best of scientific aid and advice for our lower levels of government.⁵

While carrying out a case study of the Board of Science and Technology in the State of North Carolina in the nine-state study, we conducted a short survey of North Carolina state government agencies on their research and development activities. Its aim was to obtain open-end responses to some general questions on the status of research and development in these agencies. The questionnaire was sent out September, 1968, to 52 separate agencies; 35 agencies

2. See Harvey M. Sapolsky, "Science Advice for State and Local Government," *Science*, 160 (April 19, 1968), 280-84, for a discussion of these structures.

3. *Ibid.*, p. 281.

4. The report on the nine-state study, edited by Harvey M. Sapolsky, will be issued by the Massachusetts Institute of Technology Press in 1970.

5. For the purposes of this article, scientific advice carries a very broad definition to include research and development activities and general advice utilizing new techniques of analysis.

(67 percent) responded, with only two responses unusable.⁶ Three departments with several divisions and sections sent multiple responses, so that the numbers we cite include a disparate type of agency reporting. Forty-eight separate responses are used in this paper. We must note some major gaps in responses—most notably from the Departments of Conservation and Development, Public Welfare, Public Instruction, Revenue, Paroles, which make up a major portion of state government activity. However, we feel that the results indicate the trends at work in North Carolina.

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The questions put to the responding agencies were designed to get information about program development and management procedures and the aid and advice that state agencies receive from private consulting agencies, individual consultants, and state agencies that assist in research and development activities, as well as from national organizations and federal governmental agencies. Thus, the type of aid and advice to decision-makers that is being reported here should be made clear at the outset. Obviously omitted is legal aid, which both the Attorney General's Department and Institute of Government provide to many state agencies, and training of agency personnel, in which the Institute again performs a major function. More specifically, the type of aid and advice being reported belongs in the category of policy advice for program development and management procedures for performing agency functions. This could encompass a broad range of activities, including basic research to guide policy programs—feasibility studies of alternative policy proposals to

6. The agencies responding to this questionnaire were: Department of Adjutant General; Central Data Processing Division; Council on Aging; General Services Division; and The State Planning Task Force of the Department of Administration; North Carolina Arts Council; Department of Agriculture; Alcoholic Board of Control; State Auditor; Banking Commission; Commission for the Blind; Department of Community Colleges; Department of Corrections; Board of Education (Executive Secretary's Office); Board of Elections; Employment Security Commission; Governor's Commission on Employment of the Handicapped; Governor's Highway Safety Program; Board of Health (ten separate divisions); Highway Commission; Highway Patrol; Board of Higher Education; Higher Education Facilities Commission; Department of Insurance; the Attorney General and the State Bureau of Investigation of the Department of Justice; Board of Juvenile Correction; Department of Labor; State Library; Department of Mental Health; Department of Motor Vehicles; Ports Authority; Probation Commission; Recreation Commission; Secretary of State; Department of Tax Research; State Treasurer; Utilities Commission; Department of Water and Air Resources; and the Department of Wildlife Resources.

specific management studies—such as program/planning/budgeting.

EXTENT OF RESEARCH AND DEVELOPMENT ACTIVITIES

Table I presents the data indicating generally the type of activities undertaken by the reporting state agencies. The data present a mixed picture of the extent of research and development activities in North Carolina state government for these reporting agencies. Sixteen agencies reported no research effort, while five claimed a very limited program of research and development.

On the other side, thirty agencies indicated a research effort ranging from federal grant-in-aid guideline and program studies, to program initiation and promotion research, to program reporting, to management studies.⁷ While no analysis of quality was attempted and the responses for the most part were taken at face value, both experience and a certain degree of cynicism suggests that there was a wide disparity in the research reported. Some of the reports on programs are no more than chronologies filled with unanalyzed, self-fulfilling data on programmatic effectiveness. And some guideline studies are less analytical than justificatory in nature.

A pattern of low commitment becomes clear in Table II, which presents the budgets that the respondents indicated were allocated to research and development by these agencies. Here we find that besides the sixteen agencies reporting no research and development effort, eleven others claimed research but had no budgetary allocation for conducting it. This means that twenty-seven of the agencies had no specific research funds available—over half of the

7. Because some agencies reported several different research and development activities, the total answers (66) are greater than the number of responding agencies (48).

Table I

Q1: *Do you carry out any research and development activities in your department in the way of program development or management procedures studies?*

No answer	2
No	16
Yes (no further elaboration)	7
Very Limited Program	5
Special Studies and Guidelines	16
Initiates and Promotes Programs	8
Reports on Programs	7
Management Studies	5
Total	66

Table II

Q2: *How much is budgeted for activities that you would consider as research and development?*²

No Answer	4
No Research, No Allocation	16
Research, No Allocation	11
\$1-\$15,000	5
\$15,000-\$50,000	2
\$50,000-\$150,000	2
\$150,000-\$200,000	4
\$200,000-\$300,000	1
\$300,000-\$500,000	0
\$500,000+	3
	--
Total	48

reporting agencies. What this can mean was indicated by one respondent:

Currently, the [agency] employs approximately 1,200 people. Of these, some 50 [4 percent] are engaged in research activities. It should be pointed out, however, that many of this group also perform duties which are concerned with on-going program activities only. Thus, perhaps only about two percent of the [agencies] budgeted positions is used for research and development activities, [rather than the 4 percent originally indicated].

At the other end of the scale, where fairly sizable amounts of research funds are indicated, a very distinct pattern exists. The three agencies with largest research budgets are heavily dependent on federal grant-in-aid funds. These are: the Wildlife Resources Commission (\$9.1 million biennial budget, \$1.1 million federal funds); State Planning Task Force of the Department of Administration (\$4.5 million biennial budget, \$3.7 million federal funds); and, the Governor's Highway Safety Program (\$2.8 million biennial budget, \$1.4 million federal funds). The fourth-highest reported research budget is in the Highway Commission, which also relies heavily on federal funds (\$132 million federal funds of a total biennial budget of \$402 million), some of these funds especially keyed to research. Two other agencies reporting sizable research budgets (over \$150,000) are totally funded by federal moneys (the Employment Security Commission and the Higher Education Facilities Commission).

The point here is that these reporting agencies with high research budgets also are recipients of major federal funding—and obviously the federal guidelines and programs that necessitate and struc-

ture the nature of the research and development effort. Beyond this, we must suggest that there seems to be a rather low state commitment to research and development in terms of money spent by these responding agencies.

ACTORS IN RESEARCH AND DEVELOPMENT ACTIVITIES

From a series of questions probing the nature of arrangements used to obtain scientific or technological advice on programs and procedures, we have developed Table III, which presents the type of actors cited. These data are significant both for what they seem to show explicitly and for what is omitted.

First, there is a relatively low citation level for state government agencies. This bespeaks an obvious gap in communication of effort, for no agencies specifically with a research or advising charge were cited. For example, four of those mentioning the Board of Science and Technology spoke only of an "informal" relationship; only one agency indicated that real aid and advice was being provided by the Board.⁸ And no state agency nominated the State Planning Task Force of the Department of Administration, an agency specifically charged with and conducting activities of a research and development character.⁹ For the most part, the agency responses merely cited "other state agencies," which must be taken to indicate that specific research agencies are somewhat "invisible" to those that might use their services.

8. The Board of Science and Technology was established in 1963 by statute on the model of the National Science Foundation to dispense grants to help develop the technological base of the state. The Board also has established an information center as a repository for scientific and technical data from NASA and other federal agencies.

9. The State Planning Task Force was established in 1965 by Executive Order in the Department of Administration to conduct the necessary planning activities in multiple-agency federal grant-in-aid programs. In this role, the Task Force has served as focal agency for planning the implementation of the Appalachian Redevelopment Act, the Economic Development Act, the Land and Water Conservation Act, the Economic Opportunity Act, plus being involved in the planning activities of other federal programs. It was the designated state planning agency at the time of the survey.

Table III

Actors in North Carolina Research and Development

Universities	25
Research Triangle Institute	16
Private Consulting Organizations	15
Private Individuals	14
National Organizations	14
Federal Government Agencies	11
State Government Agencies	9
Institute of Government	7
Board of Science and Technology	5

Second, in reference to non-state government agencies such as private consulting organizations, private individuals, and national organizations, the underlying finding is the rather complete lack of overlap in citations both within and between these categories. Each agency that indicated contacts with one of these sources of advice and aid ("actors") cited a specialized actor specifically tied to the agency's duties. This speaks to the theories of our federal system currently in vogue, which stress the nature of vertical specialization by functions of government.¹⁰ It means that each agency has developed its own specific aid-and-advice structure and goes its own way within the system.

While much of this is obviously required by the nature of agency programs, it indicates that one whole category of actor is not being used by state agencies—those broad-based national organizations charged with and dedicated to helping state governments and their agencies fulfill their roles. Specifically, only one agency cited the Council of State Governments, and *no other* such broad-based organization was mentioned. While our questions may not have been phrased so as to elicit such nominations, we still must note that these organizations do not come naturally to the mind of the state government administrator when asked about research and scientific technological advice. We can only surmise that these broad-based organizations are either not fulfilling their roles or are appealing to other clientele not represented in our sample.

Another severe governmental problem becomes apparent—duplication of effort in research, aid, and advice. Money is often spent several times for basically the same product, only for different agencies by different actors. This is expensive also in that different answers or information may be provided to the respective agencies, which then have different bases on which to make decisions and project activities. An example of such overlap was found in population projections for the State of North Carolina. During a survey of the planning activities in state government in 1964, at least four different population projection efforts were found—all different.¹¹ One need not be a cynic to foresee that such a situation could be used to advance the position of particular agencies making claims on programs and appropriations.

A third point to be noted is the emphasis placed on two specific actors in the state—the Research Triangle Institute and the Institute of Government of

the University of North Carolina at Chapel Hill.¹² Both these actors were especially cited as specifically aiding agencies in their research and development needs. The descriptions of the contacts indicated that they were quite instrumental in almost every case, *e.g.*, contracts, consultants, negotiations. Both institutes were established to fulfill just such roles; from the evidence found in this data, they are doing so fairly well across the range of responding agencies.

The final and most significant point to be made concerns the extent to which the state universities and their personnel are used to aid and advise state government agencies.¹³ Not only do we find universities the most-cited actors, but also many of the private individuals mentioned are faculty members with particular expertise helpful to various state agencies. Thus we suggest that the low state government commitment to research and development seen in our data is not quite as bad as it at first might seem. A major portion of the state's research budget lies hidden in the universities, which lessens the need to develop an "in-house" staff or to hire specific consultants. In fact, some portions of the universities—namely, specific faculty and institutes—might well be seen as important parts of state government and its activities.

A real problem exists in the nature of such utilization of university resources, however. Interaction between university and government agency appears to be random across both state government and the university. Many agencies that need aid and advice do not know where to turn in the university, and many eager faculty of the universities are unsure where in the government organizational structure they might provide service. The gap is obvious; with the need and desire on both sides to work together, it would seem that a more structured interaction might be the goal of the university and the state government.

This research report reveals several interesting points. One, it suggests a low commitment to research and development at the state level which is modified when specific actors like the universities are included in the analysis. Two, it demonstrates two significant facts concerning our federal system: the extent to which federal dollars and programs permeate the

10. See Morton Grodzins, "The Federal System" in *Goals for America* (Englewood Cliffs, New Jersey: Prentice Hall, 1960), pp. 265-82; U. S. Senate, Subcommittee on Intergovernmental Relations of the Committee on Government Operations, "The Federal System as seen by Federal Aid Officials" (Washington: U. S. Government Printing Office, 1965), pp. 93-102; and Terry Sanford, *Storm Over the States* (New York: McGraw-Hill, 1967), for presentation of some of these arguments.

11. This survey was reported in *Strategy for Development* (Raleigh: The Governor's Office, 1964).

12. Research Triangle Institute was established in 1959 as a nonprofit, multi-purpose consulting organization. It is located in the Research Triangle Park, between Raleigh and Durham, N. C. Technical services are provided on a contractual basis to both government agencies and commercial industries. The Institute of Government was established in 1931 at the University of North Carolina in Chapel Hill to aid state and local governments in implementing their programs. Emphasis has been upon service, consulting, training programs, and research of an applied nature.

13. While most of the mentions were to the University of North Carolina at Chapel Hill and North Carolina State University at Raleigh, the medical schools of Duke University in Durham and Wake Forest University in Winston-Salem received several citations, as did several out-of-state institutions.

structure and activities of other levels, and how fragmented each agency's activities are—the functional specialization decried by the reformer. It also hints at the possibility that national organizations with a broad charge to aid state government are either misdirecting their activities or are aiming at other clientele not covered in this study.

Finally, it points to obvious gaps in program policy advice available to state government agencies in the existing structure of scientific and development institutions in the state. While North Carolina has done well in developing institutes with expertise in legal and training functions to assist both state agencies and local governments, it presently lacks the broader function of aid and advice in programs and policies in which the state, its agencies, and local governmental units are engaged. As a result, these agencies either rely on ad hoc arrangements with individual consultants, both within and outside the state, or often, we would contend, do not have the program and policy advice that is available to state government agencies in some states. Some of the areas that immediately come to mind where this ad hoc arrangement is used are the criminal justice agencies, where increased program development and research are supported by federal funds under the Omnibus Crime Control Act; the various economic and industrial development activities; environmental problems; and, most important, in social policy concerns like income maintenance, health, housing, and education.

Of course, there are places as well as individuals to which the state can turn for study, aid, and advice on such problems; however it is questionable whether ad hoc sources are as economic and as beneficial to

the state in terms of long-range planning and policy development as a state-related or supported institute would be.

In terms of specific proposals, perhaps several options are available if the state moves toward the development of a broad-ranged policy mechanism. One would be to create a separate policy-advising institution, perhaps patterned after the Brookings Institution in Washington, D. C. Here, a staff of experts would be placed outside the governmental milieu and would serve government in various advisory capacities. One important role would be to provide an interface between the governmental agencies and the resources of the university communities.

A second option would be to attach to state government itself a mechanism that could better coordinate the ad hoc arrangements that presently exist and to provide a broader framework in which such aid and advice is developed. This might fit a broadened definition of what the state planning process is about and might, therefore, be lodged within the agency designated as the state planning agency.

A third available option is to enlarge the scope and expertise of an agency like the Institute of Government, which now has much of the legal expertise that agencies of state government need and is itself moving toward policy advice in such an area as criminal justice.

We have suggested three options—there are others, or combinations of these three, that might work. The point of our argument is that a clear need exists and that to continue in such an uncharted and ad hoc manner is to be wasteful of existing and, in part, already paid-for resources.

Federal Grants (continued from page 8)

ed, their political and financial independence threatened, and their capacity for dual sovereignty with the federal government so deteriorated that repair of the federal-state partnership will seem hopeless. Admittedly, these are drastic prognoses, but they must be taken into account as real and not very distant possibilities.

What is to be done? There is, of course, no one answer: the days of singular and simplistic solutions to multifaceted and convoluted problems are long gone. Improved coordination of the grant system is required at all levels.¹² Some consolidation of the grant programs is necessary; more categorical or block grants would be natural concomitants to consolida-

tion of federal grants.¹³ A policy of deference in the federal-state relationship is desirable; this is a conscious policy of deferring federal policy judgments to state or local policy judgments.¹⁴ Finally, a program for a sharing of federal revenues with state and local governments on a largely unrestricted basis is indicated.¹⁵ By a combination of all of these proposals, the trends noted might be ameliorated and perhaps even forestalled and a sensible program of creative federalism be established.

12. See, e.g., Intergovernmental Cooperation Act of 1968 (P.L. 90-577). See also *Federal Programs of Grants-In-Aid to State and Local Governments*, Legis. Ref. Service, Library of Congress, for the Sub-Committee on Intergovernmental Relations. U.S. Senate Committee on Government Operations, Ninety-first Congress, 1st Session (1969), at p. 10 et seq. Also MUSHKIN AND COTTON, *op. cit. supra* note 5.

13. SUNDQUIST AND DAVIS, *supra* note 1, at 247 et seq.

14. *Supra* note 4

12. SUNDQUIST AND DAVIS, *op. cit. supra* note 1; MUSHKIN AND COTTON, *op. cit. supra* note 5.

we've got

The Whole Caseload

in our hands

by Alvin W. Cohn

The times are ripe for revolution, and if we listen to some groups, it will be "the first **real** revolution in this country." Welfare rights organizations, the organized poor, the disenfranchised and disenfranchised, and other protest groups are no longer relying upon older organizational processes within the establishment to represent their views. They are speaking for themselves—and well they should. Prisoners riot, inmates demonstrate, and I would not be surprised if before too long a group of probationers strike. For what? Perhaps for better benefits, more rights, more compassion, and to be considered human beings.

Social workers are no longer able to speak for the poor, and I daresay that probation officers no longer represent offenders—certainly not in the traditional ways of yesteryear. If this were not so, the United States Supreme Court would not have had to rule in favor of defendants—juvenile and adult—who have successfully demanded additional civil rights and liberties. The **Gault**, **Gideon**, **Miranda**, and **Escobedo** decisions, due process, and rules of evidence are only some of the words and phrases that send chills up and down the spines not only of police, but of probation departments as well. Probation departments and services, created as "advocates" and considered as such since the

days of John Augustus, have, over the years, become prosecutorial in stance and in behavior. The friendly, skillful, helping agent that the probation officer used to be as a "rule" may now, unfortunately, be the "exception."

As a consequence, it is no wonder that our system is in disrepute in many quarters and that the system's keepers are seen as nothing more than establishmentarians—people frequently secure in their civil service positions, no longer innovative or challenging, and, for the most part, too wrapped up in paper work, forms, rules, regulations, and procedures to have much time—or concern—for the beneficiaries of their services—the probationers and their families.

Lest you believe that this lack of concern is pervasive across the country and/or that probationers are on the verge of uniting and fighting back, let me assure you that neither is anywhere near the case. That either could occur to a greater degree than presently exists, that there could be more lack of concern by some agencies and their personnel, or that there could be a greater amount of disenchantment by probationers certainly is true. The issue, perhaps, is what are we prepared to do about this situation from within.

At the outset, let me say that I am addressing myself primarily to probation officers and supervisors rather than to administrators, for it is in the hands of the probation officer that the real fate of the probationer is determined. Certainly, it is the executives who make the so-called administrative policies and it is the court that officially determines who shall be granted probation and who shall be incarcerated. But it is the probation officer who really determines what will happen and when it will happen. The proof lies not only in your hearts and experiences but in valid and reliable data. In two separate studies courts followed probation officer recommendations for probation in over 95 percent of the cases. Where prison was recommended, the bench went along only 88 percent of the time. Second-guessing judges? Not really. Leniency or severity holds constant regardless of judge or probation officer.

In another situation an administrative order was changed in a state parole program so that probation officers were held accountable for technical violations. Promotions, in part, were based upon a probation officer's ability to keep his clients on the streets where most probationers and parolees belong. In less than one year, the reduction in technical violations was comparable to the inmate population of two medium-sized prisons.

Who goes on probation and who stays on probation is determined by the system and its operatives in terms of personal standards and biases, whims, and the desires of many influential (establishment) people. However, it is the probation officer, almost singlehandedly, who determines caseload size—at least in terms of those being supervised. He's got the whole caseload in his hands!

We need to know what will happen to caseloads if we, as a matter of policy, keep probationers on the streets, in their own communities, and at home. How will the enormous additional responsibility affect the role of the probation officer if we keep more men on the streets instead of in prisons? Before answering that, one must ask what the philosophy of probation is or ought to be. What is the mission? When we resolve this perplexing problem, we can then begin to think about programs,

procedures to implement those programs, and processes for evaluating whether the programs do meet or satisfy the explicit goals of the organization.

If the goal is only to **rehabilitate** the client, mental hygiene clinics or family service agencies are probably better suited for that job. If the goal is to **protect** the community, for the most part, law enforcement agencies are better equipped and trained for that task. A combination of the two might appear to be an acceptable way out of the dilemma, but that is only a semantic crossword puzzle and resolves nothing. What then? How about the development of a goal or mission that would strive to keep convicted offenders in their own homes, in their own communities, in school or at work? How about keeping them at home and adding something else to our mission that is of equal importance: not only **changing clients** to be better able to live in society, but **changing that society** to better accept these offenders by raising its own threshold of tolerance for deviance?

Of course, if we tell a community that it should tolerate and keep within its midst more people who lie, cheat, drink, and squabble with their wives and children (and who among us is prepared to cast the first stone?), then we must be prepared—personally and organizationally—to tolerate the same amount of deviance in our caseloads! Perhaps even a bit more. Only in extreme cases and for purposes of control, not punishment, would men and boys be sent away; they would remain at home, but on your caseload—in your hands! Granted, your caseloads would be higher in numbers, but the taxpayers' costs and prison, detention, and training school populations would be reduced substantially. This, in my opinion, would be a significant criminological and humane advance.

Let me suggest, however, that many organizations have endeavored to spell out their organizational goals and have assumed that all personnel are quite aware of the goals and how they are to be implemented. If I were asked to spell out an organization's goals, I would conclude that almost no one would satisfy the boss's notion. One of the reasons for this is the confusion between institutional success and organizational achievement,

This article is adapted from the author's address before the North Carolina Probation Conference in April. At the time he was training director for the National Institute of Crime and Delinquency. He now teaches at American University.

confusion at all levels of the organization. Simply put, **organizational achievement** refers to those programs, issues, ideas, reports, and numbers that describe the organization and some of the things it accomplishes: size of caseloads, numbers of probation officers, number of research projects, and how many probation officers have graduate degrees, etc. **Institutional success** is the nitty-gritty of whether the organization is fulfilling its mission or goal: reducing crime, keeping offenders in their communities, etc. It tells us whether we are succeeding in what we started out to do. If institutional success is what we really want and must secure, then we cannot be sidetracked by impressive organizational achievements, no matter how noteworthy they might be. Instead, we must define our organizational goal, insure that all members are aware of it, and have the tools, skills, and dedication to make it work.

Caseloads: Size and Complexity

I have taken the long way around in answering the question of caseload size and its implication for practice, giving special attention to the need for explicit goals. But back to the issue of caseloads, the bane of the probation officer in terms of either the consequences of its size or its complexity: research findings suggest that, from one point of view, the size of the caseload is directly related to probation officer job satisfaction, not to probationer success. Research finds that there is some correlation between job satisfaction and performance, but that refers to **probation officer** performance—how well he does the job, how much extra effort he produces, etc. Insofar as probationer success (probation success rate) is concerned, the size of the caseload is almost inconsequential if not meaningless. Let me explain.

For the most part, caseloads are assigned on either a geographical or a numerical basis. That is, probationer X is assigned to probation officer Z because he lives in a certain area or because Z's caseload size is the smallest, or perhaps because it is his turn. In some cases, Z receives X because he did the pre-sentence report and as a matter of policy, assignment is made on that basis.

We have been operating for many years, according to the American Correctional Association and NCCD, under the assumption that a caseload of 50 (now 35) units is the ideal size. This assumes that

a probation officer can handle no more than 35 units per month—one unit for each case under supervision and 5 units for each pre-sentence report. On that basis, probationers receive equal attention. Notice the implication of that statement (another assumption that we have made over the years) that each probation officer, provided he is educated and trained, is as equipped and as talented as the next and that each probationer is as much in need as every other. The ideal state of affairs would be an equally competent group of workers capable of dealing with equally matched groups of probationers in need of equal amounts and similar kinds of services. Of course, in examining our experiences, we all admit that this is true. We have all urged and fought for reduced caseloads. We want to be able to do more for each of our clients. Perhaps we should ask these clients whether that is what they want. We might be surprised to find that they have a different opinion.

Research indicates that there is no magic answer in reduced caseloads. Granted, they make the probation officer happier, but they do not necessarily help the probationer. In the San Francisco Project, a controlled experiment was developed based upon the preceding caseload size standards. Various probation officers had normal (100 units), ideal (50), or intensive (25) caseloads assigned to them. A minimum-supervision caseload was established whereby offenders were only required to submit a written monthly report to the probation officer; no other contacts were made mandatory. However, the probationer was free to seek and was provided with whatever assistance he asked for, but he received it from whoever happened to be on duty or was available at the time. Later in the project, a single probation officer was assigned the responsibility for all minimum-supervision cases—a caseload of between 200 to 300 units.

The findings of the project speak for themselves—and eloquently: "Our data suggest that much of the supervision effort which is routinely directed to the offender is not effective and does not produce any change in the delinquent and criminal behavior of that offender. The 'crisis' supervision feature of our minimum-supervision caseload is certainly part of the supervision picture of normal caseloads. We suspect it is this feature which results in the nearly equal performance of minimum and normal supervision caseloads. The real significance of supervision may well be in the probation and parole officer's ability to diagnose and act upon the specific difficulties encountered by the offender, not in routine, normal contacts with the offender. We

would now question the value of 'all-purpose' counseling and supervision and suspect that effective supervision deals with specifics, not generalities."

In other words, no matter what the size of the caseload, the success rate (or the rate of violation either for technical reasons or for new-offense convictions) remained about the same for all four levels of supervision. The data suggest that a concept of a 50-unit, or any other number, caseload is a figment of someone's imagination and that it is likely to be meaningless without a demonstrated classification system based upon well-defined treatment resources, offender needs, and officer qualifications. Small caseloads don't guarantee probationer success, only probation officer happiness!

From another point of view, we must ask: Who needs what? Why? And by whom can it best be done? We need to examine existing practices and programs in terms not only of whether they help us meet well-defined organizational goals but also whether they do our clients any good. We need to explore those aspects of the system, our values, the client's needs, and the community's beliefs and resources that help and/or hinder the mutually mandated charge of helping one another find socially satisfying ways of coping with criminal justice problems and living within our own communities.

Consequently, we might benefit from being a little more synergistic than we have been in the past. To be creative—to find innovative ways of responding to old problems—perhaps will require that we re-examine traditional practices, practices with which many of us are comfortable, with a view toward exploding them as myths and as unsupportable programs. What we need to do, at the least, is raise some questions, explore some issues that need emphasis, and keep ourselves apprised of new developments and findings that will help all of us continue to develop a scientifically valid body of knowledge that we might collectively call corrections, or perhaps even criminology. Here, then, are a few of the questions, issues, and comments that I would like to raise. Hopefully, they will be answered or addressed by someone in the near future:

(1) Is the presentence report so sacrosanct that it cannot be changed or altered or perhaps even done away with? Is it necessary to spend so much money and time and effort on a report that is not used by judges in making decisions, by probation officers in supervision, or by prison administrators or parole officers? Why not reduce it to a several-paragraph description and develop information

around those aspects of a defendant's life style that are utilized in decision-making: current offense, prior record, and some kind of stability index (has he any strengths with which to work?). Then we could forget about the unverifiable invalid information that we routinely and automatically collect and store away on 15 typewritten pages in triplicate!

(2) How is it possible that for years we have been condemning and haranguing employers for their failure to employ offenders and ex-offenders when the correctional system itself has been even more guilty of nonutilization? If we have learned nothing else from AA, Synanon, and other self-help groups, we should have learned that some people can benefit from others who have had similar experiences. In at least one jurisdiction, it was assumed that ex-offenders could not be hired because of civil service restrictions. Investigation proved this to be nonsense. Civil service discourages such employment, but there are no rules against it. The employment of ex-offenders for work with youthful offenders, while not altogether successful, at the very least provides jobs for people who cannot easily find employment. It is time that we fill our ranks with the most talented, able, and willing, who may or may not have the right degrees and proper "moral" qualifications.

(3) How many times in the past several years have you observed our state and local professional organizations testifying before legislative bodies regarding penal code changes or fiscal appropriations? How often have we lobbied and urged the community to join us in reducing punitive ways of responding to criminal activity and replacing them with rehabilitative measures?

(4) How often have we brought all of our influence together to bear upon a single problem such as drug use? We certainly are affected by the problem. I am confident that across the country an increasing percentage of caseloads is concerned with the use of or traffic in drugs. What do we know about the treatment of such offenders or about their case management? What kinds of experimental programs do we have within our agencies or in cooperation with other programs? Do we continue to deal with those who use drugs in the same punitive, nonrehabilitative ways that the last generation of probation officers did? Why not demand collaborative services? Why not urge our own agencies to develop experimental programs and measure the results? Then spread the good or bad words!

(5) Isn't it possible to train managers to be managers? Isn't there some successful means for

training our executives without their having to go through the casework routine? It is time that we gave a little more energy to the training and development of administrative managers, while at the same time assisting our workers in better techniques of case management and control.

(6) Will we ever reach the stage where we will no longer have to fight our colleagues for the legislative dollar and for the public's concern so that we can settle down to an understanding and appreciation of the administration of criminal justice as a **system** instead of probation vs. police vs. parole vs. institutions vs. juvenile vs. adult, etc? Sooner or later we will be viewed as one operation. Why shouldn't we help ourselves systematically, and thereby make appropriate changes in structure, organization, ideology, and program before they are forced upon us?

(7) We have taken pride in the development of the philosophy of "Alternatives to Incarceration." I think we have grown up enough to speak now of "Alternatives to Community-Based Treatment."

(8) Retributive punishment as a deterrent to crime doesn't work. It should be abolished from our minds and practices.

(9) Racism does indeed exist in our society and we had best do away with it without anymore condescension and phony liberalism. When disproportionate numbers of blacks or chicanos go to prison instead of being placed on probation or stay incarcerated longer and do not have the chance to be paroled as early as others, that is racism and it has nothing to do with bigotry!

(10) Perhaps we need some halfway-in houses instead of all those (wonderful and needed) halfway-out houses.

(11) Aren't misdemeanants being lost in all this shuffle to provide services and help? If we provide more services to them, as we are supposed to do for juveniles, more delinquents wouldn't become misdemeanants, and would not ultimately become felons.

(12) If we did more work **with** our clients, doing less **for** or **to** them, and allowed them more opportunity for choice, we all, community included, would be better off. Why don't we ask our clients to help us by working together to add mercy and compassion to improve the system of administration of justice?

(13) Organizational secretaries can make or break us. They do a lot of casework now. Why don't we recognize their importance in terms of their rehabilitation service potential?

(14) Murderers and rapists have significantly higher rates of success on parole than do auto thieves and burglars. Why don't we admit these truths to ourselves and help the communities we serve to understand this? We have the facts; it is time we explode the myths that abound in correctional practice.

(15) With few exceptions, each time a case blows up, a probation officer can explain it with a long list of reasons, almost all of which will point out the weaknesses and failures on the part of the probationer and sometimes the community. I can hardly think of a time when it was the probation officer's fault, or when the case blew up because he was incompetent or because he just didn't know what to do, or how to do it, or care to do it. If you don't believe him, ask his supervisor! He will agree. If you don't believe him, ask the chief. After all, how could it be the probation officer's fault, or the supervisor's, or the chief's, or the fault of the program? In the last analysis, the probationer was an ingrate who would not accept the great service and counsel being given to him on a silver platter!

As one albeit very biased observer puts it: "The system is evil. It is criminal. It is murderous. It is in power. It is arrogant. It is crazy. And it is in control. It looks upon the people as its property."

Further, "I don't know how to go about waiting until people start practicing what they preach. Because all I see is a very critical situation, a chaotic situation, where there's pain, there's suffering, there's death, and I see no justification for waiting until tomorrow to say what you could say tonight. I see no justification for not moving even if I have to move myself."

And so, the critical issue that demands an immediate response is: Are we going to do some of the changing of our system in a planned, constructive, evolutionary way, or will it have to be done by revolutionaries? If we don't move and move soon, if we do not act like the human beings we're supposed to be toward other human beings with more kindness and compassion, I, for one, will have a better understanding of what revolutionaries mean when they say they can't wait anymore.

The caseloads are in our hands. Every minute is precious. Every life is precious. Let us not waste them.

Book Reviews

THE INFLUENCE OF FEDERAL GRANTS: Public Assistance in Massachusetts. by Martha Derthick (Harvard University Press, Cambridge, Massachusetts, 1970). 285 pp., \$8.50.

Professor Martha Derthick (of Harvard University's department of government) has written a timely and welcome addition to the recent literature on federal-state-local governmental relations. At a time when a major reform of the public assistance program is being urged by President Nixon, when a significant amount of criticism is being leveled at the centralist drift in the federal-state partnership, and when proposals for "creative federalism" are being offered to reshape existing inter-governmental relations, it is valuable to have Miss Derthick's analysis of the nature and extent of federal influence through grants-in-aid, and particularly her insights on the prospects for the entire grant system itself.

Miss Derthick combines forceful style, careful documentation, organizational clarity and persuasive arguments in using the public assistance program as an example of how grant-in-aid programs are instruments of federal influence.

She sets forth the formal structure of the federal-state-local relationships under the U.S. Constitution and as it has evolved through the use of federal grants. She then studies federal influence in the public assistance programs by focusing on issues of (1) the adequacy (amount) of assistance, (2) the equity (fairness) with which the program is administered, (3) the program's efficiency, (4) the

extent to which the program has been able to supply services (in addition to funds) to the needy, and (5) the professionalization of public assistance administrators and personnel. In each case, Professor Derthick describes the federal policy goal and efforts to achieve that goal in Massachusetts, the response by state and local governments to those efforts, and the consequences of the federal-state interaction for the state. She concludes with an analysis of the federal influence and an evaluation of the prospects for creative federalism as implemented under the grant system.

Using the grants for public assistance to illustrate her point, Miss Derthick argues that although state and local governments have not been "withering away," the trend of federal-state relationships has been for governmental power to "flow . . . toward the center."¹ In practice, grant-giving has been "inseparable" from the enunciation of federal purposes; the grant system is the vehicle by which the federal government seeks to influence state and local government conduct to promote its own goals. The principal methods employed are positive inducements — giving money, and negative inducements — imposing conditions on the use of the money.

Inevitably, federal activity produces cooperation as well as conflict in the federal-state-local relationships. As a general rule, cooperation and harmonious relations are most likely to occur if federal grants are initiated when a strong central authority already exists in

1. I wish to acknowledge that I have extensively paraphrased her book, sometimes to the point of using almost verbatim quotations, without the use of footnotes.

a state or can be developed rapidly in response to federal expectations. Contrarily, federal-state conflict is most likely to occur in the absence of such a state-based central authority. In Massachusetts, political principles of local responsibility for administering public assistance; decentralized policy-making; and legislative resistance to centralized, professionalized, and uniform administration throughout the state were three major elements that produced federal-state conflict. The state ultimately moved toward centralized policy-making and thereby to breaking down the barriers of local and largely nonprofessional administration. Nevertheless, each step toward centralized policy-making and administration taken by the state after 1936 was taken with federal encouragement and approval, and some steps indeed were taken upon federal insistence. By a long series of actions, the federal government profoundly affected the distribution of power to make policy and administer public assistance programs in Massachusetts by accelerating and shaping almost all state reforms.

There are, however, significant restraints on the federal government's capacity to stipulate a state's value choices in public assistance. The first group of these are political. One inherent limitation is that the federal government includes the many states. As a conflict resolver, it has too many interests to reconcile to permit setting specific national goals, but it can set broad national goals because it is inclusive of many relatively similar points of view. Another limitation is that state and local governments cannot be required to participate in federal programs; their voluntary participation must be "purchased" either by inducements such as financial aid or by generalized appeals to fairly universally acceptable policy goals. A third is the extent of congressional tolerance of agency behavior; if a federal agency offends too many state and local

officials, congressional reprisals against the agency are inevitable. A final restraint is the absence of indigenous allies; a federal agency will be more successful in implementing its policy goals locally if it can rely on the political support of local interest groups.

A second group of restraints are administrative. State and local governments may lack either the capacity or the willingness to conform to federal policies or conditions. Even if they have such capacity and willingness, compliance must be federally verified; the federal agency must be sure that federal goals and conditions are being met.

To reduce problems of enforcing federal goals and conditions, federal agencies tend to formulate conditions so as to make them consistent with the interest of at least one major group at the state level, typically the agency that receives the grants. They also are inclined to require state agencies to submit statements of intent and methods of realizing intent, rather than attempting to impose standards on the actual results of conduct.

In addition, three ways of achieving federal objectives have been devised. One way, which involves the federal agency in state politics, is to stimulate proposals by state or local officials; this is done by offering funds or setting conditions on the funds so that an issue is raised for consideration—so that a subject is selected for debate on the state's public agenda. A second way, which involves the state agency as a federal ally, is either to create a state ally (as by creating a state agency indirectly by offering funds) or to contribute to an existing state agency's power and autonomy (as by insisting on a "single state agency" to perform federal goals or by supplying federal funds for and imposing conditions on an agency's program). A third way, which reaches its ultimate power in withholding funds because of state nonconformity with federal plans or conditions, is by adopting a "diplomatic style" of

negotiation, attempting to facilitate communication and amiable relationships, or threatening to withhold funds.

While the result of federal action has been that state programs reflect federal intentions, the attainment of federal goals has depended upon the prevalence of values in the state that are consistent with federal action, the presence of local allies and their power in state politics, and the prevailing ideology or political culture of a particular state. In Massachusetts, the conditions that were necessary to attain federal goals already existed and had been reinforced by federal action over a long period of time.

As valuable as these analyses and conclusions are, Professor Derthick's major contribution is in (1) analyzing a recent trend in the federal grant system toward decentralization of goals and administration from the federal government to state and local governments, (2) furnishing a critique of proposals for creative federalism, and (3) giving what appears to be a not entirely wholehearted defense of the centralized grant system.

Creative federalism is a principle for decentralizing the grant program. As a concept, it derives from inquiries into whether the functioning of the federal system does in fact serve the values it is presumed to serve. It questions the assumption of the superior value of federal activity. It is a response to the administrative chaos in the grant system, and, as such, it is concerned with the efficacy of federal grant programs. Conceptually, it stresses the importance of enhancing the scope and creative capacity for action of the recipients of federal grants, and, as espoused by many of its proponents, rests on philosophical foundations of pluralism. Its general aim is to promote the decentralization of governmental functions within the federal system, mostly by devolution of power to lower levels in the federal system (state and local governments)

and by dispersion of power among the people in general. Devolution of power in the federal system is sought by proposals for sharing federal revenue with state and local governments, greater use of "project grants" in preference to "formula grants," and improved coordination of federal and state activities. Dispersion of power among the people generally is sought by client-citizen participation, as in the community-action program of the war on poverty and the model cities program. Professor Derthick has serious reservations about each of these methods, and, indeed, about the entire concept itself.

Decentralization in the sense of devolution within the federal system requires the counteracting of forces that tend to produce centralization; it takes a positive stance against the inertial centralism of a *federal* grant system. It takes a *national* perspective, not a local one. This perspective seeks more effective ways of achieving *federal* purposes, partly by increasing federal fiscal support of state and local governments and partly by strengthening state and local government thereby and otherwise. Decentralization is thought to be a way of making state and local governments better administrators of federal programs; its principal goal is to make intergovernmental cooperation more effective; another is to serve the value of pluralism.

Miss Derthick argues that social efficacy and the values of pluralism are to some degree competitive. Pluralism tries to create discrete spheres and structures of political decision-making. Social efficacy, on the other hand, presumes a more or less integrated and consistent set of values or social ends. This conflict has not been apparent to proponents of decentralization because, for them, pluralism does not imply the production of substantially different value choices; instead it implies the development, in dispersed decision-making structures, of a wide variety of means for realizing common ends. The

proponents seek to stimulate state and local initiative in devising problem-solving techniques, and they assume that the problems to be solved and the ends to be served generally will be defined by the federal government or by an informal consensus among those political "elites" able to perceive the common needs of society. Theirs is a conception of "administrative pluralism," not "political pluralism," and their focus is on the functioning of state and local governments, which they see as the potential sources of new problem-solving techniques.

Decentralization in the sense of dispersion of official, governmental power among nonofficial people has become a common condition of federal aid. This federal policy has the goal of influencing the structure of state decision-making processes in such a way as to produce results that will serve federal objectives. In the field of public assistance, for example, the introduction of clients into the state decision-making process is intended to reinforce the preference of professionals for liberal programs and to increase pressure on them to liberalize these programs. It plays upon the common interest of clients and administrators in aggrandizing the public assistance programs. Miss Derthick doubts that the federal requirement of client participation will have much effect; instead, she believes that the traditional political methods of private pressure groups may be more effective. And she sees serious obstacles to federal efforts to promote this kind of decentralization.

One such obstacle is the difficulty of enforcing requirements for client (or other citizen) participation in grant programs. Other hurdles lie more in the nature of the grant system itself. One of these is the federal interest in accountability for program results, in developing state and local counterpart agencies that will be responsible for fulfilling federal conditions and goals. Another is

involved in the dilemma that unless the federal government is willing to attach the highest priority to the ideological aim of dispersing power and accepting the sacrifice of achievement that will result therefrom, the aim of dispersing power will itself have to be compromised. Finally, citizen participation at the state or local level does not provide access to decisions made at the federal level within the federal bureaucracy, nor does it facilitate communication between the state and federal levels; the reason for this is that the grant system itself puts a high premium on the possession of bureaucratic skills and bureaucratic officeholding.

Notwithstanding these problems of decentralization and dispersal of power, Miss Derthick seems to suggest that perhaps they have their appeal. If so, she argues that, ironically, the appeal seems to lie in the grant system itself. As a way of dispersing power and safeguarding pluralism, the grant system, she says with obvious disapproval, is flawed by a tendency to foster powerful, self-serving intergovernmental alliances between official agencies that share values and interests as well as functions and gain autonomy through the system's operation.

Miss Derthick ends on a note that I thought at first reading was ambivalent but on second reading and after thought appears to be despairing. It seems that, despite her acute discomfort with creative federalism, she is almost equally disturbed by the prospect that reform of the grant system by programs of creative federalism

. . . more books

will not be undertaken. I do not mean to be critical of Miss Derthick; indeed, I am sympathetic. Our choices for the future have been circumscribed by history; the proper mix—the right combination—of pluralism and social efficacy is difficult enough to agree on and still more difficult to design.² Miss Derthick is aware of this, and many of us can only hope with her that adaptations will be improvements upon the present grant system.—H.R.T., III.

² In a recent article, I raised these same problems in a revenue-sharing context. Like Professor Derthick, whose experience in matters of federal-state relations far exceeds mine and whose abilities are formidable, I found myself ambivalent and groping for neat solutions. See "Federal Revenue Sharing," 29 *Md. L. Rev.* 344 at 376 (1969).

Public Authorities in Urban Areas. Robert G. Smith, National Association of Counties Research Foundation, Washington, D. C.: 1969, 426 pp.

The public authority—typically a special-purpose government charged with operation of a revenue-producing facility and limited to those revenues for both capital and operating costs—has emerged during the last thirty years as an important device in the governance of urban areas. Rare is the large city with its environs that is without at least one authority, for the range of functions thought suitable for authority operation is broad. A listing of only the most prominent would include: urban mass transit; roads, bridges, and tunnels; housing; urban redevelopment; hospitals; water or sewerage

systems or both; coliseums; airports; and port facilities.

Three reasons are commonly mentioned for the proliferation of the authority device. First, it appealed to municipal reform movements, particularly those of the last generation, as a means of removing a public function from the "politicians." A potentially self-supporting municipal function was thought most appropriately operated like a business by businessmen, insulated from the changing pressures of politics. (This generation's reformers, ironically, often urge giving the authorities back to the politicians, on the theory that public resources should be subject to a central, popularly responsive control.) Second, the authority offered an escape from ancient municipal debt ceilings found in state constitutions or state law. Although such ceilings frequently have little relation to the actual borrowing capacity of a unit, they are very difficult to change. Therefore, the authority offered a means of going around the ceiling through the creation of a new government with its own ceiling. The fiscal crisis might thereby have been averted, but it is becoming clear that the resultant proliferation of governments was a heavy price to pay. Third, some authorities have been given regional control of a particular function — especially transit or water supply or sewage disposal—where the regional interest has been obvious but a general regional government impracticable.

Public Authorities in Urban Areas argues that authorities are a permanent fixture in local government, and indeed are entering a new wider phase heralded by recent activity in transportation. (The book's title, which seems to promise a more comprehensive look into public authorities, is misleading.) In this phase, the third by the author's reckoning (the first two were the traditional tax-supported special district and the traditional authority), authorities will become involved in more than

one function, some of which will not be self-supporting; will operate on a regional scale; and will be able to tap sources of financing other than facility revenues.

Much of the book is given over to a narrative of the evolution of the Metropolitan Transportation Authority of the New York City area, seen by Professor Smith as a prototype of the new authority. The former New York City Transit Authority (responsible for rapid transit in New York City), the former Triborough Bridge and Tunnel Authority (which operated a number of parkways, bridges, and tunnels in the New York metropolitan area), and the former Metropolitan Commuter Transportation Authority (responsible for the Long Island Railroad), were combined and brought together a number of transportation agencies and modes, some self-supporting, others deficit ridden. The surpluses of the Triborough Authority were to be available to the rapid transit and railway operations, while the state guaranteed any remaining debt-device deficits. During the long narrative, the author makes a number of subsidiary points, particularly with regard to relationships between authorities and general local government and between two or more authorities. A final chapter then discusses various means of coordinating general and special-purpose governments using as models the proposals that New York developed in trying to reorganize its transportation agencies.

As a signal of a new type of urban government structure, and as a cataloguing of means of controlling the new structure, the book may be useful. But a number of serious faults impair the argument, affect its readability, and add up to an over-all disappointment. The chief problem is Mr. Smith's use of the case study. To work, a case study must clarify the basic facts of the example and use it to illuminate the points the author wishes to make. Smith's narrative does neither; as a basic

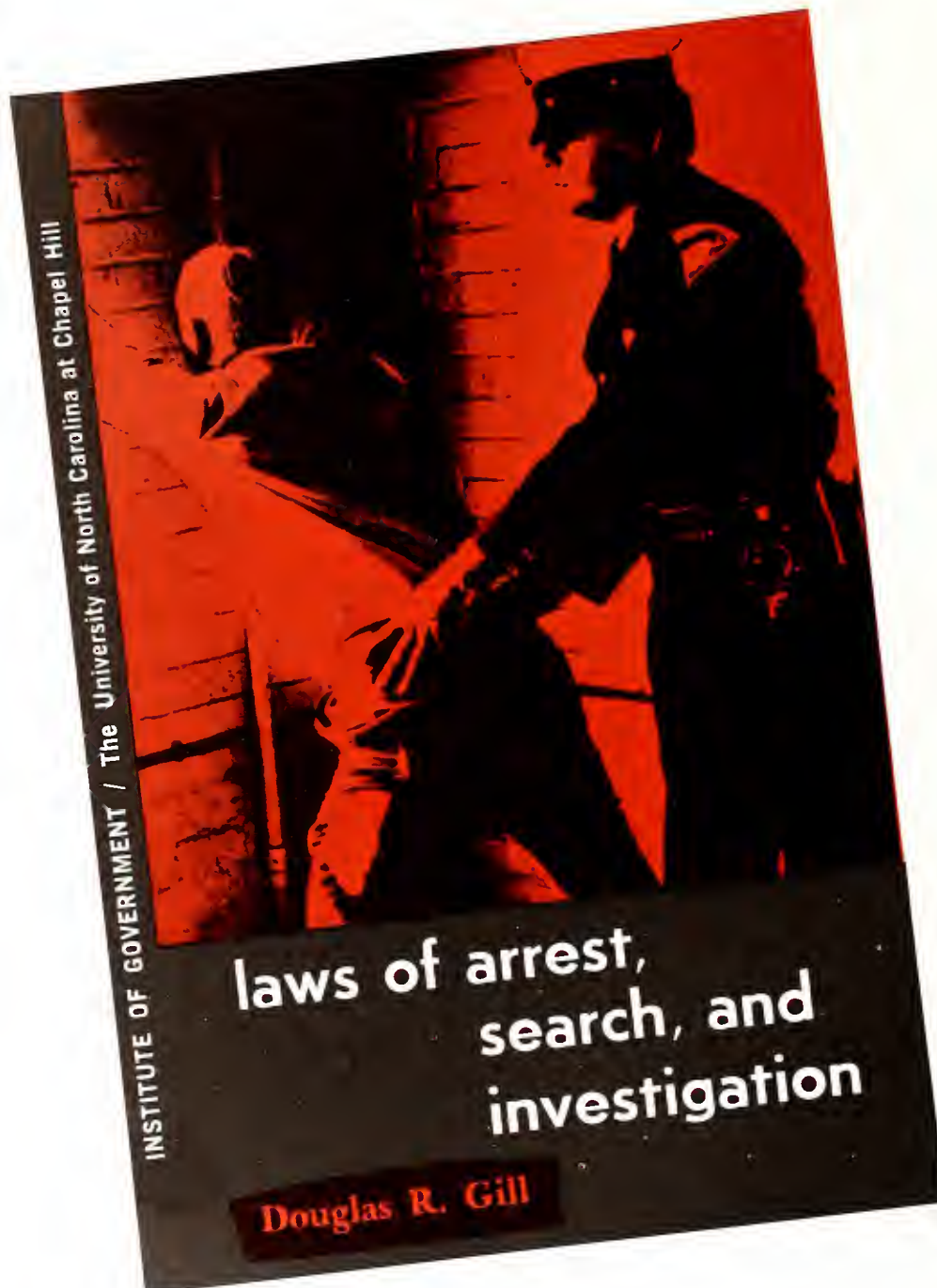
narrative it just is not well done. First too detailed, then too assuming of the reader's own knowledge of the described events, it fails from a lack of organization, from too many asides and journeys into the only remotely relevant. More damaging, events seem to lead the author rather than to be used by him to illuminate. The result is a sense of indifferent organization. For example, in the chapter entitled "The Operational Authority," describing an innovative type of authority with no capital budget, Smith eventually turns to the power of revenue bondholders to restrict modifications in authority structure. This is no doubt an important topic, but does it best belong in a chapter about authorities that are no longer tied to bonds?

A second problem is that Smith at times tends to a looseness of terminology, particularly with regard to authorities and special districts. In a number of arguments presented about authorities, he offers as proof statistics or statements involving special districts as well. One example will suffice: on page 38 he states that "the full meaning of the authority movement has not even been explored," and he offers as proof five quotations. In point of fact, four of the five deal with special districts, not with public authorities. This looseness may represent a corresponding looseness of conception. More important, however, since Smith offers these quotations and elsewhere offers statistics as a means of illustrating his arguments, the looseness must seem disingenuous as well.

Smith's writing style is often individualistic; and the typesetting of the book, where paragraphs consist of one or two sentences, each separated by oceans of white, is initially irritating and suggestive of epigrams rather than of a logically developed argument.

Despite some potentially valuable points, the book is a disappointment.—D.M.L.

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