

LEVEL OF GOVERNMENT AT WHICH PUBLIC FUNCTIONS ARE PERFORMED

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A few decades ago, this problem could have been solved with a very simple answer: "Read the constitutions." The Federal Constitution outlined Federal powers, and the State constitutions often outlined local functions as contrasted to State functions. Today, however, the complete freedom accorded to congressional exercise of the Federal expenditures power by the Supreme Court does place on each Congress the awe-inspiring responsibility of redetermining the allocation of functions in those fields where expenditure is a major item. Not only do congressional decisions determine whether or not the Nation enters a governmental area which had formerly been considered the province of the States, but Federal grants also frequently include provisions which profoundly affect the State-local distribution of functions.

GRANTS-IN-AID

Federal grants-in-aid have been a major, although not the only, means of bringing the Federal Government into disputed, nonconstitutional functions. The grant device has sometimes been a useful means of cooperative sharing of responsibility for a function between levels of government (as, to take an obvious example, the public-health function should be shared). It is an easy method of recognizing a Federal "interest" in a field, or of stimulating States and localities to functions which they might otherwise ignore. It has, in a number of cases, considerably improved the level of governmental administration in some States and localities.

The troubles with the grant-in-aid device grow perhaps out of the ease with which the device is used. There are now too many grants (about 90) and those grants are too detailed. They confuse State and local budgeting and disturb the responsibility of governors, State legislatures, mayors, councils, and county boards for the functions which are supposedly allocated to those bodies. In a subtle way grants become a means of defeating popular control of government at the State and local level. Professional officials at each level work out their policies together, often without much regard to the opinions of elective officers.

There are, however, some places where grants would be more desirable than direct Federal programs. Some of these places are suggested in the later discussion of specific fields. They are usually

cases where a direct Federal operation has tended to keep State governments from entering fields in which those governments should have an interest.

HAPHAZARD NATURE OF FEDERAL ACTIVITIES

Federal intervention in the fields which were formerly considered State or local has, in the nature of things governmental, been somewhat haphazard. It is, of course, possible to cite frequent oddities. For example there are now some Federal activities in all major fields of State and local expenditure, except public safety, which is in most countries one of the first functions to be subject to central authority. To take another example, the Federal Government gives public-assistance grants in those special categories where the needs are most continuous and leaves to the States the function of general relief, which has far more bearing on the Federal Government's full employment responsibilities than do the special categories of public assistance. The Federal Government gives loans to aid certain local-government public-works planning but then ignores the results of such planning with some of its own expenditures. It reaches the child-welfare worker in the county public-assistance department with two quite uncoordinated groups of grants. It may give money to one public-health worker from several public-health grants. It has determined over 40 percent of State and local expenditures in Mississippi without any consideration of the needs of Mississippi as a whole. The Federal Government teaches the farmer about general care of his farm through a grants agency but about soil conservation through a direct Federal agency.

But these and other incongruities are a natural result of the development of Federal action in the State-local field through a score or more of Federal bureaus and an equal number of congressional committees. This committee is to be congratulated for its efforts to view these problems as a whole, and to find some general criteria for allocation of functions.

CRITERIA FOR ALLOCATION

A substantial number of criteria for allocating governmental functions come readily to mind. Is the function one which can be financed adequately by the level concerned? Is it a function, the financing of which affects the general economic condition of the Nation? Is it one which prospers better under the direct popular control of local government? Is it one which is so precious to our liberties that we do not want unified control? Or is it one which gains from the superior administrative technique and the greater knowledge normally to be found on a broader level of government? Does the function require close coordination with other functions which are already located at one or another levels of government? Do the persons subject to it move readily from jurisdiction to jurisdiction? If the function is one which requires different policies in different sections of the country, is this not a substantial argument for State or local administration? Is the function one which a large central government cannot operate too well because it involves several bureaus which are difficult to coordinate?

One questionable criterion which is not stated above is whether or not the function has a "national interest." All activities of government have some degree of national interest, in the sense that most aspects of the life of every citizen are important for national defense, or for international relations, or for the general welfare. If we permit "national interest" to be a criterion of allocation, everything will soon be nationalized, Washington will be vastly overburdened, and our Federal system will be gone. There may, however, be functions in which a high degree of "national interest" justifies Federal activity.

The above host of considerations is confusing, so it is best to begin by looking for major criteria. Clearly the first one is that those functions specifically outlined in the Constitution as Federal functions should be exercised by the National Government. This includes national defense, foreign policy, international and interstate commerce, Indian affairs, patents and copyrights, money and currency, and the other items which you know. These functions usually cannot be transferred to State or local levels without constitutional amendment, probably should remain where they are, and hence are out of this discussion. It should be noted that the importance of these functions has increased vastly in the past few decades. Instead of being concerned with how to dispose of Federal surplus as in the last century, we now have a Federal budget which, in the field of strictly constitutional Federal functions, involves expenditure of over \$50 billion. There are three important implications of the size of this Federal budget for this committee. First, in itself these strictly Federal expenditures are a large enough amount to permit some delay or speedup of expenditures as may be dictated by national economic considerations. Second, it is already a sufficient array of vitally important powers to keep the President and Congress very fully occupied. Do we really want to add to the responsibilities of overburdened Federal elective officers the whole range of State-local governmental activity? For it should be noted that once the Federal Government moves into a field, even by the deceptively mild grants-in-aid route, the basic policy decisions in that field will sooner or later fall back on the President and Congress. Pressure groups would rather work on 1 Congress than on 48 legislatures.

A third important implication of the large, strictly Federal budget for allocation of functions is fiscal. When the Federal Government is carrying heavy charges for defense and foreign relations, is it financially wise to increase its responsibilities in what was considered the State and local field? Some grants in these fields tend to encourage expenditures. For example, Federal old-age-assistance policies have encouraged heavy expenditures in States like Louisiana and Colorado. At a time when total governmental costs are necessarily high for defense, it is not wise to get into intergovernmental fiscal relationships which encourage expenditure.

Next to the constitutional criterion for allocation of functions it seems to the writer that the most important criterion of allocation is the degree to which the function may be subject to direct popular control. All fields of government have some technical features, but some are much more appropriate for judgment by a local citizenry than others. In this day of large technological organizations, it

seems desirable to leave to the State and local units of government such functions as are more readily understood and directed at those levels where the people are best able to do so.

The reasons for leaving functions to State and local units where direct popular control is possible are well known but should be restated briefly. Decentralized government has the fundamental advantages of—

1. Preventing undue concentration of governmental power which may be dangerous to liberty.
2. Giving citizens a greater opportunity to participate in their government.
3. Providing greater opportunity for training political leadership through practice in State and local government.
4. Permitting greater adaptation of governmental policies to the needs of particular areas.

Clearly, however, the above criterion for direct popular control should be aided by several others. Consideration of the fiscal capability of the local unit is in order. Consideration of its administrative capacity, either through qualifications of its personnel or through its political willingness to recognize governmental problems, is also in order. Also before all technological work is assigned to the Federal level of government, we should reflect that its superiority is in gathering technicians together. In some fields we need rival groups of technicians to work out new ideas.

If one values the Federal-State-local division of labor, he could then allocate a substantial group of functions to the State-local level on the ground that these functions are ones which operate better under direct popular control and should do so for the reasons stated above. Here we are admittedly entering a very controversial field.

The writer places these criteria very high because he assumes that most Americans wish to maintain direct popular control. He admits, however, that some other considerations, such as administrative convenience of persons affected, or effect of the functions on governmental policy in the economic field, will at times result in modification of the results of this criterion. How do we apply these general criteria to specific fields?

Law enforcement

Most Americans seem to feel that law enforcement is a field of State or local effort. This is in part because of a natural fear of the great power of a Federal police force, in part because of union-labor opposition to State police forces, in part because no pressure group has ever urged federalization. In general this desire to avoid concentration of police power seems healthy for liberty, but it must be admitted that a number of local police forces leave much to be desired, and that some greater integration of our police work would be helpful. Perhaps the services now rendered by the Federal Bureau of Investigation to State and local citizenry to support and improve the functioning of their own law-enforcement agencies will be adequate. Perhaps greater State activity is desirable.

Education

This writer would include public education in the fields which should be left subject to direct popular control. If the democratic

process of popular judgment can work anywhere it should work in the public schools with which more voters come into direct informed contact than any other function of government. Technical aspects of this field can easily be transmitted from system to system. Another major consideration in the case of public education is the criterion of liberty. Do we want Federal grants, to which some administrator or subcommittee can easily attach conditions, to determine policies in our vast public-school system? The schools could easily become a mechanism for political thought control on a tremendous scale. Incidentally, some of the groups which are now most actively working for Federal aid to education might be among the first to regret some of the Federal controls.

The Federal Government is already involved in a number of aspects of public education, some of which seem questionable to this writer. The vocational education program does not seem to have much more of a national interest than other programs, but would be better coordinated with other State and local activities if it had more direct State management. The Federal subsidies of education in federally affected areas are justifiable on the ground of financial need, though their distribution leaves something to be desired. The national school-lunch program of the Department of Agriculture may be a useful means of disposing of surplus agricultural commodities, but the cash grants under it seem to be an unnecessary expense on the Federal Government and an intrusion on a field which belongs to States and localities.

Welfare

Categorized public welfare is now so definitely under Federal control that any attempts to put it elsewhere will surely raise very substantial protest. Nevertheless, it seems to the writer that this is a field of direct popular interest and control. If we are to be taxed for the support of our indigent fellow citizens (as most Americans will probably wish to be taxed within limits) we should have some say as to the requirements for relative support, the amount of relief payments, and the terms of eligibility. These practices will vary greatly from section to section of the country as perhaps they should.

One exception to State and local responsibility for public welfare is general relief, the relief to be received by the unemployed if a severe economic situation has used up unemployment-insurance benefits. In the event of recurrence of another depression, it seems that here is a real place for Federal help on the ground of the greater credit and other financial resources of the Federal Government in such times and the responsibility which the Federal Government has assumed for full employment. Perhaps the mechanism for that help should now be established.

Highways

Another field in which direct popular control is important is that of highways and roads. Voters know what kind of roads or streets they are using and can easily pass judgment on whether they should spend more or less dollars for this purpose. It will be a tragedy when, as has been seriously proposed, President and Congress must consider questions of street paving. Yet the whole trend is in the direction of greater Federal responsibility for road construction. Recent high-

way acts have increased the percentage of grants which the Federal Government is paying.

There are certainly some considerations for Federal interest in the highway field. National defense is interested in an adequate interstate network as is interstate commerce. Certain other Federal activities are aided by better highway networks. But, as noted above, we should be wary of this "national interest" criterion for allocating functions of government. Some genuine national interest can be found in every function of Government; so the inevitable result of pushing the national-interest criterion is complete centralization.

It seems to this writer that the better way of allocating responsibility for highway construction (almost all maintenance is State and local and no one is seriously advocating change of this allocation) is to assume that this is a function which profits from direct popular control, and that the Federal Government should intervene only where the State or locality has genuine financial need. Federal funds for construction of important interstate roads across vast desert areas, such as those of Nevada, are clearly appropriate. Federal funds for construction to or through Federal facilities are also appropriate. Some Federal aid for a definitely interstate system is also in order. But the general Federal aid which requires apportionment of certain percentages to rural roads and certain percentages to urban areas is both a denial of popular control and a confusion of the responsibilities of Government. It is well known that these allocated general aids frequently result in less economical expenditure.

If the Congress should decide at some future time that the general economic condition requires more roadbuilding, it can easily find State and local highway agencies which are able to spend the money.

Aids to agriculture

In this field, we find a curious and expensive existing allocation of function which violates the criterion of direct popular control. The long-established extension system is a grants-in-aid compromise by which governmental education of the farmer benefits from national concentration of technical knowledge and local control of the mechanism through which that knowledge is transmitted to the farmer. Yet we have over decades maintained a rival agency (the Soil Conservation Service) with direct Federal funds to educate the farmer on matters of soil conservation. While this deviation from the extension pattern could originally have been justified as a means of waking up extension personnel who were not sufficiently aware of the importance of soil conservation, it is today an upsetting factor in agricultural education.

In addition we find Federal agencies passing out direct benefits to agriculture which are not supportable, either as a matter of allocation of functions or of sound public policy. The agricultural price-support program, which may have had some justification at its inception, is today morally and economically unsound. And, if it were sound, it should be administered by the States as its own statute has long permitted but the Department of Agriculture has not wished to encourage. The actual determination of subsidies and of acreage allocation at the local level is a function which Federal administrators should wish to decentralize in a Federal system of government. This is a function which should be subject to direct popular control.

Another expenditure function which is reasonably subject to direct popular control is that of "soil conservation" benefits payments. This program, if continued at all, would be more economically and efficiently handled, if it were done on a grants-in-aid basis with the States. The propriety of payments here is easily a matter of direct popular control. No peculiarly Federal technical knowledge is needed. While there is a national interest in soil conservation, it is doubtful if such conservation is the real end of this program. In any event, the national interest could be recognized adequately through a grants program.

Social insurance

The present picture in the social-insurance field is complex. The old-age and survivors insurance program is a direct Federal operation. So is railroad and maritime workers' compensation. Unemployment compensation (and the related Employment Service) is a joint responsibility of Federal and State governments. Workmen's compensation is a State program. All of these fields are similar in technical difficulty, so there is no argument to justify the present diversity. There is, however, an argument of administrative convenience which clearly justifies keeping old-age and survivors insurance on a national basis. Persons are bound to move from State to State in a mobile industrial population like ours. Recordkeeping would be vastly confused and movements of individuals possibly handicapped by State regulations if this function were handled on any other basis.

Coverage of individuals under workmen's compensation is immediate so there is no particular reason for its not being handled on a State basis, unless one accepts the assumption that the Federal Government has a national interest in keeping all State workmen's compensation laws up to some minimum level. Since workmen's compensation is not known as an important cause of interstate competition, this writer would reject the above assumption on the ground, already stated, that we would lose our Federal system if we allocated to the National Government all functions which have some national interest.

Unemployment compensation and the related employment service present a different problem. Both fields clearly involve some national issues. The Joint Economic Committee has an interest in unemployment compensation for its possible stabilizing effect on the national economy. All of us are interested to see that people do not lose unemployment compensation as a result of an interstate movement. The Employment Service has some role in suggesting out-of-State placements to unemployed workers. Yet there are powerful reasons for keeping these services on the State-local level. Both are functions which are reasonably susceptible to direct popular control. Some of the functions with which they are closely related such as vocational education, public assistance, and public education are already on that level.

On the whole, it seems probable that the existing allocation of functions in these fields is relatively correct. Administrative procedures should probably be altered, as suggested by the Commission on Intergovernmental Relations, but the sharing of Federal and State activities seems correct.

Conservation of natural resources

In this function we also have a widely variegated pattern of operations. The Federal Government owns and operates (with vastly different policies in different bureaus) a large amount of forest land, some parks, and a great deal of wild land. It spends funds on some cooperative work in connection with forests, including chiefly fire fighting. It provides the sole resources for many flood-control projects and "lends" a substantial sum (much of which may never be repaid) on reclamation projects.

The story as to how the Federal Government got itself into this vast variety of projects is too long to tell here. It is partly because of the failure of States and localities to undertake this work themselves. It is partly because no governmental agency is likely to give up a project on which it has started.

It seems clear that most of these functions are ones which are susceptible of direct popular control and which should involve a greater participation by the States and to some extent by local levels of government. Admittedly, any such change would have to come gradually and after substantial education of the official personnel of some States, perhaps through grants-in-aid. But it is clear to this writer that the States, especially the public-land States, would be more vital units of government if they took a constructive interest in their natural resources. While prediction is difficult in any field of social action, it might prove that local ingenuity would find better methods of developing some of those assets than has the Federal Government. A recent study in California has suggested that this might be the case.

Specific recommendations are not made here because the writer agrees with the Commission on Intergovernmental Relations and the Second Hoover Commission that the conservation problem deserves special treatment. But he is convinced that the States should bear some of the costs and share in some of the controls of this field.

Control of commercial activities

The writer is not discussing the field of commercial regulation for two reasons. First, the amount of governmental expenditure involved is small. Second, the legal problems and confusions are very great.

Public health

These inexpensive but important activities are spread over three major levels of government: Federal, State, and usually county. The work on all three levels is linked together by an elaborate system of specific grants. While there are probably too many grants, the existence of the system seems reasonable in the light of the criteria advanced above. Public health is largely a technical function and most aspects of it speedily cross State and local boundary lines in a mobile population like our own. So there is less of the argument of direct popular control for complete local control and there are more technical reasons for some kind of national control. But there is one important consideration for maintaining some degree of local autonomy, i. e., the close interrelationship of the public-health function to several other activities which are predominantly on the State and local level. These include public assistance, public education, and law enforcement.

Fiscal aspects of allocation of functions

Since the writer is the only political scientist on the panel, he has left fuller discussion of the fiscal problem to his colleagues from the field of economics. He would, however, like to make two general comments about the basic problem of the finances of a Federal system. The problem is, of course, that the Central Government can administer most taxes at less cost and with more fairness to the community as a whole than can State and local levels of government, although the latter are the more logical levels for administration of many expensive functions.

The first comment is that there is little likelihood of effective decentralizing action through return of specific taxes and functions to the States. The Commission on Intergovernmental Relations explored this field carefully and found no such reallocation which would not benefit the wealthier States and hurt the poorer ones. Although our grants system is **not basically an equalizing system**, it seems improbable that the American people will consent to a change which is so far opposite from equalizing.

The second comment is that the equalizing block grant could be well used to replace some of the excessively specialized and control-ridden particular grants. The Commission on Intergovernmental Relations rejected this block-grant program on the ground that it would only add block grants to specific grants and thus further reduce the independence of States and localities. This, of course, is a psychological approach which depends in part on the mood of Congress when it considers block grants. If a substantial portion of Congress is really seriously concerned with the amount of national expenditure and with the detailed control of State and local expenditure into which Congress has been almost unconsciously gravitating, a block-grant system, with larger aid to the poorer States might be a useful substitute for existing specialized grants and a useful answer to pressure groups suggesting new grants.

CONCLUSION

This memorandum is not much more than a series of random remarks on a subject which deserves much fuller and more careful consideration. Important functions have not been considered, and of course many of the functions which have been considered involve other criteria than those mentioned here. The writer's hope in submitting these comments is to emphasize a few points of view:

First, the existing allocation of functions between levels is not very rational, and confuses responsible government on all levels and has an adverse effect on State and local budgeting.

Second, the concept of "national interest" has been overworked. It could easily lead to the end of our system of decentralized government.

Third, an important criterion of allocation of function which is often overlooked is that of the desirability of direct popular control of many functions. Reallocation of functions should be considered in this light.