

Presidential Federalism:
Executive Power, Administrative Decentralization, and the Transformation of
America's Compound Republic

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ABSTRACT

This dissertation is about one source of the American presidency's vast power: its ability to pursue policy and political objectives within state and local governing institutions. Within the last five years, a number of legal scholars have triumphed the arrival of "executive-centered" federalism in the United States. Through a detailed historical study of the 20th Century presidency, I show that there is a deep history of presidential involvement in state and local politics. Tracing the emergence of several institutional reforms, I argue that such interactions have transformed the obligations, relations of authority, and public expectations of executive power at every level of government. Most scholars consider federalism to be a bulwark against enhanced presidential power. I argue the contrary: federalism was, and remains, an essential opportunity structure in the exercise of presidential power.

The research relies on primary, historical material, much of it original discovery from the archival holdings of the four institutions that anchor this work: The National Resources Planning Board, the White House Office of Intergovernmental Affairs, the Bureau of the Budget, and the Office of Management and Budget. This evidence demonstrates how presidents have used their administrative, rhetorical, and partisan powers *within* state and local governing institutions, particularly mayoralties and governorships. To the extent that modern intergovernmental relations is defined by the use of administrative waivers, competitive grant-programs, and executive-negotiation over program implementation, I trace how similar mechanisms of presidential power contributed to the development of the American State throughout the 20th century. Scholars tend to ignore much of this historical narrative and the political thought that undergirds it, most of which hinges on a collection of budgetary and administrative reforms. My research shows why presidents viewed these changes as necessary, and how these administrative procedures have allowed presidents to respond to demands for new public policy by skirting Congressional authority.

This work treats presidents as institutional actors, and challenges the idea that even "principled" executives are committed to decentralized governance. Federalism allowed presidents of both parties to pursue their goals unilaterally, with the effect of further nationalizing policy and the party's dependence on presidential policymaking. Culminating with the presidencies of Obama and Trump, this dissertation clarifies how and why presidents choose to pursue policy objectives in constitutionally-independent governments, and reveals the administrative mechanisms that have made them successful.

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Federalism and the Modern American Presidency

Chicago Mayor Richard J. Daley was furious. In late July, 1967, the local newspapers reported that Martin Luther King Jr. was once again setting his sights on Chicago politics. For over a year, King had led an assault on the discriminatory housing and policing practices allowed to fester under Daley's reign. The civil rights movement had moved North and with important victories won in Congress on voting rights and desegregation of public facilities, King now declared war on racial inequality that persisted in the country's urban core -- practices not only tacitly condoned by municipal governments, but actively encouraged to keep white, middle-class populations from fleeing to the suburbs: prejudiced decisions in renting homes and hiring employees, unequal and segregated schools, abusive policing. These were local crimes perpetuated by the local government. As the terrain of the civil rights movement shifted northward and towards the central city, Chicago was the new "beachhead."¹

Daley was the captain of that city. Elected in 1955 he was to be one of the last big city "bosses" in American political history. From City Hall his machine reached into all aspects of municipal governance, Illinois politics, and the national Democratic Party. When the 1960 election elevated the Democrat John Kennedy to office on the narrowest margin in modern electoral history, largely because of Daley's mastery over Illinois politics, the mayor's star rose even higher. This was no small-town mayoralty. Daley succeeded in keeping the city financially afloat and Democrats loyal through massive building projects, an extensive array of government services staffed by loyal supporters, and an avowed commitment to "law and order." Democrats

¹ Austin C. Wehrwein. 1966. "Dr. King Occupies a Flat in Slums." *New York Times*, January 28, p. 37.

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from around the country celebrated Daley's successes. The President of the United States even owed something to the mayor.²

In late 1963, Lyndon Johnson became president. Daley and Johnson had a special relationship. For years the two Democrats had delicately nourished one another's ambitions. Daley desired to rise to further national prominence on the coattails of Johnson's powerful administration and the largesse of the president's new domestic program, the Great Society; Johnson dreamed of eradicating poverty, nowhere more visible than in cities like Daley's Chicago. Daley was one of the first to fly in to Washington to meet with the president after he unexpectedly took office. Dining in the Oval Office just days after Kennedy's assassination, Daley and Johnson shared a vision of a powerful Democratic Party. But each represented warring sides over its future. Daley was Keystone Democrat, who bucked Johnson's 1960 effort to capture the nomination. Johnson was a Southern Democrat, but one who had cut his teeth in the National Youth Administration - an expansive New Deal program that demonstrated, at least to Johnson, that national power could be used to rehabilitate and lift up the most distressed parts of the country, be they rural, or, increasingly, urban. Johnson held up a shining vision of a more racially egalitarian society; Daley witnessed firsthand that government efforts to promote integration drove whites and their potential tax revenue out of city limits. During the early years of Johnson's presidency, Daley was a reluctant cheerleader for the president, but he had come through at critical moments in convincing U.S. Senators and members of Congress to support the president's initiatives.³ Through the White House's efforts, Chicago benefited handsomely from

² Mike Royko. 1971. *Boss: Richard J. Daley of Chicago*. New York, NY: E.P. Dutton and Co.; F. Richard Ciccone. 1996. *Daley: Power and Presidential Politics*. Chicago, IL: Contemporary Books.

³ For a glimpse at the Daley-Johnson relationship, emphasizing the power of Daley's mayoralty and the importance of his political advice, listen to: Lyndon Johnson and David Lawrence, December 9, 1963; Lyndon Johnson, Ken O'Donnell, and Richard Daley, March 10, 1964; Lyndon Johnson and Richard Daley, June 29, 1964; Lyndon Johnson and Richard Daley, July 24, 1964, at *Presidential Recordings*

the abundance of new federal programs, but Daley had enough influence to take credit for them and strengthen his own coalition.

By 1967 though, the Daley-Johnson relationship had started to fray. Millions of dollars had poured into Daley's city as a result of the president's sweeping programs under the Great Society. But that national intervention came at a cost to Daley's own autonomy. This was not the first time that Chicago, or Daley, had benefited from the federal government's spending. Modern Chicago is a testament to the federal-local partnership in the early 20th century: O'Hare International Airport, McCormick Place, the first underground portions of the "L", and the myriad interstate highways that cross in and out of the metropolitan region. Daley was a master of Congressional pork and time and time again delivered the goods to his city.

But then the federal government gave \$109,300 to Martin Luther King, Jr. Ever since King had focused his energies on Chicago, often deploying the same tactics as he did in the deep South, Daley had tried to muscle him out of the city. And when that failed, he turned to President Johnson, who had once depended on King in bringing about the decade's landmark civil rights legislation. "I think we've gone a long way with the good Doctor [Martin Luther King Jr.], Mr. President," Daley tried to convince Johnson in July 1966, but,

He's not your friend. He's against you in Vietnam. He's a goddamn faker... It's the most dangerous thing we have facing our country. We got this whole goddamn poverty program all wrapped up in it. You got all—a lot of people in poverty, subversive as far as the national government on Vietnam, as far as the local government. It's a complete test, as I see it, of trying to have law and order in government or trying to have this other thing take over with constant agitation...And then also this very realistic national organization, which has become an extortion in all the big cities.⁴

Digital Edition. 2014. David G. Coleman, Kent B. Germany, Guian A. McKee, and Marc J. Selverstone (eds.). Charlottesville, VA: University of Virginia Press.

URL: <http://prde.upress.virginia.edu.proxy01.its.virginia.edu/conversations/>

⁴ "Lyndon B. Johnson and Richard J. Daley on 19 July 1966," Conversation WH6607-02-10414-10415, Presidential Recordings Digital Edition [Lyndon B. Johnson and Civil Rights, Volume 2, ed. Kent B.

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Daley had touched the right nerve, because Johnson wavered on how to handle the delicate situation. King was the president's one-time champion, but the urban crisis and multiple summers of racial rioting wreaked havoc on this rivalrous, but productive relationship.⁵ By design, King's social movement disrupted politics as usual. But, the president had at one point harnessed that power to the national cause of racial justice. When that cause threatened to disrupt the distinct local politics of urban governance - government that Johnson depended on for implementing his signature programs - the achievements of either were threatened by the success of one. Chicago was just a microcosm of Johnson's tortuous dilemma.

Quickly, a local spat over a small grant created colossal implications for the nation's chief executive. Dr. King and the Southern Christian Leadership Conference had applied to the U.S. Office of Education for funds to open an Adult Education Center in Chicago's Lawndale neighborhood.⁶ Inside the White House, the president's Bureau of the Budget had written the rules that governed the selection of these grants. In fact, the budget bureau established the grant program King would soon receive - conceiving of it, developing its organization, and then lobbying it through Congress. King's proposal was arguably just what the president had promised when he stood before the graduating class at the University of Michigan years earlier telling them that, "the solution to these problems [of poverty] does not rest on a massive program in Washington, nor can it rely solely on the strained resources of local authority. They require us to create new concepts of cooperation, a creative federalism, between the National Capital and the

Germany] (Charlottesville: University of Virginia Press, 2014-). URL: <http://prde.upress.virginia.edu.proxy01.its.virginia.edu/conversations/4006262>

⁵ Sidney M. Milkis and Daniel Tichenor. 2018. *Rivalry and Reform: Presidents, Social Movements and the Transformation of American Politics*. Chicago, IL: University of Chicago Press.

⁶ *Chicago Daily Defender*. 1967. "Adult Education Program To Begin In Lawndale Area," July 18; *Chicago Tribune*. 1967. "Job Training Center Opens in Lawndale," July 23.

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leaders of local communities."⁷ For Daley, the dream of cooperation was a mirage. The mayor had no authority or power to stop the program taking place in *his* city. He read about it first in the local paper.

As the King-Daley feud escalated and spilled into the White House, it was clear to all involved that this was something new in American political development. King's grant was a paltry drop in the massive \$148.8 billion budget for FY 1967. But the politics that lay behind it implicated government at all three levels of the federal system. The president had relied on local and state governments for nearly every aspect of his domestic program. The president's budget bureau exerted tight control over those programs and the intergovernmental politics that governed them. And, in doing so, the power of government to combat social and economic ills swelled. However, in binding governmental authority of one government to another, local problems became national, political issues administrative, and American federalism, presidency-centered.

Grants were Congressional prerogative - Daley's *métier*. But King did not have to go to Congress for this money. Instead he took advantage of a massive government program explicitly designed to sidestep the Congressional appropriations process - a process that President Johnson assailed as too slow, too restrictive, and too insensitive to local needs. At one point in American history, local politicians and their congressional delegations would have shot down such clear interference in a local governing priority. But the deal was finalized long before word slipped out and opposition forces had time to mobilize. State legislatures and governors had always challenged local home-rule authority prior to Johnson, but by Johnson's tenure, the federal government had a direct line into municipal affairs, bypassing the states and incurring new

⁷ Lyndon B. Johnson: "Remarks at the University of Michigan," May 22, 1964. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=26262>.

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backlash. The new Department of Housing and Urban Development, along with new programs across the federal bureaucracy gave localities tremendous resources, both financial and technical. When problems arose, they dragged the president deep into the workings of administrative government. In order to placate Daley's anger, Johnson's aides once again reformed the grant procedures, by giving city administrators "clearance" so that they could "be responsive to local circumstance" when deemed necessary.⁸ But Daley refused to even speak with Johnson's aides and a critical partisan alliance -- one that was so crucial to the formation of the Great Society in the first place -- faded.

This is presidential-federalism: the projection of presidential power within state and local government. Johnson did not, on his own, create this form of politics; it was decades in the making. Nonetheless by the end of Johnson's tenure, it was clear that the modern presidency was no longer confined to Pennsylvania Avenue; it now reached out to restructure the incentives and capacities of governors, mayors, state bureaucracies, and municipalities to placate demands for policy outcomes, make federalism "work," and enhance executive power. Those same dynamics are at the center of presidential action 50 years later. This dissertation is an exploration of their origins and consequences.

Intergovernmental Reform and the Modern Presidency

King and Daley are seminal figures in American political history, but their story is not atypical. Ambitious, cunning, and influential men, they sought to use power wherever that power was, be it in cities, on America's television screens, or in the halls of Congress. King was a powerful leader of one of the country's most successful social movements; Daley was hardly

⁸ Wilbur Cohen to Lyndon B. Johnson. August 24, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 58.

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matched in his exercise of mayoral authority. And yet, like the thousands of other political actors, the politics they practiced took place in the institutions created by the President of the United States - institutions that bound together the political motivations at one level of the federal system with another, the rules of which were designed for presidential control and influence. King applied for a grant designed and administered by the president's budget office. Daley pressured the White House for a change by communicating with officials in the White House Office of Intergovernmental Affairs. Staffers in the Executive Office of the Presidency devised new rules to channel the political dispute, all with an eye towards what would personally benefit Johnson's political standing. Federalism did not constrain the president's action, it made it possible.

Institutions channel much of American politics. What is unique about the Daley-King feud is that it took place within a structure deliberately designed to govern intergovernmental politics. By the 1960s, Lyndon Johnson's intervention on behalf of Daley had already become a routine exercise for American presidents. Presidents face pressure from a variety of politically autonomous actors: partisan competitors, budget weary Congressmen, social movement leaders. Presidential power is an effort to capitalize on what Johnson once celebrated, echoing the seminal presidency scholar Richard Neustadt, as the chief executive's "vantage points."⁹ Throughout the 20th century, the president's vantage has extended into the once politically autonomous domains of state and local politics. In the process, they have used their office to create new ways in which subnational governments operate, displacing alternative practices for working through the country's complicated arrangement of state, local, and federal governing

⁹ Richard E. Neustadt. 1990. *Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan*. New York, NY: The Free Press; Lyndon Johnson. 1971. *The Vantage Point: Perspectives on the Presidency, 1963-1969*. New York, NY: Holt, Rinehart and Winston.

institutions. In doing so, presidents have created new forms of politics, whose effects extend well beyond the boundaries of the federal government. As Stephen Skowronek pithily summarizes, "the presidency is a governing institution inherently hostile to inherited governing arrangements."¹⁰ And there is no arrangement more ubiquitous in American politics than the vertical distribution of governing authority, or, federalism.

This dissertation is my effort to grapple with a question in American politics that resonates throughout the entire constitutional system: under what conditions are presidents likely to strengthen or undermine state and local government power?

We know that presidents care about intergovernmental relations and seek to use the powers of the presidency to get state and local authorities to comply with presidential directives. That is an enduring feature of America's governing system because states are guaranteed a place in the constitutional system.¹¹ And with changes in federal jurisprudence, local governments are often afforded similar constitutional standing.¹² However, presidents have a choice in how they want to deal with these semi-autonomous governments. Just as presidents pick and choose how they want to work with Congress or members of their partisan organization, states and cities are political actors that must be cajoled, coerced, and sometime commanded. Time and time again presidents choose a similar approach:

- Presidents waive statutory provisions for laws governing subnational action;

¹⁰ Stephen Skowronek. 1993. *The Politics Presidents Make: Leadership from John Adams to George Bush*. Cambridge, MA: Belknap Press.

¹¹ Martha Derthick. 1989. "The Enduring Features of American Federalism," *Brookings Review* 7 (Summer): 34-38.

¹² For a review of these changes, and an evaluation that such changes have benefited local democratic participation and local autonomy, see: Roderick M. Hills, Jr. 2005. "Is Federalism Good for Localism? The Localist Case for Federal Regimes." *Journal of Law and Politics* 21 (2): 187-221.

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- Presidents write new rules governing grant requirements and impose new "strings" on state and municipal implementation;
- Presidents sue and write new consent decrees to prevent litigation;
- Presidents issue "guidance" to their state and local counterparts and threaten to withhold funds;
- Presidents dedicate personnel to serve as their liaisons and spend their own valuable time working with, and oftentimes championing the prerogatives of local or state governance.

Regardless of the president's underlying ideology, those instruments of power have become routine. They are institutionalized. And presidents have created the institutions necessary for the successful wielding of power in a separate, subnational arena of power. How do presidents do this? Why do presidents do this? With what effect?

As a preliminary answer, I argue that presidents build institutions in order to *integrate* intergovernmental politics. These institutions bring state, local, and federal officials within the executive closer together and the rules governing those institutions create new incentives and capabilities for the participants within those institutions, namely, mayors, governors, and presidents, but also the host of administrative officials working on their behalf. It is a preliminary answer because any effort to grapple with the mammoth scale of American federalism cannot be confined to a single text. Federalism, in defining the relationship of institutions and the distribution of power among those institutions that overlap and serve similar constituencies, is everywhere. Any change to one of its parts necessarily implicates the whole. The development of the committee structure in Congress, prohibitions on municipal territorial annexation, the

declining fiscal capacity of political parties, the nationalization of social movement strategy -- all of these phenomena press down on the operation of federal-state-local relations, because every single constitutional and extra-constitutional entity is a part of American federalism. The President of the United States is unexceptional in that sense. However, the president's influence on the ways in which states, localities, and the federal government all operate on one another, is second-to-none. That is the primary outcome of this process of intergovernmental integration. By building institutions, the presidency has become the principal agent in transforming American federalism.

Intergovernmental "Integration" - An Institutional Approach

Presidents transform American federalism when they alter the incentives and capacities of other governments in the federal order. In changing the incentives of state and local governments, presidents encourage an autonomous political entity to do something it would not have otherwise done, had not the president intervened. In changing the capacity of state and local governments, presidents increase the governing authority and power of those autonomous political entities. When presidents both change incentives and capacities, they bind local and state decision-making authority to the prerogatives of presidential policy-making.

Intergovernmental politics is "integrated" as these entities become more responsive to the decisions, tensions, and disparate logics of one another. Never does a president exert unilateral command and authority, and never can states and localities successfully claim pure independence from national constitutional obligations. However, the ways in which they exert power becomes more routine, predictable, and dependent on presidential politics.

This process of intergovernmental integration was well understood by its creators. I use the word integration precisely because it was the preferred term of art among those who desired a

more routinized form of intergovernmental negotiation. In this, I owe much to the generation of scholars who theorized about these processes while they were first taking place, none, perhaps more so, than Samuel Beer. This dissertation is rooted in an early observation about the "rise of a countervailing power in the form of the intergovernmental lobby," or what Beer labels, the new "technocracy and topocracy." Intergovernmental integration changes power dynamics not just within the institutional presidency, but also within the states and localities themselves, and the effect on the total constitutional system is often ambiguous. The development of new power is both "centralizing in that it drew state and local office holders into direct contact," Beer argues, but it is also "decentralizing in that it has brought their topocratic [executive] perspectives to bear on federal policy making." Consequently, these new relationships add a "new dimension in an old pattern to our system of national representation."¹³

The change in national representation was partially bottom-up, to be sure. States - and the people within them - changed their localized politics and developed new forms of power to influence national political processes.¹⁴ Governors became stronger, entrepreneurial mayors broke into the national conversation, and enterprising state attorneys general argued before the court. The lesson learned so far is that intergovernmental integration requires institutions. These institutions have internal logics and rules, but their primary purpose is to structure inter-institutional relations. Intergovernmental reform occurs when actors, using their constitutional powers, create new institutions that displace the rules, procedures, and behaviors that once

¹³ Beer defines the new "technocracy and topocracy" as, "the governors, mayors, county supervisors and other officeholders, usually elective, who exercise general responsibilities in state and local governments." See: Samuel Beer. 1978. "Federalism, Nationalism and Democracy in America." *American Political Science Review* 72 (1): 18-19.

¹⁴ On state constitutional change, see: John J. Dinan. 2006. *The American State Constitutional Tradition*. Lawrence, KN: University Press of Kansas. Regarding institutional reforms in the states, see the collection of essays in: Timothy Conlan, Paul Posner, and Alice Rivlin (eds.). 2009. *Intergovernmental Management for the 21st Century*. Washington, D.C.: Brookings Institution.

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governed the ways in which states, localities, and the federal government interacted with one another.

While we know a lot about the institutions that make up the subnational part of the intergovernmental system, we know very little about how institutions at the national level emerged and developed in response to those changes creating new impulses for further integration. This thesis contributes to our broader understanding about changes in the intergovernmental system, but focuses on how presidents, using their administrative, partisan, and rhetorical powers, developed new institutions that at once empowered subnational governments, while making that power dependent on presidential authority. Local schools might have gained financial resources to implement new reforms, but subnational action depended on presidential decisions over what reforms actually work. States might have gained new powers to tax and regulate illicit drugs, but presidents negotiated the scope of that allowance, subject to their personal, political positions. As Beer rightfully notes, the technocrats and topocrats outside of Washington, D.C. remain empowered and influential. And yet, their influence is channeled through intergovernmental institutions that presidents have created, institutions like the National Resources Planning Board (1933), the Office of Intergovernmental Affairs (1955), and the Office of Management and Budget (1970). As such, these institutions impinge upon the *type* and *substance* of the new national representation -- and this dimension is often neglected when just describing relative degrees of subnational influence on national decisions.¹⁵ By type of representation, this study of intergovernmental integration is concerned with what interests and

¹⁵ Beer, himself, seems to recognize this problem: "Whom does the topocrat represent when he formulates the presumed needs of his government before central authorities?... I can communicate my unease at these technocratic and topocratic dilutions of the popular will by saying that the new structures have a strong connotation of corporate rather than personal representation. They do add real strengths to the modern state. But this may be at some cost to free government." In "Federalism, Nationalism and Democracy in America," p. 19-20.

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voices are given greater influence in the intergovernmental system as a result. By the substance of representation, this study considers how intergovernmental politics is skewed towards certain outcomes: namely, more mutable law, less fiscal stability, and a more plebiscitary form of presidential governance.

Why do presidents create these institutions? When presidents are confident that they and subnational actors at any one level such as mayors or governors hold compatible policy interests they "decentralize" administration. Decentralized administration occurs by establishing new procedures for bringing state and local actors into the policymaking dialogue. Those actors already had a place, but by establishing a new arena for managing intergovernmental politics, political contestation among those governments becomes more beholden to presidential power.

When does intergovernmental integration occur within these institutions? These new institutions are most influential in transforming American federalism when three conditions are present: when the administrative capacity between governments becomes more asymmetric; when political preferences for a desired policy or intervention are geographically differentiated; and when the institutional rivalries that plague presidential administrations become especially pronounced.

Asymmetric Administrative Capacities:

States, cities, and the federal government are different from one another. They organize themselves differently. Governments employ different numbers of people with different skill sets. Those people have different experiences and expertise in designing government interventions. Each government taxes different sources of revenue, thereby setting hard budgetary constraints on what those interventions look like. Many of the determinants for these different types of capacity are consequences of rather "apolitical" features. For example,

jurisdictions with vast amounts of extractable resources are able to export their tax base to resource-consuming jurisdictions. Capacity is also the result of distinctly political forces. The development of administrative capacity is one of the defining features of the development of a national State, the nationalization of social welfare policy in the U.S., and the creation of new government interventions regulating private life.¹⁶

Administrative capacity at different levels of the federal system develops in different ways, to different degrees, and at different times. The historical construction of administrative capacity at different places in the federal order leads to tensions. Actors in any one government might want to do something, but they lack the means to do it. Throughout the 1950s and 1960s, city governments often wanted to devise new service programs to respond to citizen demands; state laws governing home rule prohibited such experimental programs.¹⁷ Likewise, actors in one government might want to do something, but they cannot do it as well as others. When President Obama and his aides began to implement key provisions of his signature healthcare reform, they remained dependent on the information and networks created by state insurance regulators; state administrators defined much of the scope of Obamacare's rules on insurance requirements.¹⁸ Moreover, actors at in one government might not want to do something, but in not acting, other autonomous and empowered governments might produce an outcome in spite of the state's

¹⁶ Stephen Skowronek. 1982. *Building a New American State: The Expansion of National Administrative Capacities*. Cambridge, UK: Cambridge University Press; Theda Skocpol. 1995. *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*. Cambridge, MA: Harvard University Press; Daniel P. Carpenter. 2001. *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928*. Princeton, NJ: Princeton, University Press.

¹⁷ On this history, see: Nestor M. Davidson. 2007. "Cooperative Localism: Federal-Local Collaboration in an Era of State Sovereignty." *Virginia Law Review* 93: 959-1033.

¹⁸

Kevin Esterling. 2009. "Does the Federal Government Learn from the States? Medicaid and the Limits of Expertise in the Intergovernmental Lobby." *Publius: The Journal of Federalism* 29 (1): 1-21; John Dinan. 2011. "Shaping Health Reform: State Government Influence in the Patient Protection and Affordable Care Act." *Publius: The Journal of Federalism* 41 (3): 395-420.

inaction. In 1980, Ronald Reagan imposed regulatory standards for the size of trucks traveling on U.S. interstates in opposition to state demands. Failure to act, Reagan argued, would have created an incompatible network of highways because many states already exercised the independent capacity to regulate truck size themselves. These asymmetries create opportunities for new intergovernmental relationships as often as they create barriers. By creating institutions that govern how different administrative entities with different capabilities work together, presidents hope to gain power.

Geographically Differentiated Preferences:

Americans live in different communities and choose to govern themselves in different ways. People within those communities live different lives from those who choose to live in other communities, and this is reflected in their politics. Federalism protects communities rooted in space. That is, while there are many different groups and organizations Americans can choose to join, federalism is about geographically defined communities. Groups such as parties and cross-national identities such as race, ethnicity, and gender still matter. However, intergovernmental integration occurs when preference for a given policy or government goal is distinguished by where people live. Since federalism allows individuals to form and protect various aspects of their community -- either at a state or local level -- there are few political issues that do not take on a geographic component. And, as other groups such as race and partisanship become more geographically stratified, more government policy can be framed in terms of which *places* win and lose in addition to which groups.

Intergovernmental institutions thrive when government activity is especially sensitive to these types of geographic distinctions. The states along the Pacific Ocean have a distinct regional goal of managing a limited and diminishing water basin. They routinely appeal to federal

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authorities for greater flexibility if not outright waivers from various environmental regulatory law to implement alternative practices. In the process, federal and state administrators develop important networks that carry over into other areas of environmental regulation. Geographic distinctions also exist within states, and intergovernmental integration also emerges when urban and rural divisions cut into state politics. Throughout the 1960s, mayors of the largest municipalities lobbied President Johnson's administration for administrative support in designing and implementing social service programs. Throughout the 1930s, state governors pleaded for help in growing a network of agricultural extension services to aide drought-ridden farmers. Each of these geographic pressures, in turn, fostered the process of intergovernmental integration.

Constitutional Checks and Institutional Rivalries:

Finally, intergovernmental integration emerges when the tensions built into the system of checks and balances at the federal level become especially pronounced. Even when administrative capacity is lopsided or not present, and even when policies have a clear geographic dimension, presidents might choose to act within one government, instead of engaging with multiple governments. Intergovernmental integration requires multiple centers of power with overlapping jurisdictions. Therefore, some political condition must exist that pushes presidents into the subnational political arena rather than construct a new federal agency or implement a broad national program on their own.

Throughout the 20th century, presidents have responded to two recurrent situations. First, intergovernmental integration occurs at moments when the president cannot depend on majority support in the Congress. Oftentimes this is during periods of divided government, most pronounced in the 1900s and early 2000s when a Republican president faced off against a

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Democratic Congress. Democrats, too, faced divided government. But it is also the case that Democratic presidents did not always enjoy majority support in Congress, even if formally unified. Some of the most consequential moments of intergovernmental integration took place when the president's own party disagreed on the president's national strategy. This most routinely occurred in the 20th century when conservative Democrats, often from Southern states, commanded leadership positions in the Congress and successfully wielded institutional control of the legislative process.

Second, and much related, intergovernmental integration often occurs during periods of budgetary duress or financial crisis. Budgetary politics, to be sure, is always highly contentious. However, since so much of the local-state-federal relationship is defined in terms of Congressionally appropriated fiscal transfers or grants-in-aid, fiscal constraints have a large influence on presidential behavior. Scarcity of fiscal resources blends with the scarcity of political support to create a political dilemma especially relevant to America's federated political terrain. And, in creating new intergovernmental institutions, presidents seek to create an alternative set of solutions to these problems.

In short, intergovernmental integration takes place when presidents take actions in pursuit of their ideological goals, but pursue those goals by commanding, cooperating with, or preempting political structures within state and local institutions. At some point in that developmental process, federalism remains, but in a hyphenated form. Presidential-federalism captures the complex system of rules, norms, and procedures that govern intergovernmental politics.

In 2019, presidential-federalism is now so common that its "development" seems almost inevitable -- a co-terminus conclusion to be drawn by technological changes, the nationalization

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of other political structures, the homogenization of American political culture, and the rise of an administrative state. However, each of those broad explanations - some sociological, some political - fail to consider the unique contours of presidential power in modern American government. In doing so, these explanations also fail to address the real alternatives that are possible within a broad, largely unchanged constitutional structure that maintains an enduring place for subnational government.

Historical development counts. As President Harry Truman remarked, "Most of the problems a president has to face have their roots in the past."¹⁹ No single actor brought about this development because no single actor possesses that much power in the American system. Arguably, no institution would want to design or implement such a messy, conflict-prone system. As such, presidential-federalism is not the result of some wholesale redesign in the political order. States and localities have been a part of American governance since the beginning and any effort to reform the institutional presidency has had to contend with the powers, capacities, and loyalties of those entities. And, to the extent that state and local governing institutions possessed any meaningful power, presidents could not simply steam roll recalcitrant governments into compliance. Yet, we know that command and fiat are not the only tools at the president's disposal. Presidents persuade, they lead, they threaten. Presidents also create new processes, impose new rules, and routinize communication among disparate political actors. They build institutions.

The institutional reforms carried out during the 20th Century recast the relationship between the national executive and its subnational counterparts, thus fundamentally redefining the concept of "executive power" in American politics. But this institutional program, designed

¹⁹ Harry S. Truman. 1956. *The Truman Memoirs: Years of Trial and Hope*. Garden City, NY: Doubleday.

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to transform what progressives viewed as a parochial, Congressionally-dominated governance into expert-assisted rule led to two, seemingly contradictory developments that continue to affect governmental administration today. In the first instance, intergovernmental integration between the national and subnational governments established the conditions for the emergence of a more conflict-prone, haphazard, and mutable form of federated government. As Orren and Skowronek have recently summarized, "states lost autonomy, but gained power." Federalism no longer operates as a constraint on policymakers and, in particular, the president. Rather, America's system of overlapping, semi-autonomous governments provides multiple opportunities for the deployment of government power.

Conversely, as the institutional reforms strengthened the role of the modern presidency in defining the objectives and means of intergovernmental administration, the cultural, partisan, and political rationale for federalism has become less pronounced. Important differences still exist in the American cultural landscape, and behavioral evidence suggests that geography impinges upon peoples' understandings of politics and preferences for government action. Yet, political elites now operate in an institutional order that no longer incentivizes what we might identify as intergovernmental forbearance. There is little reason to expect that politicians, operating within nationalized parties dominated by presidential leadership might defer to other centers of power when determining the limits and scope of national programmatic action. Modern American federalism is a technical problem for administrators to overcome, not an institutional design that allows diverse communities to thrive under a broad constitutional structure. Federalism must be made to "work" and presidents have become the chief engineers.

This is an analytic model of political change. As with Beer's groundbreaking analysis of federalism's political development, I too, "do not want to produce one more useless blueprint of

what the relations of the federal and state governments 'ought' to be."²⁰ It is necessary to understand how administrative structures become integrated and how power is projected through intergovernmental institutions, prior to any normative evaluation of that system. I point out several tendencies that presidential-federalism encourages, but the alternatives also have costs: people often want government to be more responsive and expert-driven, and, in general, there has been a greater push for greater equality between the states and citizens living among them. As Derthick notes, "egalitarianism is the greater enemy of federalism," but sometimes the arguments for equality deservedly win out.²¹ I will save my final assessment of this process until the conclusion, but sketching out the full alternative will require more sustained attention than this project allows.

Federalism and Political Institutions: A New Look

Federalism is such a broad term, encompassing so much of American politics, that it is not surprising that any historical account of its development and influence would touch on the hallmark moments of American political history. The greatest hits of American political development all impinge on the federal order. The New Deal, the Great Society, the Reagan Revolution, and the 2008 financial crisis all transformed the ways in which localities, states, and the federal government relate to one another. But presidential power gave those moments a particular cast. Presidential-federalism is an institutional development whose effects might be multi-faceted and pervasive, but whose explanations can be understood by taking account of reforms within a single locus of power: the American presidency. Nevertheless, traditional

²⁰ Samuel Beer. 1973. "The Modernization of American Federalism." *Publius: The Journal of Federalism* 3 (2): 52.

²¹ Martha Derthick. 1999. "How Many Communities? The Evolution of American Federalism." In Martha Derthick (ed.), *Dilemmas of Scale in America's Federal Democracy*. New York, NY: Cambridge University Press, p. 135.

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theories of presidential power and state development have largely neglected the office's intergovernmental character.

Historical institutionalists, even among those that take a "polity centered" approach, have traditionally been interested in how a single institutional actor "fits" within the broader national system of checks and balances.²² Since federalism is not, properly speaking, an institution in and of itself, many of the frameworks used by historical institutionalists are not ready-made for a study of multiple institutions with overlapping jurisdictions, and with different constitutional rules and expectations. Likewise, historical institutionalists often focus on how patterns within civil society intersect with political developments, but almost always in a national context. Social movements and political culture matters, but only when it reaches a critical threshold and breaks into the national limelight. The predominant focus on "bringing the state back in" to historical analysis has generally led scholars to take as their point of departure the development of the *whole* State: national bureaucracies, national welfare systems, and national state capacities. The seminal scholar of state development, Stephen Skowronek, motivated a generation of scholarly inquiry by making the two-fold distinction in the development of the American state: before the Progressive Era, the U.S. was a state of "courts and parties," and then after the development of national institutions, a nascent, but peculiar American State was born.

Such an emphasis is understandable, especially given the comparative context out of which American political science and, more specifically, American political development, emerged. If the central question for students of American politics is, why is America so different -- why no socialism, why no broad-based welfare state, why so conservative, etc. -- then a nationalist bias is inherent to the project.

²² Theda Skocpol. 1995. "Why I am an Historical Institutional." *Polity* 28 (1): 103-106.

Any historical account of presidential-federalism necessarily shares some of these biases. The president, as the country's only elected office that has a national constituency, is front and center in the development of the American State.²³ But a focus on federalism, and the president's role in changing the relationship between governments, alerts us to different developmental trajectories often times overlooked. Specifically, this study extends three theoretical insights offered by scholars of American federalism and the presidency.

Presidential-Federalism and American Political Development

First, presidential-federalism is a political construction. Because of federalism's ubiquity as a governing principle, its transformation is often presented as consequence of similarly ubiquitous processes: the economy, technology, social homogeneity. By labeling presidential-federalism as a political construction, I mean to alert readers to the ways in which politicians have deliberately sought to reform institutions with the purpose of making government do something else: making it more attune to the needs of disenfranchised communities, making it more capable of gathering information about its citizens, making government more efficient, rationalized, coordinated, and, most generally, "good." However, because we know that government institutions are not made and remade all together, tensions exist in any sort of institutional transformation. The rules and procedures governing a new era of institutional reform might conflict with an older set of governing processes that were not remade: the creation of a streamlined government agency, a new independent source of government expertise, or a new way of appropriating funds will compete with unreformed agencies who have policy "turf," or

²³ Nicholas F. Jacobs, Desmond King, and Sidney M. Milkis. 2019. "Building a Conservative State: Partisan Polarization and the Redeployment of Administrative Power." *Perspectives on Politics* 17 (2): Forthcoming.

with institutional venues with their own expertise, or with committee members who jealously guard their responsibility to dole out the government's money.

When politicians attempt to remake politics, their efforts are limited and irregular. As Orren and Skowronek summarize, "institutions of a polity are not created or recreated all at once, in accordance with a single ordering principle; they are created instead at different times, in the light of different experiences, and often for quite contrary purposes."²⁴ Intercurrence, for students of American political development, is the clarion call for historically-situated studies of American institutions because it assumes the ever-present disequilibrium and instability in the rules governing political behavior.²⁵ Rather than asking how much power any one actor can extract from the system, or what conditions must be present in order for a particular strategy to have the highest payoff, politically powerful individuals routinely change the rules of the game that change those payoffs.²⁶ Understanding how politicians play under old rules while creating new rules, and then react to semi-created rules, is the developmental question.

That question becomes more intriguing when politicians attempt to remake federalism, because not only does timing, experience, and purpose matter, but so does the *site* of the institutional change. Institutional change within a particular municipality will lead to new forms of politics within the city: changing the way a mayor is elected will undoubtedly create new tensions with an older set of rules governing the selection of the city council, and the new politics created will play out in this conflicted space. However, the institutional consequences of that reform are not confined to that particular jurisdiction. Institutional tensions spill over into

²⁴ Karren Orren and Stephen Skowronek. 2004. *The Search for American Political Development*. New York, NY: Cambridge University Press, p. 112.

²⁵ Eric Schickler. 2001. *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress*. Princeton, NJ: Princeton University Press, p. 267.

²⁶ Stephen Skowronek. 2009. "Mission Accomplished." *Presidential Studies Quarterly* 39 (4): 795-804.

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other sites of political power. Mayors, elected independently from the council, possess new forms of authority and develop new institutional capacities to communicate with other mayors beyond their borders. Their enhanced reputation brings them into contact with governing officials outside the city: fellow partisans, governors, and then, maybe, even the president. When politicians, especially presidents, declare federalism to be the reform target, these spill over consequences are precisely the point of any institutional reform. As such, both the inter- and intra- institutional dynamics are in play.

Despite the proliferation of work in American political development, few scholars are attuned to these peculiar developmental processes, even if they are theoretically derivative of intercurrency. One notable exception is Suzanne Mettler's study of federalism and New Deal social policy. During the 1930s and 1940s, the federal government developed new capacities to develop and fund welfare programs on a national level. However, since the federal government lacked requisite police powers, state institutional capacity to regulate, sanction, and coerce restrained the federal government's newly acquired powers. States used their court-sanctioned police powers to uphold racial hierarchies through Jim Crow statutes, and also used police powers to regulate how women acquired property through divorce, death, and marriage. This old order of state governance conflicted with a new order of federal governance, and, in the end, created an unintended mode of governance in the United States that exacerbated material inequities instead of alleviating them.²⁷

Likewise, Margaret Weir considers the nationalizing efforts of the New Deal, especially as it concerns policies promoting racial equality, and argues that particular arrangements of power within state institutions limited the scope of national reform. Consequently, state

²⁷ Suzanne Mettler. 1998. *Dividing Citizens: Gender and Federalism in New Deal Public Policy*. Ithaca, NY: Cornell University Press.

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legislatures dominated by rural interests, weak governors, and "elite-biased politics" of cities blunted liberalism's reach. Importantly, Weir highlights how those features of state-level governance were the outgrowth of earlier reform efforts during the Progressive Era - a time when institutionally-minded politicians deliberately sought to remake the administrative capacities and political logics of municipal institutions. In combining historical processes with a conception of multiple orders, Weir develops an enduring insight about federalism and political development more generally: "the United States appears as a layered polity in which federal initiatives were [and are] overlaid on state political systems that operated with different administrative capacities and political logics."²⁸

Perhaps no scholar of American politics has more artfully and more systematically unearthed the consequences of this layered polity than Martha Derthick. So long as American federalism defines the range of possible relationships that semi-independent governments have with one another, then, as Derthick argues, "Wherever there is government in this society, there are relations among governments; federalism is a pervasive fact of our public life and institutional arrangements."²⁹ State agencies make the first determination as to whether an individual qualifies for disability benefits, not the federal government; consequently, disability insurance expenditures outpaced federal efforts to review them, nearly bankrupting the entire program in the 1970s.³⁰ In 1962, Congress established a statutory provision allowing states to receive "waivers" from general rules governing the Medicaid program. After decades of state

²⁸ Margaret Weir. 2005. "States, Race, and the Decline of New Deal Liberalism." *Studies in American Political Development* 19 (2): 158.

²⁹ Martha Derthick. 1976. "Income Support Programs and Intergovernmental Relations." In Walter F. Scheffer (ed.), *General Revenue Sharing and Decentralization*. Norman, OK: University of Oklahoma Press, p. 41.

³⁰ Martha Derthick. 1979. *Policymaking for Social Security*. Washington, D.C.: The Brookings Institution.

requests and federal permission, Medicaid is no longer a strictly national program, but best defined as 50 different programs that look somewhat similar to one another. The upshot is that with state power and autonomy, the federal government knows very little about where its money is going, for what purposes, or even how much.³¹ Throughout the 1980s and 1990s, state attorneys general acquired larger staffs, developed national professional networks, and grew in prominence. Because state attorneys general are independently elected, they pursue cases at their discretion, including a \$240 billion agreement between forty-six autonomous states and the largest cigarette manufactures - the 1998 "master settlement." Yet, in reaching that settlement through litigative processes, ambitious state attorneys general and the cadre of tort lawyers working from them shut down the ability of the country's 51 legislatures to legally enforce a political solution to the problem of Big Tobacco -- a solution that would have depended on constitutionally-mandated processes of deliberation and public comment.³²

This study also considers presidential-federalism as a developmental construct that emerges from the United States' particular political geography. In doing so, this study contributes to a broader emphasis that students of American political development have placed on regional and sectional differences in the country's march through history. If federalism as intercurrency is a way of seeing states and localities as similar entities with similar capacities that compete with political actors in the federal government, an alternative way of considering America's federal structure is to emphasize the dissimilarity between different states and localities. As it matters for broader interpretations of political development, regions, states, and even cities acting in unison,

³¹ Martha Derthick. 2015. "On the Mutability of American Laws." In Benjamin Wittes and Pietro Nivola (eds.), *What Would Madison Do? The Father of the Constitution Meets Modern American Politics*. Washington, D.C.: The Brookings Institution.

³² Martha Derthick. 2001. *Up in Smoke: From Legislation to Litigation in Tobacco Politics*. Washington, D.C.: CQ Press.

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seek to protect and preserve their unique cultural, social, or political features by using national institutions.

In using national institutions to preserve regional differences, sectionalism matters for the optimist and the pessimist. On the one hand, America's federal structure, accompanied by strong regional distinctions, means that different communities of interest are likely to govern themselves differently. And despite greater similarity in culture, politics, and economy, Richard Benseal has pointed out that sectional interests have defined the battles over America's economic development for well over a century.³³ The nationalization of various institutions such as political parties or media has done little to temper the ways in which politicians from one area of the country join together to compete with coalitions representing other regions.

Regional differences also mean that, as the Supreme Court Justice Louis Brandeis famously suggested, a "state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."³⁴ Scholars have given wide, sweeping testament to Brandeis' constitutional interpretation. In Brandeis' own time, during the Progressive Era, different states and regions were incubators of political reform. States in the southwest adopted new municipal governance laws that quickly spread across the country. Almost 100 years later, Progressives leveraged the independent political culture of cities to pass a series of living wage ordinances that raised the minimum wage above that of the state or national level.³⁵ In the late 19th century, states in the Northeast, largely because they had

³³ Richard Benseal. 1984. *Sectionalism and American Political Development, 1880-1989*. Madison, WI: The University of Wisconsin Press.

³⁴ *New State Ice Co. v. Liebmann*. 1932. 285 U.S. 262.

³⁵ Amy Bridges. 1997. *Morning Glories: Municipal Reform in the Southwest*. Princeton, NJ: Princeton University Press; Issac Martin. 2001. "Dawn of the Living Wage: The Diffusion of a Redistributive Policy." *Urban Affairs Review* 36 (4):470-496; see, more generally, Andrew Karch. 2007. *Democratic Laboratories: Policy Diffusion among the American States*. Ann Arbor, MI: University of Michigan Press.

organized the militias who fought in the Civil War, took the lead in providing the country's first old-age pensions for military veterans. Likewise, states in the West, were among the leading political sites for the development of maternal welfare benefits. As Theda Skocpol persuasively demonstrates, the near-century long effort to protect "soldiers and mothers" allowed the United States to develop a peculiar version of a nationalized welfare state, while maintaining its strong commitment to constitutional democracy and decentralized governance.³⁶ States, too, have been important sites for extending an Americanized notion of "positive rights," galvanizing a broader legal tradition that sees government obligations as compatible with constitutionalism.³⁷

Nevertheless, the dominant scholarly interpretation on the interplay between regionalism and American political development has had a negative valence. The United States lagged behind most Western European nations in regulating workplace conditions and establishing a basic set of worker protections; federalism and disparate economic growth across the nation limited the extent to which government could broker deals with employers and labor unions in establishing new regulatory regimes.³⁸ Due to their small constituencies, some scholars have argued that states inherently favor elite-dominated politics, thereby limiting the real diversity of state governance in favor of business-friendly, low-taxing, regulatory-friendly regimes.³⁹ Ironically, by emphasizing states and cities as competitive entities, scholars have provided

³⁶ Skocpol, Theda. 1992. *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*. Boston, MA: Harvard University Press.

³⁷ Emily Zackin. 2013. *Looking for Rights in All the Wrong Places: Why State Constitutions Contain America's Positive Rights*. Princeton, NJ: Princeton University Press; see also, Ellis Katz and G. Alan Tarr (eds.). 1996. *Federalism and Rights*. Lanham, MD: Rowman and Littlefield.

³⁸ David Brian Robertson. 2000. *Capital, Labor, and State: The Battle for American Labor Markets from the Civil War to the New Deal*. Lanham, MD: Rowman and Littlefield.

³⁹ Paul Peterson. 1995. *The Price of Federalism*. Washington, D.C.: Brookings Institution; David Brian Robertson. 1989. "The Bias of American Federalism: Political Structure and the Development of America's Exceptional Welfare State in the Progressive Era." *Journal of Policy History* 1 (2): 261-291; Grant McConnell. 1966. *Private Power and American Democracy*. New York, NY: Vintage Books.

evidence for another one of Brandeis' famous observations: far from nourishing progressive experimentations, "the race [states engaged in] was one not of diligence but of laxity."⁴⁰

Without a doubt, America's political geography has mattered the most when thinking about the South. America's federal structure has long nurtured Southern particularism, and as institutions developed throughout the course of the 20th century, Southern politicians have used their region's distinct identity to transform national politics. No one more artfully has tied sectional power to broader developments in American political life than Ira Katznelson, whose work on race and the American State hinges on the set of institutional rules and political protections Southern politicians carved out for themselves within the states, Congress and the Democratic Party.⁴¹ Southern regionalism has long been understood as a leading bulwark against the development of more egalitarian and nationalized state interventions. The desire to protect a strict racial hierarchy in the South has had a particularly powerful influence on presidential administrations.⁴² Cutting against the dominant interpretation of presidents as order-shattering or naturally aligned to social causes, Russell Riley maintains that in their desire to maintain national order, the national ambitions of presidents have intersected with sectionalist fervor to *preserve* racial inequality.⁴³

This debate over how federalism structures political development will continue. However, this study adds evidence to both perspectives, and provides a way of reconciling these competing narratives. Like those who emphasize the innovative and democratic possibilities of

⁴⁰ Commonly miscited as a "race to the bottom," the modern colloquialism captures the spirit of Brandeis' concern. see: *Louis K. Liggett Co. v. Lee*. 1933. 288 U.S. 517.

⁴¹ Ira Katznelson. 2005. *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York, NY: W. W. Norton and Company.

⁴² William E. Leuchtenburg. 2005. *The White House Looks South: Franklin D. Roosevelt, Harry S. Truman, Lyndon B. Johnson*. Baltimore, MD: Johns Hopkins University Press.

⁴³ Russell Riley. 1999. *The Presidency and the Politics of Racial Inequality: Nation-Keeping from 1831 to 1965*. New York, NY: Columbia University Press.

state and local governance, the development of presidential-federalism suggests that presidents have long depended on the inventive spirit and grassroots fervor of political movements outside of the national limelight. In brining state and local officials into national politics, presidents have responded to citizen demands to protect what is local, nourish policy experimentation, and celebrate the country's vast geographic diversity. Yet, as Riley and others recognize, presidents have also sought to preserve the worst that federalism produces. And, by creating new institutions to manage federal-state-local relations, presidents have routinely found themselves beholden to the demands of subnational political actors that conflict with national majority preference.

Presidential-Federalism and the "New Institutionalism"

Presidential-federalism also complicates, in much needed ways, the traditional narrative about the "eras" of federalism, and the ways in which scholars of political development have periodized American history, and typologized the American variant of federated government.

As it relates to various periodization schemes, federalism famously dominates political science's lexicon of pastry-related metaphors. First there was dual, or layered cake federalism. Then there was cooperative, or marble cake federalism.⁴⁴ For Aaron Wildavsky, the complicated mass of grants-in-aid, swelling budgets, and coercive demands coming from the states themselves had so perverted that cake, that a new cake was now in the Congressional oven: fruitcake federalism.⁴⁵

⁴⁴ Morton Grodzins. 1966. *The American System: A New View of the Government of the United States*. New York, NY: Rand McNally.

⁴⁵ Aaron Wildavsky. 1982. "Fruitcake Federalism or Birthday Cake Federalism." In Robert B. Hawkins, Jr. (ed.), *American Federalism: A New Partnership for the Republic*. New Brunswick, NJ: Transaction Publishers.

These heuristics point to important distinctions in the federal-state, and sometimes federal-state-local relationship. Describing inter-governmentalism is half the battle, since measuring fiscal transfer payments, authority in a particular policy area, or the government's general importance in the day-to-day lives of citizens is a messy exercise. For decades, scholars were certain that a strict legal barrier existed throughout the 19th century, separating state governing activity from national government activity. But as Daniel Elazar successfully argued, there has been cooperative federalism since the earliest days of the compound republic.⁴⁶ New historical scholarship has further advanced Elazar's observations by suggesting that government, while "out of sight," was nevertheless active in periods where scholars had emphasized its laggardness; as such intergovernmental government relations predates not only the term, but the signposts of change long emphasized: the Progressive Era, the New Deal, the Great Society.⁴⁷

The periodization dilemmas work hand-in-hand with other descriptive accounts of American federalism's overall effects on the governing system. Beginning with the earliest accounts of the American system, most studies continue to ask the same question as did the *Federalist*: How does one maintain a federal system that neither too weak and prone to dissolution, nor too strong and prone to excessive centralization?

Arrayed on a spectrum from confederal arrangements to consolidated arrangements, it is possible to extrapolate the institutional arrangements and rules governing the interactions of various governments to make more generalizable claims about the health or sustainability of different federated arrangements. What type of constitutional structures are necessary for subnational governments to act with energy and innovation? For Vincent Ostrom, the answer

⁴⁶ Daniel Elazar. 1987. *Exploring Federalism*. Tuscaloosa, AL: University of Alabama Press.

⁴⁷ Brian Balogh. 2009. *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America*. Cambridge, UK: Cambridge University Press.

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boils down to constitutional guarantees, coupled with a strong judiciary to enforce the bright lines separating enumerated national powers from residual state powers.⁴⁸ For Wallace Oates, the answer laid in the political economists ability to match the scale of any policy externality with the size of various, overlapping governments.⁴⁹ Others have considered what types of financial or administrative structures are necessary for federated systems to enhance political accountability or fiscal discipline. For Barry Weingast, federal systems could only prove to economically viable if subnational governments had "primary regulatory responsibility over the economy," but also remained subjected to hard budgetary constraints (no control over the monetary supply) and faced limits on erecting trade barriers between competing entities; absent those conditions, federalism neither preserved property rights necessary for entrepreneurial innovation, nor did it allow government actors to amass enough coercive power to enforce those property rights.⁵⁰ For Jonathan Rodden, federal systems only work to enhance political accountability if another axiom is added: constituent governments must remain convinced that the central government will never assume or pay-off debts incurred at the subnational level.⁵¹ And, most influentially, Charles Tiebout's model of federalism only produced the positive benefits of enhanced citizen trust and satisfaction if mobility costs were low, allowing individuals within a larger system to "vote with their feet" and hold elected officials accountable over aggregate tax rates and the provision of public services.⁵²

⁴⁸ Vincent Ostrom. 1987. *The Political Theory of a Compound Republic: Designing the American Experiment*, Second Edition. Lincoln, NE: University of Nebraska Press.

⁴⁹ Wallace E. Oates. 1972. *Fiscal Federalism*. New York, NY: Harcourt Brace Jovanovich.

⁵⁰ Barry Weingast. 1995. "The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development." *Journal of Law, Economics, & Organization* 11 (1): 1-31.

⁵¹ However, as Rodden argues, this is rarely the case, either historically or in contemporary federated governments. See, Jonathan A. Rodden. 2006. *Hamilton's Paradox: The Promise and Peril of Fiscal Federalism*. New York, NY: Cambridge University Press.

⁵² Charles Tiebout. 1956. "A Pure Theory of Local Expenditures." *Journal of Political Economy* 64 (5): 416-424)

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The invariant, economic-driven models of federalism are seldom placed in conversation with more historical and dynamic descriptions of federalism's changing features. While this study has more in common with the prevailing methodological approach in public administration and American political development than it does with public choice economics or the "new institutionalism" in political science, it nevertheless draws insights from and challenges assumptions made in both. I understand federalism to be historically situated and subject to change over time. But, at some point, a myopic focus on constitutional guarantees, or a purely historical analysis of policy making within different governments of the past does not adequately explain whether presidential-federalism is sustainable or desirable.

Description is necessary, but the goal of this project is to identify patterns of regularly occurring behavior concerning presidents and subnational political actors. In doing so, I ask under what conditions are presidents most likely to build institutions to strengthen or institutionalize intergovernmental politicking. These conditions are regularly occurring features of presidential politics and state-building, more generally, throughout the 20th and 21st centuries. Yet, they are broad categories for describing behavior, and may look differently over the course of American history. Just as mobility costs fluctuate over time, more or less altering the general conditions of Tiebout-sorting models, variables like geographically-differentiated preferences, asymmetric administration, and institutional tensions take different functional forms. Likewise, in tracing the emergence of new institutions at different points in time, this study acknowledges the pervasive degree of endogeneity afflicting any set of causal arguments about the emergence of new institutions. Indeed, that is precisely the point in interrogating historical development: attempts to overcome administrative asymmetry at one point, say,

between the federal and local governments, might later produce new asymmetries, say, between the local and state governments.

Therefore, this study, on the one hand, recognizes and pays deep attention to the rational, or institutional dynamics of competing political actors situated in a specific constitutional structure at any given moment. On the other hand, the strategies available to the politically empowered are not dogmatically defied. As it turns out, presidents re-write the rules of the intergovernmental relations game by creating new arenas for political contestation.

Intergovernmental institutions, therefore, provide both capacity for political action (financial, personnel, expertise), as well as transform the authority for presidents, governors, and mayors to act without precedent.

Presidential-Federalism and Public Law

The development of new capacity and authority also presents a challenge to the prevailing legal interpretation of modern intergovernmental relations. As such, this study contributes to a broader discourse among law scholars about the contemporary contours of national power and the authority states and localities command in the federal system.

To be sure, legal analysts are among the few who have recognized the peculiarities of modern American federalism. In their prescient portrayal of the modern American State, Thomas Gais and James Fossett were among the first to describe how the rise of an administrative presidency collided with and transformed the way that states and the national government interacted with one another.⁵³ As had been noted by many up to that point, the increasing size of the bureaucracy and the public's greater tolerance for executive action had significantly

⁵³ Thomas Gais and James Fossett. 2006. "Federalism and the Executive Branch." In Joel D. Aberbach and Mark A. Peterson (eds.), *Institutions of American Democracy: The Executive Branch*. New York, NY: Oxford University Press, p. 507.

expanded the means by which presidents could unilaterally influence policy. Yet, in doing so, the administrative correctives added to something more than just "good government." Statutory provisions and bypassing legislative politicking challenges the role that law plays in defining state, local, and national policymaking responsibilities.

With the preeminence of executive policy-making and its consequential effects for the states, Jessica Bulman-Pozen has adamantly declaimed that "executive federalism has come to America."⁵⁴ Looking to other federated systems around the world as a comparison, Bulman-Pozen argues that, in the era of partisan polarization, the locus of intergovernmental relations in America is similarly dominated by executives across multiple levels of government. As a result, in describing the current status of American federalism, she argues that presidents and governors have become the dominant policymaker in states and the national government, that there is a high degree of bi-partisan agreement within these executive negotiations, and that policy is successfully differentiated to fit each state's particular needs. In sum, federalism is not only maintained, but elevated as the defining feature of American government. Presidents and governors are invested with considerable power and incentive to negotiate policy outcomes, all while remaining sympathetic to the concerns of federalism.

Bulman-Pozen's deep accounting of policy change during the Obama administration challenges the conventional characterization of contemporary politics, with its emphasis of policy gridlock and partisan polarization.⁵⁵ Additionally, Bulman-Pozen argues that not only did Obama successfully enact policy change over a gridlocked Congress, but, in her view, the policy

⁵⁴ Jessica Bulman-Pozen. 2016. "Executive Federalism Comes to America." *Virginia Law Review* 102 (Summer): 953-1030.

⁵⁵ See for example, Thomas Mann and Norm Ornstein. 2013. *It's Even Worse Than it Looks: How the American Constitutional System Collided with the New Politics of Extremism*. New York, NY: Basic Books.

outcomes were unusually sensitive to state particularities. For those seeking to explain why presidents choose to move policy within the states and localities, there is a simple explanation: partisan polarization. So, the dominant legal consensus goes, presidential federalism is symptomatic of modern American partisanship, legislative gridlock, ideological zealotry, and cut-throat politics. And, since these same forces afflict state and local institutions just as much as they do national ones, mayors, governors, and presidents have been duly empowered to take charge and lead, more often in cooperation with one another, and for the public's benefit.

Good policy in a time of partisan polarization also challenges those who emphasize policy incongruence and government “overload” as the most significant political problems, as opposed to gridlock.⁵⁶ Consequently, champions and scholars of presidential-federalism get to have their cake and eat it too. The major policy developments within the last decade support the legal argument that presidents find it in their interests to preserve the federal system, and the American people get the policy they always wanted: the Obama administration’s selective enforcement of national drug laws accommodated state efforts to decriminalize marijuana;⁵⁷ the EPA’s tailoring of greenhouse-gas regulations enhanced pre-existing state-plans for emission reductions;⁵⁸ the Obama administration’s use of waivers to accommodate state Republican policy makers helped to expand Medicaid through more market-oriented, “conservative” premium assistance initiatives.⁵⁹

⁵⁶ See for example, R. Shep Melnick. 2014. “The Conventional Misdiagnosis: Why ‘Gridlock’ is Not Our Central Problem and Constitutional Revision is not the Solution.” *94 Boston University Law Review* 767.

⁵⁷ U.S. Department of Justice, “Memorandum for Selected United States Attorneys on Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana.” URL: <http://www.justice.gov/opa/blog/memorandum-selected-united-state-attorneys-investigations-and-prosecutions-states>. Last Accessed, December 15, 2015.

⁵⁸ Kirsten Engel. 2015. “EPA’s Clean Power Plan: An Emerging New Cooperative Federalism?” *Publius: The Journal of Federalism* 45(3): 452-474.

⁵⁹ Frank J. Thompson and Michael K. Gusmano. 2014. “The Administrative Presidency and Fractious Federalism: The Case of Obamacare.” *Publius: The Journal of Federalism* 44(3): 426-450.

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Legal scholars offer up some of the finest descriptions of modern presidential power, and the attention paid to the courts' constantly revising jurisprudence makes such accounts second-to-none in suggesting what is and is not legally permissible in modern intergovernmental politics. And yet, no matter how penetrating or broad the legal analysis, constitutionally-empowered actors can displace politics and move it into new venues where the courts have yet to adjudicate upon what is proper or necessary. Courts can, to be sure, set new limits on those new actions, but the rapid changes taking place within the development of American federalism have more often led to an unstable federalism jurisprudence.⁶⁰ Prevailing descriptions of presidential power in state and local institutions might consequently suffer from too myopic a consideration of what is happening at the immediate moment, coupled with a too optimistic understanding of what effects these governing tendencies will produce later on. As Edward Corwin understood, the constitutional text incorporates myriad political developments into its meaning, from judicial decisions, to legal statutes, but also those "certain usages of government which have developed since the formal constitution went into effect, and some of which indeed, have virtually repealed portions of the later."⁶¹

Political science is needed, or, what Michael Greve describes as a need to account for federalism's "bargaining dynamics, its operative range, and its trajectory."⁶² Constitutional interpretation matters, but it is only one aspect of understanding how federalism keeps power dispersed, while empowering government enough to meet public demands for political action. As Daniel Elazar writes,

⁶⁰ Heather K. Gerken. 2014. "Slipping the Bonds of Federalism." *Harvard Law Review* 128: 85-123.

⁶¹ Edward S. Corwin. 1925. "Constitution v. Constitutional Theory: The Question of the States v. The Nation." *The American Political Science Review* 19 (2): 291.

⁶² Michael Greve. 2018. "Federalism in a Polarized Age," in Zachary Courser, Eric Helland, and Kenneth Miller (eds.), *Parchment Barriers: Political Polarization and the Limits of the Constitutional Order*. Lawrence, KN: University Press of Kansas.

The constitution place of the states in the federal system is determined by four elements: the provisions in the federal and state constitutions that either limit or guarantee the powers of the states vis-a-vis the federal government; the provisions in the federal Constitution that give the states a role in the composition of the national government; the subsequent interpretations of both sets of provisions by the courts (particularly the United States Supreme Court); *and the unwritten constitutional traditions that evolved informally and only later became formally recognized through the first three, directly or indirectly* [emphasis added].⁶³

Administrative restructuring and executive reorganization are aspects of that informal constitutional tradition.

Some scholars see these new traditions as essential developments in maintaining federalism's chief political objective of checking centralized power. Most prominent among these scholars is John Nugent and his groundbreaking study of state-federal administrative politicking, or, put simply, the "intergovernmental lobby." "Given that the text of the Constitution specifies few formal means by which states can check the federal government," Nugent writes, "the most useful means available to state officials -- governors, state legislators, and state administrators -- are a set of informal powers and practices that they have developed over time."⁶⁴ Administration can be a political safeguard for maintaining state power and authority.

Administration, therefore, is political. And as a political instrument, it comes into conflict with alternative modes of governance -- ways of organizing conflict that predate the development of administrative processes, and ways of channeling dissent that exist in contradiction to administrative negotiation. While this study takes a similar point of departure as Nugent's in considering those less-studied aspects of local-state-federal politics, it goes one step further. Keeping the states around is not a political outcome to be studied in isolation; it matters

⁶³ Danial Elazar. 1984. *American Federalism: A View from the States*, Third Edition. New York, NY: Harper and Row Publishers, p. 41-42.

⁶⁴ John D. Nugent. 2009. *Safeguarding Federalism: How States Protect Their Interests in National Policymaking*. Norman, OK: University of Oklahoma Press, p. 6.

what those states are doing. And, if administrative processes that safeguard federalism are arrayed to enhance state voice at the expense of Congressional power or the representativeness of state legislatures, there is little reason to celebrate that system's effects for achieving the project of self-governance.

In short, presidential-federalism has a normative anchor. Legal analyses and positivistic accounts of state bargaining power tend to overlook the deeply subjective conclusion made by the decision to at once create one large community while maintain the political power of many, smaller communities.⁶⁵ This study will be different from other contemporary descriptions of presidential federalism and its historical development because it will remain sensitive to that fundamental objective to design a system of institutions that would protect communities of self-governing citizens and recreate the potential for self-governance across generations of citizens. As it turns out, presidents recognize these tensions when designing intergovernmental institutions and have sought to re-articulate federalism's role in maintaining that project. Their programmatic achievements, and the contemporary manifestations of the politics they created, must be seen alongside normative arguments about federalism in order to conclude whether presidential federalism offers a promise, or a pathology, in the future of American governance.⁶⁶

Outline of the Dissertation

The consequences of presidential-federalism are sweeping, touching upon nearly every aspect of modern American governance and public administration. This is a function of federalism itself. As Derthick recognizes, "to understand the condition of federalism, one needs

⁶⁵ Martha Derthick. 1999. "How Many Communities? The Evolution of American Federalism." In Martha Derthick (ed.), *Dilemmas of Scale in America's Federal Democracy*. New York, NY: Cambridge University Press.

⁶⁶ Nicholas F. Jacobs and Connor M. Ewing. 2018. "The Promises and Pathologies of Presidential Federalism." *Presidential Studies Quarterly*: Available on Early View.

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to comprehend the functioning of the whole polity."⁶⁷ That is too monstrous a task. Fortunately, Derthick also points a way forward: "In studying intergovernmental relations, it is a good idea at least occasionally to start with what governments are doing in general rather than with what is going on specifically in intergovernmental relations."⁶⁸

The following chapters look at what presidents are doing when they decide to create new institutions. Each chapter will focus on one of those institutions, emphasizing the generative forces that lead to its rise, and the lingering consequences that they leave far beyond the administration that created it. This dissertation is neither wholly about the presidency nor wholly about American federalism. Surveying the entirety of presidential history and its effect on federalism is an almost impossible task; surveying the debates, actions, and reactions to the political process in 50 state capitals and hundreds more major metropolitan areas in the United States is, perhaps, impossible. Instead, I try to draw attention to several key trends in the development of the modern American State – a State that is comprised of many different states, each with their own executive authority that has developed and conflicted with other governing structures within them. In doing so, I seek to understand both how those relationships have become more intricately bound and centralized, and how executive power at the national and sub-national level has transformed as a result of these developmental processes.

The focus here is therefore as much on the presidency and national political actors as it is on subnational changes. How did presidents such Franklin Roosevelt and Lyndon Johnson—imbued with a Progressive ethos - seek to transform how states and localities govern themselves? How did these reforms and the development of new sub-national governing capacities alter the

⁶⁷ Martha Derthick. 1989. "The Enduring Features of American Federalism," *Brookings Review* 7 (Summer): 35.

⁶⁸ Martha Derthick. "Income Support Programs and Intergovernmental Relations," p. 41.

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extent to which subsequent presidents behaved and responded to national crises? To what extent did "conservative" presidents, such as Eisenhower and Nixon, succeed in returning power to local government? Are presidents naturally hostile to subnational authority, and are states, by definition of their subordinate status, inherently jealous of their inferiority? Or do presidents, governors, and mayors seek common ground more often than not, and develop cooperative structures in the administration of the American State? What difference does it make that neither presidents, governors, nor mayors exist wholly independent of one another?

To be sure, there are two possible approaches to take in answering the set of raised questions. It may be that the best way to describe the dynamics of executive authority across multiple governing authorities is to conduct a state-by-state analysis for any single time period, highlighting the ways in which the dissimilarities between particular states posed specific problems for a particular moment in the developmental process. It may also be the case that the best way of describing these trends would be to focus on one state, or even a city, highlighting the ways in which the goals, capacities, and strategies that frame intergovernmental politicking changed over time within a particular case. Of course, in the first instance, we might lose any sense of development – how the consequences of a political action at any one time alter the set of possible interactions and expected behaviors at a later state. And, in the second instance, we might lose any sense of generalizability – how the disparate set of relationships between hundreds of political actors and myriad institutions in flux have a common set of characteristics. This dissertation attempts to capture both subtleties, even if neither is fully captured in the following pages.

At the outset, I plead sympathy for this necessarily disappointing compromise, with the hope that I have still managed to give some sense to the character of the historical processes that continue to influence the possibilities of American politics today.

The next chapter further interrogates the theoretical ideas undergirding presidential-federalism. Behind every institution and set of rules is an idea and a discourse. Presidents responded to new understandings about what federalism could accomplish, given a revised understanding of the U.S. Constitution. These theoretical debates were most fully animated during the Progressive Era. However, it would be a mistake to label the Progressives as wholesale centralizers, dismissive of state capacities or local control. Rather, Progressives sought to reform federalism, not end it.⁶⁹ This new understanding of federalism merged with new theories about scientific administration, bureaucratic management, and, presidential control -- what Franklin D. Roosevelt, decades later, summarized as "enlightened administration." Federalism could be administered: coordination, efficiency, and planned variation could make federalism "work." However, the Constitutional structure for uncoordinated, inefficient, and duplicated governance remained. Both theories propelled presidential action throughout the 20th century, and gave rise to the new dilemmas of modern intergovernmental management.

Chapter three explores the creation of the National Resources Planning Board in 1933, and its near-decade long effort to establish state planning boards. Contrary to extant accounts that emphasize the New Deal's preemption of local and state control, I argue that Franklin Roosevelt and his aides displayed a unique sensitivity to America's historic "dilemma of scale." Roosevelt consciously sought to preserve and expand essential elements of state and local

⁶⁹ Martha Derthick and John Dinan. 1999. "Progressivism and Federalism." In Sidney M. Milkis and Jerome M. Mileur (eds.), *Progressivism and the New Democracy*. Amherst, MA: University of Massachusetts Press, pp. 81-102.

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governance, with a particular emphasis on the development of bureaucratic capacity, intergovernmental communication, and regional planning efforts. State planners viewed their role broadly, and organized state-level responses to a vast number of policy problems. As a result, when Congress abolished the NRPB in 1943, planning remained a vibrant component of the newly “modernized” state governments. Federal efforts to extend national programs into areas traditionally dominated by state-level policymaking after the New Deal had to contend and cooperate with these prevailing administrative entities.

Chapter four considers two institutional developments that sprung forth out of the Kestnbaum Commission on Intergovernmental Relations (1953-1955), which Congress created at the insistence of President Eisenhower. The Kestnbaum Commission was a response to the institutional changes produced by the New Deal, including the asymmetric administrative capacities that grew from the National Resources Planning Board's efforts in the states. As a commission of leading federalism experts and state officials, the report is interrogated alongside the two institutions that President Eisenhower adopts after its release. In sum, the Kestnbaum Commission is largely responsible for giving theoretical coherence to modern "intergovernmental relations" as a governing ideal suited to presidential management, while also supplying the nation's chief executive with the governing power to enact change within states and localities. In particular, the president gained governing capacity with the establishment of the White House Office of Intergovernmental Affairs (1955) and the U.S. Advisory Commission on Intergovernmental Relations (1959).

Chapter five focuses on the politics of the Bureau of the Budget (BoB) and its successes in further integrating intergovernmental politics. The BoB dates back to 1921, but during the 1960s, staffers and appointees inside it increasingly had to deal with the managerial and political

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fallout of new intergovernmental programs. Under the leadership of Charles Schultze, BoB flourished into the president's primary resource for managing federalism. Throughout the 1960s, BoB experimented with a variety of new devices that allowed presidents to leverage power in the states and localities. I emphasize two in particular: unilateral grant reform and programmatic waivers. These administrative techniques complemented the other tools of presidential-federalism developed during the previous decade and set important precedents for the deployment of executive power, which continue into the present-day.

Chapter six considers the complex and tortuous history of Lyndon Johnson's Community Action Program (CAP) in light of the intergovernmental integration perspective. In particular, I document how the decentralist ethos of CAP collided with, and was eventually subsumed by, the other institutions of presidential-federalism. CAP was an attempt to build yet another institution to manage federalism. White House aides understood CAP as a device for intergovernmental reform, but they quickly revised the program when the program's goals proved too difficult to realize. CAP eventually morphed into a more manageable form of intergovernmental aid, the president's Model Cities program. Interestingly, it fell to President Richard Nixon to manage and implement the Model Cities program. As such, this set of federal initiatives reveals something peculiar about the bi-partisan embrace of presidential-federalism, and the tensions it sows throughout the federal system. Most historical accounts of CAP neglect its administrative transformation and its goals for intergovernmental reform. In addition to correcting parts of the historical record, this chapter highlights how the various institutions built up throughout the 20th century converged during a period of liberal reform to extend the powers of the modern presidency, and pushed the White House deeper into state and local politics, even during a period of conservative governance.

The final substantive chapter situates the origins and development of the Office of Management and Budget (OMB) within the intergovernmental reformist impulses of Presidents Johnson and Nixon. While Nixon gets the ultimate credit for establishing the OMB in 1970, it would be a mistake to neglect the reforms and institutional restructuring that led to its establishment during the previous administration. Despite their different ideological objectives and partisan persuasions, both Nixon and Johnson recognized the immense power that came with intergovernmental administration. Reforms in the Budget Bureau during Johnson's presidency gave rise to several reorganization commissions, and Nixon later put those recommendations to work for his own purposes. Out of the ashes of BoB, Nixon and his aides developed a stronger budget and management institution, largely out of the need to better control intergovernmental programmatic management.

In total, this dissertation surveys the creation of seven distinct institutions that presidents used throughout the 20th century to reform intergovernmental politics. Only two of these institutions are active and influential in 2019: the National Resources Planning Board ended in 1943; CAP still exists but it does not coordinate governing objectives at the state and local level; Reagan terminated the OMB's Intergovernmental Affairs Division in 1983; and a Republican Congress in 1996 terminated the Advisory Commission on Intergovernmental Relations. Moreover, I end this dissertation with the development of OMB nearly 50 years ago.

Future work must consider how this process of intergovernmental integration continues beyond the Nixon presidency. And, it must further account for the sorting of political partisanship in the United States and the rise of ideological polarization, which has further advantaged the institutional presidency.⁷⁰ Yet, while federalism is constantly in flux, I argue that,

⁷⁰ Matthew Levendusky. 2009. *The Partisan Sort: How Liberals Became Democrats and Conservatives Became Republicans*. Chicago, IL: University of Chicago Press; Sidney M. Milkis, Jesse H. Rhodes,

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despite all those changes -- despite all the new metaphors for describing intergovernmental relations -- we benefit by taking an historical institutionalist approach: a focus on the rules, norms, and ritualized behaviors of actors within the federal system. Crossing over partisan lines and presidential administrations, I argue that with the creation of OMB, the modern presidency obtained the defining power of modern day presidential-federalism -- power that all presidents desire, because “no matter what their preferences about intergovernmental relations, presidents have policy goals, political needs, and obligations of office that drive them to employ – and usually to extend – the powers of the federal government.”⁷¹ Such a long view, I argue, helps us to better understand the increasing importance of intergovernmental management in the president's policy agenda, even 50 years later.

For this reason, I consider the administrative and political legacies of these institutions years after their creation at two moments in the dissertation. First, in chapter two, I draw specific attention to the intergovernmental politics that have so far defined President Trump's tenure in office. Trump's administrative juggernaut not only reveals the tensions between the two theoretical interpretations of federalism, but also how institutions within the West Wing - especially OMB - continue to empower the presidency when it seeks to leverage state and federal power. In the conclusion, I consider President Obama's use of OMB and the Office of Intergovernmental Affairs during his time in office. In no uncertain terms, Obama succeeded because of federalism and because he possessed the requisite authority and power to move policy at the subnational level. In both instances, I want to emphasize that the problems of modern presidential-federalism are rooted in these generative moments. Because institutions like OMB

Emily J. Charnock. 2012. “What Happened to Post-Partisanship: Barack Obama and the New American Party System.” *Perspectives on Politics* 10(1): 57-76.

⁷¹ Martha Derthick. 2006. “Presidency.” In Joseph R. Marbach, Ellis Katz, and Troy Smith (eds.) *Federalism in America: An Encyclopedia*. Westport, CT: Greenwood Press.

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target the procedures of government, as opposed to just policy, their effects are still pronounced years after the initial political decision was reached.⁷² In many ways, the capacities -- resources, information, expectations - built up by these institutional developments dissipated deeper into the White House, the governors' mansions, and the many City Halls. When these institutions ceased their formal operation, those capacities went somewhere. More often than not, redeploying or moving capacities from one office to another was done so that presidents could enjoy greater command and authority over intergovernmental negotiations. Presidential-federalism did not simply arrive or appear out of the blue; its construction has been long and winding.

⁷² As Edmund Muskie suggested, in his role as chairman of the U.S. Advisory Commission on Intergovernmental Relations, “this machinery, molded and tempered by a century and three quarters of evolutionary development, is under its greatest stress. While in the past we have concentrated primarily on the policies of government, the spotlight now must be turned on the procedures of government. See, Edmund S. Muskie. 1967. “Creative Federalism – Evolutionary or Revolutionary?” in Donald E. Nicoll (ed.), *Creative Federalism: William A. Jump-I. Thomas McKillop Memorial Lectures in Public Administration*, 1966. Washington, D.C.: Graduate School Press, p. 3.

Presidents, Administration, and Federalism: Two Interpretations

At last count, scholars have identified 326 different varieties of federalism, and that was in 1982.¹ Since then, federalism has only grown more complicated in practice and unwieldy as a theoretical concept. A theory of institutional change and reform helps reify some of that complexity, and provides some insights on the problems of modern intergovernmental politics. However, these institutional developments should not be viewed as something separate from theory. Institutions - their rules, their procedures, and their outcomes - are consequences of ideational debate and discourse.² Those debates take place within a broader political culture.³ And since federalism produces governing arrangements that impinge back on to citizens' own understanding about their dueling political identities and their own interpretations about the scope of federal authority, those theoretical debates are dynamic.

Ideas about federalism and administration will continue to anchor the developmental trajectory of the following chapters. Nevertheless, it is necessary to set out some preliminary themes that will animate the intense political dispute over intergovernmental integration, presidential power, and the creation of new institutions within the presidency for managing intergovernmental disputes.

Presidential federalism is born of two constitutional faiths. On the one hand, there is the belief that the authority of governmental levels should be determined and articulated through the

¹ William H. Stewart. 1982. "Metaphors and Models and the Development of Federal Theory." *Publius: The Journal of Federalism* 12 (1): 5-24.

² Robert C. Lieberman. 2002. "Ideas, Institutions, and Political Order: Explaining Political Change." *American Political Science Review* 94 (4): 697-712. See also: Sidney Milkis. 2014. "Ideas, Institutions, and the New Deal Constitutional Order." *American Political Thought* 3 (1): 167-176; James W. Ceaser. 2010. *Designing a Polity: America's Constitution in Theory and Practice*. Lanham, MD: Rowman and Littlefield.

³ Aaron Wildavsky. 1998. *Federalism and Political Culture*. New Brunswick, NJ: Transaction Publishers.

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processes and structures established by the Constitution. This is the type of federalism articulated by Madison, Hamilton, and Jay in *The Federalist*.⁴ Layered on top of this system of horizontally and vertically separate institutions is a new recognition, refined through legislation and presidential unilateralism, of what non-centralized government can and should accomplish.⁵ This challenge first emerged during the Progressive Era, and these new expectations grew out of the Constitution's initial under-specification of what that federal structure entailed. Far from being hostile to federalism, Progressives reinterpreted federalism, fused it to a new theory of presidential managerialism, and reformed the American system without undoing much of the original constitutional structure. So the traditional story goes, the traditional gave way to the modern understanding sometime in the 20th century: a coterie of Supreme Court jurisprudence and pastry metaphors marks the way from the old, dual, or layered cake to the new, marble cake variant.⁶ This was the transformation Edward Corwin puzzled over in 1950, when he asked "whether the constituent States of the System can be saved for any useful purpose, and thereby saved as the vital cells that they have been heretofore of democratic sentiment, impulse, and action."⁷

But modern federalism at once reflects something old while also appearing unfamiliar and new. It is old to the extent that federalism produces conflict, and that conflict often limits the powers of national actors, including the presidency. It is new in that such conflict is mediated by

⁴ Edward S. Corwin. 1925. "Constitution v. Constitutional Theory: The Question of the States v. The Nation." *The American Political Science Review* 19 (2): 290-304; Daniel Elazar. 1984. *American Federalism: A View from the States*, Third Edition. New York, NY: Harper and Row Publishers, p. 41-42; John D. Nugent. 2009. *Safeguarding Federalism: How States Protect Their Interests in National Policymaking*. Norman, OK: University of Oklahoma Press.

⁵ Jeffrey K. Tulis. 1987. *The Rhetorical Presidency*. Princeton, NJ: Princeton University Press.

⁶ Morton Grodzins. 1966. *The American System: A New View of the Government of the United States*. New York, NY: Rand McNally.

⁷ Edward S. Corwin. 1950. "The Passing of Dual Federalism." *Virginia Law Review* 36: 23.

an administrative structure largely designed to temper that conflict and induce greater degree of cooperation between states and nation.

By drawing out a theory of administrative federalism from *The Federalist*, and in comparing it to the critiques of federated governance that emerged nearly 100 years later during the Progressive Era, this chapter makes several contributions to our understanding of the American political tradition and the consequences of the institutional developments traced throughout the remainder of this works. First, it alerts us to a tension embedded within Progressive thought and the role that a new "science" of politics played in reconciling the competing values of local community and national egalitarianism. Second, by bringing attention to this Progressive critique and its Founding Era alternative, I hope to encourage scholars of modern intergovernmental relations to recognize the theory of governance, which buttresses out technical, rational, and logical language of intergovernmental relations.⁸ Interventions designed in the name of efficient or "good" governance are not without their trade-offs. And, as Madison's exposition of administration makes clear, these concessions most immediately involve the role of citizens themselves in the project of self-government and the public decision to determine what each level of government gets to do in a federal system. Finally, this is no mere historical debate. Rather, these dueling conceptions of administration in a federal republic have an immediate bearing on questions about national authority in the wake of subnational "resistance," and the creation of supranational organizations dominated by administrative negotiation.

To demonstrate this final point, I close this chapter by showing how the theoretical tensions traced between the *Federalist* and the Progressives have worked out during the first two years of the Trump administration. There are many aspects to Trump's presidency that are

⁸ Aaron Wildavsky. 1973. "If Planning is Everything, Maybe It's Nothing." *Policy Sciences* 4 (1): 127-153.

unique developments in American politics. However, the administrative onslaught that so far characterizes his tenure marks the continuation of a far-reaching development in American politics: the power available to chief executives to pursue their programmatic and partisan goals by negotiating with, and sometimes commanding, subnational governing authorities. New governing expectations, altered constitutional doctrine, and institutional restructuring have created unique challenges and opportunities for actors at all levels of the current federal system.

By placing these modern governing tendencies in a broader theoretical and historical context, I highlight three problematic features of federalism's current instantiation: mutability in public law, fiscal instability in intergovernmental finance, and the political vortex of plebiscitary presidentialism. I also recognize, however, that each of these tendencies suggest something promising about the status of contemporary federalism: mutability in the law is often tempered by a judiciary motivated to preserve state-federal balance; modern budgetary politics signifies the massive influence of subnational actors in lobbying for desired policy outcomes; and presidential overreach has invigorated a new set of state and local leaders determined to resist presidential overreach. Federalism at once reflects something old while appearing unfamiliar and new.

System One: Federalism as Political Contestation

Under the Constitution, the division of authority between the states and the national government was left incomplete. While academics and jurists alike often speak of recovering or maintaining a "balance" of governing authority between states and nation, the constitutional text itself eschews any comprehensive or exhaustive allocation of authority. However, the political logic of federalism, as described by *The Federalist*, directs our attention away from constitutional "bright lines" and towards to anticipated institutional effects of constitutionalizing

multiple governments competing for power.⁹ There is no static balance that defines the scope of national governing authority vis-a-vis state authority. There are powers. And when those powers are used by multiple governments, the resulting outcome is constitutionally-structured.¹⁰

The Constitution enumerates the powers of the national government, specifies limits to those powers, recognizes the continued operation of state governments, and situates both levels of government in a regime of national supremacy. Alongside those empowering clauses, the Constitution identifies several restrictions placed on both the states and the new national government. The 1789 Constitution further incorporated state governments into the operation of the national government through the process of apportionment, regulating elections, selecting the president, appointing senators, and passing amendments.¹¹ The Constitution thus crafted a set of electoral avenues and legal-political procedures through which citizens themselves could use politics to define the federal-state (and perhaps local) balance of governing authority.¹² While the specific federal-state relationship was left to future political debate, the institutional configuration that allowed citizens to negotiate and revise that relationship was constitutionally inscribed.¹³ As Martha Derthick summarizes, federalism was chosen "by people who are unable

⁹ Herbert Wechsler. 1954. "The Political Safeguards of Federalism: The Role of the States in the Composition and Selection of the National Government." *Columbia Law Review* 54: 543-560.

¹⁰ Jenna Bednar. 2011. "The Political Science of Federalism." *Annual Review of Law and Social Science* 7: 269-288.

¹¹ Jessica Bulman-Pozen. 2014. "From Sovereignty and Process to Administration and Politics: The Afterlife of American Federalism." *The Yale Law Journal* 123: 1921.

¹² Herbert Wechsler. 1954. "The Political Safeguards of Federalism: The Role of the States in the Composition and Selection of the National Government." *Columbia Law Review* 54: 543-560.

¹³ Connor M. Ewing. 2016. "Structure and Relationship in American Federalism: Foundations, Consequences, and 'Basic Principles' Revisited," *Tulsa Law Review* 51: 689-73; Keith E. Whittington. 1996. "The Political Constitution of Federalism in Antebellum America: The Nullification Debate as an Illustration of Informal Mechanisms of Constitutional Change." *Publius: The Journal of Federalism* 26 (2): 1-24.

to decide whether to be one community or many."¹⁴ Within that struggle exists myriad number of potential solutions, all compatible with the original constitutional structure.

The institutional structure of federalism was designed to constrain certain political tendencies. The problem of democracy, as the Madison and the framers understood it was that liberal self-governance was fragile. Majorities would grow discontent with the narrow field of politics that afforded individuals certain rights -- rights which could stifle majorities that sought to impose certain values on individuals within the minority. Federalism was a key mechanism for buttressing liberal self-governance against the threat of majority tyranny. First, in representing places alongside people, it made it immensely more difficult to form national majorities to empower the general government. Second, in preserving state governments as meaningful sites of political activity, individuals could express their political desires in consequential ways, without affecting the whole population. States and the federal government both administered, and they could even administer in cooperative arrangements. Nevertheless, administrative government had to be made compatible with the project of liberal self-governance, and this required certain constitutional guarantees.

In short, federalism is undemocratic. At its most basic level, federalism provides protections for places in the form of representation for territorially delineated communities. As a result, some individuals living in some places will receive disproportionate power. In treating places equally, and in treating individuals unequally, federalism, as designed by the framers of the U.S. Constitution, runs up against American's democratic sensibilities and the ideology of

¹⁴ As she admits, Derthick is borrowing from one of Martin Diamond's earlier observations about the culture undergirding federalism's theoretical justification. See: Martha Derthick. 1999. "How Many Communities? The Evolution of American Federalism." in Martha Derthick (ed.), *Dilemmas of Scale in America's Federal Democracy*. New York, NY: Cambridge University Press; Martin Diamond. 1973. "The Ends of Federalism." *Publius: The Journal of Federalism* 3 (2): 129-152.

"one person, one vote." The struggle between states and the national government are permanently established as a result. Disproportionate and geographically dispersed power routinely thwarts national majorities. The supremacy of the federal Constitution routinely allows super-majorities to empower the general government to overwhelm the states. The catalyst of this constitutional back-and-forth is administration. Multiple governments use power to carry out their tasks within a broad constitutional framework that grants each government substantial authority and capacity to govern. People have the ultimate authority to determine what government does what, and make that determination largely off of how well each government is administering.

Coupled with independent executive and judicial powers, the national government that emerged in 1789 enjoyed a clear monopoly on certain powers: common defense, diplomatic relations, commercial regulation, and superintendence of interstate conflict. At the same time, states, maintained "most of the policy tools for governing everyday American life," from police protections, to local schooling, and the regulation of commerce.¹⁵ Nevertheless, on the question of what was a national object and what was in the purview of the states, the Constitution clarified the process of adjudicating this inherently political question. At the center of this political process was Congress.¹⁶ As the representative body designed to give legislative expression to the democratic will of its various constituencies, Congress is charged with defining the scope and application of national power, subject to constitutional limitations. This dimension of the federal system reflects the belief, frequently associated with Madison's thinking, that representation could "refine and enlarge the public views." A properly structured legislature could identify the

¹⁵ David Brian Robertson. 2012. *Federalism and the Making of America*. New York, NY: Routledge.

¹⁶ George Carey. 1968. "Federalism: Historic Questions and Contemporary Meanings—A Defense of Political Process," in *Federalism: Infinite Variety in Theory and Practice* (Valerie Earle, ed.). Itasca, IL: F.E. Peacock Publishers.

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issues on which national action was warranted because those issues would draw sufficient support from the people's representatives. Far from being pre-politically determined, then, the state-federal relationship is an emergent phenomenon, the result of constitutionally structured politics.¹⁷

This constitutionally inscribed dynamic guarantees that certain outcomes are more likely than not. The first guarantee is redundancy: multiple governments get to administer in similar areas, with few exceptions. The second is that government activity will be highly transparent, leading to greater degrees of public awareness: administration should be evident and open to political control, but through political processes that take account of multiple governments. To the extent that intergovernmental integration simplifies, reduces, and makes the decision-making process less susceptible to public control, this political variant of federalism diverges from modern day theories of administrative governance.

Nevertheless, while conflict and redundancy are endemic to the constitutional logic of federalism, there can be cooperation. The Constitution was created, after all, to create a more powerful, energetic government throughout the federal system. And when it acts, it can act in concert with the states. Nevertheless, federal action defined by a certain degree of generality. The administrative tools and policy objectives of the national government remaining intentionally vague, congressional determination of new governing authority would necessarily require, at minimum, majority support. Moreover, by constitutionally guaranteeing representation for spatially-defined communities in the U.S. Senate, any expansion of national power would have to account for political differences across the country's geography. Importantly, not only are specific geographies represented, but they are symmetrically powerful.

¹⁷ Jenna Bednar. 2011. "The Political Science of Federalism." *Annual Review of Law and Social Science* 7: 269-288.

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Equality in state representation therefore makes it more probable than not that any nationalizing move of general applicability would treat those entities as equal.

Madison also recognized that the parchment demarcation of limited government worked in tandem with other limits, which no framer could prudently craft. The balance between state and nation was to be in flux, the better to serve the fundamental purposes of government. But national power would inevitably wane as it approached both a technological limit and less easily definable cultural ceiling. Though rapid advances in transportation and public administration make the technological limits less burdensome to the modern-day legislator, the cultural limit Madison envisioned seems more enduring. Writing in *Federalist* 46, Madison explicitly acknowledges the extra-constitutional side-constraint on the negotiated politics of American federalism. “If...,” Madison speculates, “the people should in future become more partial to the federal than to the State governments, the change can only result from such manifest and irresistible proofs of a better administration.” However, he continues, “even in that case the State governments could have little to apprehend, because it is only within a certain sphere that the federal power can, in the nature of things, be advantageously administered.”

Madison’s “nature of things” argument at once identifies an enduring rationale for localized governance while acknowledging that people are both able and likely to transfer their confidence between levels of government. Or, as Francis Greene writes, “there would always be a reservoir of popular attachment to the state governments, establishing a limit, thereby, to how far federal power could ever be extended.”¹⁸ A variable constraint on an underdetermined political process might suggest deception or ulterior motive on Madison’s part, but the argument for federalism’s constitutional development takes on greater significance when seen alongside

¹⁸ Francis R. Greene. 1994. “Madison’s View of Federalism in ‘The Federalist.’” *Publius: The Journal of Federalism* 24 (1): 60.

federalism's inherently *political* nature. Federalism, as a political process, not only drew from preexisting cultural differences and political attachments, it also made visible and elevated that "nature of things." Most important, it nourished the temperament and passion of democratic self-governance, a sentiment at once natural and precious but easily drowned by the expansion of national power.

The "nature of things" is cultural, but also relates to a specific theory of administration that *Publius* puts forth as a defense of the new government.¹⁹ At times the idea of administration is synonymous with the act of governing, most generally.²⁰ At other times, however, administration of government takes on a particular meaning, and signifies a specific realm of governing activity that is distinct from the lengthier discussions of legislative authority, judicial jurisdiction, and the president's powers in the realm of foreign affairs and control of the military (all of those powers are also duly "administered" in *The Federalist*).

More often than any other explanation, administration refers specifically to decision-making authority, which falls squarely within the province of the executive departments.²¹ Administration is important, and good administration can quickly give way to bad. *The Federalist* is primarily concerned with convincing readers that the mechanism for dividing powers will still be able to produce "steady administration," prevent the "mischeifs [sic.] of a mutable administration," and ensure "stability in the administration of the government."²² The

¹⁹ The word "administration" is used a total of 91 times throughout the 85 essays comprising *The Federalist*; the verb to "administer" is invoked 32 additional times. The concept is discussed most often by Hamilton, but the idea is not confined to a single section of the papers.

²⁰ This appears to be the case in the most widely cited essay, Madison's *Federalist 10*. A new constitution is needed because a "factious spirit has tainted our public administrations." A vocal minority or faction may "clog the administration" of the new government, and a small, narrow republic "consisting of a small number of citizens, who assemble and administer the government in person" will fall victim to the disease of faction and remain "spectacles of turbulence and contention." See, James Madison, "Federalist 10."

²¹ Alexander Hamilton, "Federalist 72."

²² Alexander Hamilton, "Federalist 77."

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very fact that administration can vary so widely from government to government suggests that this is something more than just carrying out the laws, and something much narrower than government in general. Indeed, it is Jay who most poetically distinguishes the good administration of government from its more precise usage found elsewhere in *The Federalist*.

"...when once an efficient national government is established," *Federalist 3* reads,

the best men in the country will not only consent to serve, but also will generally be appointed to manage it; for, although town or country, or other contracted influence, may place men in State assemblies, or senates, or courts of justice, or executive departments, yet more general and extensive reputation for talents and other qualifications will be necessary to recommend men to offices under the national government,--especially as it will have the widest field for choice, and never experience that want of proper persons which is not uncommon in some of the States. Hence, it will result that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical, and judicious than those of individual States, and consequently more satisfactory with respect to other nations, as well as more SAFE with respect to us.²³

Administration and those who administer are distinct from those who serve in the "courts of justice" or the "political counsels." The attributes of the general government made up of three parts is equally distinguishing: the administration will be "more wise," the political counsels "systematical," and the judicial decisions "judicious." And each of these three qualities of government in general can be arranged on a spectrum, as opposed to dichotomously held or not held. State courts can be judicious, even if the federal courts, for reasons explored elsewhere in *The Federalist* are apt to be more judicious. The same logic applies to administration. States can administer wisely, but federal administrators are likely to rule more wisely, given the structure of the Constitution.

By administration, the authors of *The Federalist* mean to highlight the degree of discretion and power inherent in governmental action, outside the legislative and judicial realms,

²³ John Jay, "Federalist 3."

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organized in a particular fashion. In Jay's three-part definition, each characteristic is associated with a constituent organization within the new government. The presidency is not mentioned; instead, Jay refers to "executive departments." Additionally, while judicious decisions clearly correspond with the new government's judiciary, wisdom is attached to the realm of governmental administration. The legislature is described as being systematical, even if that is the adjective we might more readily apply to a government administrator today. Yet, to be systematical or "systematical," as alternative usages of the word in the late 18th Century applied it, was to be involved in the construction of general rules and forms. Webster's 1828 dictionary defined it as such: "Pertaining to system; consisting in system, methodical; formed with regular connection and adaptation or subordination of parts to each other, and to the design of the whole; as a systematic arrangement of plants or animals; a systematic course of study. Proceeding according to system or regular method; as a systematic writer."²⁴

Jay's deliberate association between administration and wisdom continues throughout the essays and is employed by Madison and Hamilton in their discussion of government activity and the relationship between governments. Administration - as a distinct area of government activity -- is placed within a broader structure of governmental institutions, which changes the incentives and capabilities of those who administer. There are legislators, judges, and a president, but there are also those appointed by the president who take over the artful task of administering the new government. Administrators have reputations and they seek to preserve those reputations in their service to the general government. So important are these particular institutional actors that, in a set of essays dedicated to the topic of presidential-selection, Hamilton writes: " 'For forms of government let fools contest That which is best administered is best,' yet we may safely

²⁴ Noah Webster. 1828. "Systematical." Last Accessed, November 11, 2018. URL: <http://webstersdictionary1828.com/Dictionary/Systematical>

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pronounce, that the true test of a good government is its aptitude and tendency to produce a good administration."²⁵ Here, administration is not synonymous with government (unless Hamilton argues *circulus in probando*), but is a set of actions to be taken by the executive and those who he appoints.

Administrators have power and they exercise discretion, as does their chief-executive, the President of the United States. If these lower-level administrators, or appointees, did not possess such grand power, very little concern would be given to the selection of these individuals. Yet, *Publius* goes to great lengths to defend the method of presidential appointment and Senatorial confirmation, against the claims that it should be solely a presidential power. Here, specifying the alternative at stake reveals *Publius'* more pervasive understanding of administrative power. The substitute put forward by the Constitution's opponents was a more direct form of appointment for federal administrators. However, a more complicated arrangement, such as the one put forward by the Constitution, *Federalist 76* reads, would provide "an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration."²⁶ There is a deep connection between the personal attributes of administrators and their general effectiveness in a system marked by uncertainty.

Debates about executive structure notwithstanding, most scholars of early American bureaucracy and its undergirding arguments overlook the degree to which administration is intertwined with arguments about federalism.²⁷ And, as those arguments go, federalism ensures

²⁵ Alexander Hamilton, "Federalist 68."

²⁶ Alexander Hamilton, "Federalist 76."

²⁷ Good, effective, and economical administration is, therefore, a product of the federal design. To be sure, the administrative constitution, as Joseph Postell argues, is not solely limited to its federated

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good administration because of the political processes that define the federal-state relationship and which hold administrators accountable to other institutional actors and the people, several steps removed. By creating divided administration, the Constitution guarantees states a certain degree of capacity and authority, not by specifying areas of administration, but by structuring the political incentives of federal actors to preserve those guarantees.²⁸ "The subordinate governments," Madison writes, "which can extend their care to all those other subjects which can be separately provided for, will retain their due authority and activity" because the general government's "jurisdiction is limited to certain enumerated objects."²⁹ Hamilton continues the logic to argue that it is "improbable that there should exist a disposition in the federal councils to usurp the powers with which they are connected; because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the national government."³⁰ Rather than spend time on "The regulation of the mere domestic police of a State," ambitious individuals who make it the halls of federal power will want to dedicate themselves to "Commerce, finance, negotiation, and war." There lies the potential for glory in a republican government. And, so the argument goes, if ambitious legislators within the general government are not prone to engage in these substantive areas, there is little reason to expect

features: Reliance on the judiciary as the agents of regulation and administration, accountability of administrators to the people, the availability of judicial review and legal checks to guard against administrative arbitrariness, separation of administrative power from legislative interference, and unitary executive structures were all becoming part of the new administrative constitutionalism. See: Joseph Postell. 2017. *Bureaucracy in America: The Administrative State's Challenge to Constitutional Government*. Columbia, MO: University of Missouri Press, 30.

²⁸ This distinction also sits at the heart of William Riker's famous discussion of federalism. See: William Riker. 1964. *Federalism: Origin, Operation, Significance*. Boston, MA: Little, Brown, and Company.

²⁹ James Madison, "Federalist 14."

³⁰ Alexander Hamilton, "Federalist 17." Famously, Martin Diamond summarized this passage's argument by suggesting that the "the States have the same guarantee against future central depredations that very poor men have against great thieves, namely poverty." See: Martin Diamond. 1961. "The Federalist's View of Federalism," 44.

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appointees or administrators to venture into the petty realm of domestic, internal politicking that marks state governance. As John Kincaid notes, conflict between governments could easily slip into cooperation between the two, so long as two standards were met. Governmental cooperation -- land grants, targeted appropriations, administrative assistance -- had to be "substantially mutual and reciprocal."³¹ If states AND the federal government wanted it, and if both benefited from the intergovernmental scheme, nothing in the Constitution precluded such arrangements. In fact, the Constitution seems to demand it if it is in the people's best interest.

In sum, federalism, as described in *The Federalist*, is an open concept subject to political processes. Politics is what matters. A viable theory of administration exists within the Constitution and lawmaking is neither wholly federal nor wholly nationally, insofar as constituencies of place and geography receive representation in the general government's institutions, alongside popular majorities. Administration is redundant, as there exist independent systems of administration within the states, and a general system of administration that exerts coercive powers over the same jurisdiction. There is a possibility for cooperative arrangements, as discussed by Hamilton, especially in the task of collecting revenues. Yet, more often than not, these interdependent governments will maintain separate systems of administration, competing for the affection of the people. Courts push up against Congress, and Congressional majorities come together to determine limits and expansions of governmental power. Federalism is the creation of everybody and controlled by nobody.

The question remains why the people might at one point choose to empower the general government over their state governments. Our collective concern over Supreme Court jurisprudence tends to drown out a central concern in *The Federalist* for what governments - no

³¹ John Kincaid. 2017. "The Eclipse of Dual Federalism by One-Way Cooperative Federalism." *Arizona State Law Journal* 49: 1062.

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matter their structural relation to one another - would actually be doing in this new system.

However, if the people get a choice over the scope of federal authority, then the determinants of that choice are just as significant as textual interpretation. The occurrence of conflict is therefore not a sign of institutional weakness or an outmoded constitutional design. It is a deliberate feature of a federal system. Conflict identifies problems in the administration of government -- problems that are most likely to emerge due to administrative incompetency and overreach.

Duplicate systems of administration create pressures on each through the mechanism of electoral control and legislative oversight. This has a special significance for creating pressure on the federal government to respect the independence of state governments, because ineffective administration within the general government will set hard limits on the public's willingness to cede governing authority to the national legislature. And people choose, according to *The Federalist*, based on who administers government best.

System Two: Federalism as Administrative Management

Formal constitutional change comes hand-in-hand with technological and economic developments, which have diminished the distinctiveness of territorially-defined, culturally distinct communities. Yet, Madison's federalism can accommodate those developments. The federalism of the 1789 Constitution rested on a robust faith in politics to assign political authority in a manner responsive to democratic will and governing capacity. Madison's view clashes, however, with an administrative, or hierarchical theory of the constitution – a doctrine which presupposes something fundamentally different about the goal of federated government. At the center of this challenge was a new conception of the modern presidency. And, undergirding this new ideal was a revolutionary interpretation of what “administration” entailed and how power “evolved” inside the constitutional system.

In truth, Progressives had a complicated relationship with federalism, and their views about federated government are no more straightforward than those described in the complicated and somewhat amorphous rendering provided by *The Federalist*.³² It is inaccurate to say that the Progressives sought to do away with federalism and to create a wholly national government. In many ways, they so emphasized conflict in the American constitutional system that they out-Corwined the constitutionalist Corwin!³³ In emphasizing tension and conflict and downplaying the degree of collaboration that could be possible under the original constitutional framework, Progressives sutured American federalism to administrative processes and institutions that made collaboration between different governments necessary for governmental administration.

The inversion of federalism, from administration as an end to a means, rested on three critiques. First, Progressives argued that the major animating conflict undergirding the Constitution had been solved. In the aftermath of the Civil War, and in the shadow of the Industrial Revolution, scholars of the American constitutional tradition viewed federalism as a compromise position that had less value in a nationalized America. Moreover, if left unchanged, the type of conflict that wracked 19th century American might re-emerge in modern America. Second, developments in social science created a more generalizable and accessible knowledge about human behavior that limited the need for prudence, good judgement, or wisdom -- the hallmarks of administration in the framer's Constitutional system. This new science of human behavior had a fundamentally different way of understanding political conflict. For Progressives, conflict was not the outgrowth of diverse society and the democratic impulse to use politics to

³² Martha Derthick and John Dinan. 1999. "Progressivism and Federalism." In Sidney M. Milkis and Jerome M. Mileur (eds.), *Progressivism and the New Democracy*. Amherst, MA: University of Massachusetts Press, pp. 81-102.

³³ This point is artfully documented and explored by: John Kincaid. 2017. "The Eclipse of Dual Federalism by One-Way Cooperative Federalism." *Arizona State Law Journal* 49: 1061-1089.

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impose a certain way of living. Conflict was a problem in structural organization, assignment of policy responsibility, and a failure to communicate. Finally, the development of a national society and the new understanding of conflict meant that the problem of democracy was no longer about majority-tyranny, but rather governmental accountability. Government was unaccountable when it was not empowered to implement the desires of a majority when one existed. As a result of this three-part attack, federalism remained, but the assignment of political responsibility to different governments was not constitutionally contested. Rather, the "balance" between states and the national government was determined by administrative processes and scientific policy evaluation. New structures that could more effectively manage disputes between governments would make the old federalism new, accountable, and efficient.

For the Progressives, good administration fixed inadequacies in the structure of American politics. And the "art of governance," as Woodrow Wilson's seminal article on administration was once titled, could be systematically taught.³⁴ Administrators could learn how to solve defects in constitutional structure that gave rise to conflict, inefficiencies, and redundancies. And, instead of politics determining the relative scope of administrative action in a federal system, administrators could determine the political relationship between the federal and state governments through the use of organizational theory and methods of social science. Federalism, as a form of politics that produced administrative efficiency morphed into a structure of administrative relationships, which produced political cooperation.

The Progressive critique is, therefore, not manifestly hostile towards local governance or decentralized policymaking. Many, if not most Progressives were adamant defenders of the states and cities in the federal order. None other than John Dewey recognized that "Democracy

³⁴ Henry A. Turner. 1956. "Woodrow Wilson as Administrator." *Public Administration Review* 16 (2): 249-257.

must begin at home, and its home is the neighborly community... [and] Unless local communal life can be restored, the public cannot adequately resolve its most urgent problem: to find and identify itself."³⁵ What Progressives sought to supplant were the political processes that defined the relationship between the general government and states. The capacities and authority of each government were not something that needed to be determined by political contestation. Rather, they were fixed *a priori* to politics. The scale of any collective problem -- from slums and illiteracy, to war and corporate monopolies -- was set by technological, sociological, and economic predeterminants, which structured political debate. Administrators and policy experts can determine the scale of any problem and assign it to a proper government. Constituent governments would, therefore, have no need to claim a right to govern within a certain policy domain, as the allocation of policy responsibility was a scientific problem. Consequently, the Progressives argued that lengthy political debate between state and nation would bias any derived solution and stifle quick government action.

For most Progressives, the old type of conflict that pitted North against South, state against nation, had given way to a new conflict in which social science and theories of social organization could be used to ameliorate it. The Progressive concern about the origins and nature of conflict developed hand-in-hand with the origins of the new social sciences in the late 19th century: sociology, psychology, economics, and political science. The general scientific turn in fields that were at one time collapsed into the study of "moral philosophy" raised new questions about human behavior, and relied on new methods for studying those behaviors. These methods are familiar to anyone taking a course in those disciplines: measurement theory, hypothesis testing, statistical control. But at a basic level, and absent more modern conceptions about what

³⁵ John Dewey. 1927. *The Public and Its Problems*. Denver, CO: Alan Swallow, p. 213, 216.

the scientific method entails in the study of social behavior, these disciplines were concerned with variation in how individuals lived, worked, and associated, and their causes. Confronted with such knowledge, individuals could use that information to change their behavior. The method behind "scientific management" or "Taylorism" did not, therefore, confine itself to simple productive processes.³⁶ Implicit in the intellectual objective and method of the social sciences is the idea that all human behavior can be subjected to strict scrutiny in terms of costs, outputs, and, in a word, efficiency. The science of physically rearranging parts of an assembly line to increase the output of a human works quite easily slips into rearranging larger parts of a productive processes, which contain those smaller entities. This is the origin of the new "science of administration."

Mary Parker Follett was one of the most influential and prolific students in this new field of scientific administration, and her writing most evocatively captures the spirit animating Progressive institutional reform. Her own work slips between the practical study of business organization and the deeply theoretical study of democratic life.³⁷ However, Follett was an empiricist at heart, and her theoretical arguments about the successful amelioration of conflict

³⁶ In fact, Frederick Winslow Taylor himself testified before the U.S. House of Representatives on the application of scientific management to governmental processes. See, U.S. Congress. House of Representatives. Special Committee to Investigate the Taylor and Other Systems of Shop Management. "Hearings on the Taylor and Other Systems of Shop Management." January 12, 1912. Washington, D.C.: Government Printing Office.

³⁷ Writing in 1940, Henry Metcalf, the Director of New York State's Bureau of Public Administration, and Lyndall Urwick, a founding partner of one of the world's largest business consulting firms, summarized Follett's contribution as follows:

The Follett philosophy is that any enduring society, any continuously productive industrial organization, must be grounded upon the recognition of the motivating desires of the individual and the group. Consistently, Miss Follett sought to force home a realization of the fact that the democratic way of life, implemented by intelligent organization and administration of government and of industry, is to work toward an honest integration of all points of view, to the end that every individuality may be mobilized and made to count both as a person and as an effective part of his group and of society as a whole. See: Henry Metcalf and Lyndall Urwick. 1940. "Introduction," in Henry Metcalf and Lyndall Urwick (eds.), *Dynamic Administration: The Collected Papers of Mary Parker Follett*. New York, NY: Harper and Brothers Publishers, 9.

followed from her observations of successful business, and the successful negotiation of conflict in economic production. At certain times, managers compromised with labor leaders' demands; at other times, management simply commanded or coerced. One lesson stood out about all the rest. Experience taught an alternative to conflict resolution, one that was not just compromise or domination. Follett theorized a third option: integration. "Is there then any other method of ending conflict?" Follett asked:

There is a way...when two desires are *integrated*, that means that a solution has been found in which both desires have found a place, that neither side has had to sacrifice anything...Integration involves invention, and the clever thing is to recognize this, and not to let one's thinking stay within the boundaries of two alternatives which are mutually exclusive.³⁸

Integration is no mere Progressive buzzword. It is deeply substantive and speaks to the role of institutions and institutional actors -- the "professional integrator" as Follett labels them -- in structuring conflict over time. "If we get only compromise," Follett argues, "the conflict will come up again and again in some other form, for in compromise we give up part of our desire, and because we shall not be content to rest there, sometime we shall try to get the whole of our desire." Perfectly integrative solutions are, therefore, permanent correctives to once thought irreconcilable positions. "Only integration really stabilizes."³⁹

Integration has a method: "bring the differences into the open," "revaluation," "breaking up wholes," "preparation for response." Integration has readily identifiable obstacles, as learned from experience: apathy, habituation, abstractedness. But, Follett argues, "perhaps the greatest of all obstacles to integration is our lack of training for it. In our college debates we try always to

³⁸ Mary Parker Follett. 1925. "Constructive Conflict," in Henry Metcalf and Lyndall Urwick (eds.), *Dynamic Administration: The Collected Papers of Mary Parker Follett*. New York, NY: Harper and Brothers Publishers, 1940, 32-33.

³⁹ *Ibid.*, 35.

beat the other side...I think in addition to this there should be classes in discussion which should aim to teach the 'art' of cooperative thinking..."⁴⁰ Integration is a skill.

The lessons of politics showed that leaders either sought to dominate, and if not, they were sometimes forced to compromise. Under the new science of administration, however, "we are recognizing," Follett argued, "more fully the value of the individual, [and] now that management is defining more exactly the function of each, many are coming to regard the leader as the man who can energize his group, who knows how to encourage initiative, how to draw from all what each has to give."⁴¹ Politics, including America's constitutional experience, was tainted by a mis-appreciation of leadership, expertise, and democracy. "Power is now beginning to be thought of by some as the combined capacities of a group...This means that some people are beginning to conceive of the leader, not as the man in the group who is able to assert his individual will and get others to follow him, but as the one who knows how to relate these different wills so that they will have a driving force."⁴²

Multiple, combined, and integrated leadership sits at the heart of the Progressive theory of administration and politics. Such a conception also dictates a fundamentally new appreciation for the role of the expert. "The expert's information not only forms a large part of the executive's decision; it is becoming an integral part of the decision-making machinery...we are gaining a larger knowledge of the sciences dealing with human beings, as we are becoming more willing to accept such knowledge and are applying it more widely."⁴³ Both are necessary for integrated conflict-resolution, and the line separating leadership from expertise is more fungible than once

⁴⁰ Ibid., 48.

⁴¹ Mary Parker Follett. 1927. "Leader and Expert." in Henry Metcalf and Lyndall Urwick (eds.), *Dynamic Administration: The Collected Papers of Mary Parker Follett*. New York, NY: Harper and Brothers Publishers, 1940, 247.

⁴² Ibid., 248.

⁴³ Ibid., 253.

thought as a result of this new form of human knowledge. "It was once thought to be perfectly legitimate for everyone to have his own opinion, even on purely technical matters of measurable fact. That is changing today as we are gaining a larger knowledge of the sciences dealing with human beings, as we are becoming more willing to accept such knowledge and are applying it more widely...I have seen stated that the specialist has the knowledge and the executive the wisdom, but I cannot agree to that. They have different kinds of knowledge and experience."⁴⁴

Administrative discretion is capable of becoming more rationalized and subject to the general laws of social science. Effective leaders organize and executive leadership can be learned, "for unless this is true, there is not much hope for men in subordinate positions being able to rise, and also, if it were not possible for men to learn to be leaders, our large, complex businesses would not have much chance of success, for they require leadership in many places."

Using the tools and conclusions of social science, reformers sought to fulfil the promise of that new "organized relation" at every level of the federal system. Within the cities, reformers attacked the prevalence of boss-driven, machine politics. Municipal reforms sharply reduced the number of elected offices in favor of permanent, professionalized bureaucracies under the control of a city manager.⁴⁵ At the states, reformers imposed strict debt ceilings and reformed state constitutions to make politics more participatory and transparent. Initiatives, recalls, and referenda further eroded the political structures that prevented effective problem-solving, or political "integration."⁴⁶ And, at the federal level, "good government" crusaders helped establish

⁴⁴ Ibid., 255-256.

⁴⁵ Bradley R. Rice. 2014. *Progressive Cities: The Commission Government Movement in America, 1901–1920*. Austin, TX: University of Texas Press.

⁴⁶ John J. Dinan. 2006. *The American State Constitutional Tradition*. Lawrence, KN: University Press of Kansas.

independent regulatory agencies, whose autonomy and prestige competed with the prerogatives of Congressional oversight and budgetary control.⁴⁷

This was the work of Progressive reformers who took up the task of making a conflict-ridden Constitution more democratic, streamlined, and rationalized. Reforms within each government that comprises the American federal system necessarily changes federalism as a whole. Municipal civil service reform altered the relationship between city planners and state-level officials, as cities developed independent capacities to fund and implement projects on their own accord. The development of independent regulatory agencies at the federal level preempted the initiatives and administrative experiments already taking place within a number of state-level agencies.⁴⁸ The integrative ideal, in other words, easily applied to issues and institutions at a singular level, which altered the governing relationship among governments as within governments. Constitutional change, the creation of new bureaucracies, and the transformation of representative institutions would come to transform American federalism. And the independent effect of those reforms raises significant constitutional and normative questions in their own right. But Progressive reformers did not end there. In addition to integrating disparate interests within governments, Progressives sought to integrate interests among governments using the same mechanisms of administrative management and control.

Importantly, federalism remained -- at least, a type of federalism still recognizable and still compatible with the text of the American Constitution. Few, if any, serious Progressives sought to completely do away with the states or the cities. Rather, states and cities could thrive if

⁴⁷ Daniel P. Carpenter. 2001. *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928*. Princeton, NJ: Princeton University Press.

⁴⁸ Joseph F. Zimmerman. 2009. *Contemporary American Federalism: The Growth of National Power (2nd ed.)*. Albany, NY: State University Press of New York; Joseph F. Zimmerman. 1991. *Federal Preemption: The Silent Revolution*. Ames, IA: Iowa State University Press.

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properly integrated into a new governing arrangement with the federal government. Whereas once these disparate governments all competed with one another as each sought to realize as fully as possible its own autonomy, new institutions could transform that competitive spirit into cooperative intergovernmental arrangements.

The Progressives argued that the constitutional tug-of-war that had pitted states and the federal government against one another for over a century had been based on a faulty assumption about the nature of conflict. The framers of the Constitution understood conflict to be insurmountable feature of politics. Constitutions could give structure to that conflict to make more likely certain outcomes -- freedom, liberty, protection of rights -- but it could not end conflict. Progressives understood conflict differently. Conflict was the result of improperly structured institutions, which blinded political actors to areas of mutual advantage, creative solutions, and reasons for cooperative agreement. That logic applied to federalism in general. The problem was not federalism itself, but the lack of any integrative institutions. Improperly structured federalism prevented collaboration and perpetuated conflict. Properly structured federalism integrated the goals of each into a new framework for distributing power and authority among different, but cooperative, governments.

The Progressive theory of federalism is inextricably tied to a theory of administration and the role of expertise in modern democracy. The fusion of these two modernized conceptions of power – administration and presidentialism – politicized the apolitical science of administration and rationalized an institution constitutionally induced into conflict.

As with academics writing today, Progressives were too quick to lay claim to a new paradigm when they were subtly reinventing the wheel of public administration. Public administration did not begin with the publication of Woodrow Wilson's seminal 1887 essay,

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"The Study of Administration." Governments at all levels of the federal system, including the federal government, were active and present in the lives of Americans. Not only was there administration, but there was a powerful tradition of administration in the federal government as well.⁴⁹ What distinguished the Progressive study of administration, or the Progressives' political arguments about the role of public administration, was a renewed concern for two issues. First, there is renewed interest in the structure of administration-making bodies, outside a strict constitutional framework. Second, the new study of public administration emphasized the professionalization, or training, of administrators in the methods of social science.

Both these "modern" variants of public administration are aptly captured by the classic distinction offered by Frank Goodnow in his classic text, *Politics and Administration* (1900). For Goodnow, what distinguished the academic study of politics from its prior incarnations was that now, at the turn of the century, there were clearly "two distinct functions of government." "Politics," he argued, "has to do with policies and expressions of state will." Administration, on the other hand "has to do with the execution of these policies."⁵⁰ It was possible to study one without impinging on the study of the other. "Nothing," the seminal scholar of public administration Dwight Waldo has written, "is more central in thinking about public administration than the nature and interrelations of politics and administration."⁵¹ Naturally, something so central to an academic field is also highly contentious. The history of public

⁴⁹Brian Balogh. 2009. *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America*. Cambridge, UK: Cambridge University Press.

⁵⁰ Frank J. Goodnow. 1900. *Politics and Administration*. New York, NY: Macmillan, 10-11.

⁵¹ Dwight Waldo. 1987. "Politics and Administration: On Thinking About a Complex Relationship." in Ralph Clark Chandler (ed.), *A Centennial History of the American Administrative State*. New York, NY: The Free Press, 91.

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administration is the history of the politics-administration dichotomy emerging, being challenged, being recovered, and then masquerading once more.⁵²

At its most fundamental level, Wilson was interested in the question on how to *preserve* federalism, not dismantle it into a streamlined unitary system.⁵³ "Our duty," the essay concludes,

is to supply the best possible life to a *federal* organization, to systems within systems; to make town, city, county, state, and federal governments live with a like strength and an equally assured healthfulness, keeping each unquestionably its own master and yet making all interdependent and co-operative, combining independence with mutual helpfulness. The task is great and important enough to attract the best minds [emphasis in original].⁵⁴

Federalism was central to this vision of democratic administration, insofar as federalism provided citizens with access to the halls of power, and insofar as administrators could consider local differences that affected the implementation of the law. Indeed, local implementation made it easier for citizens to hold administrators accountable, as it would increase their visibility.⁵⁵

Rather than remaining perpetually suspicious, citizens could exercise "wise vigilance" over their government if it was more clearly administered. "To be efficient it [administrators] must discover the simplest arrangements by which responsibility can be unmistakably fixed upon officials; the best way of dividing authority without hampering it, and responsibility without obscuring it...so it is the office of the administrative organizer to fit administration with conditions of clear-cut responsibility which shall insure trustworthiness."⁵⁶

⁵² Donald Morrison. 1945. "Public Administration and the Art of Governance." *Public Administration Review* 5 (1): 83-87.

⁵³ To be sure, Wilson's actual imprint on the field of public administration is debatable. As Paul Van Riper argues, "the 1887 work had no influence whatever on the evolution of either the theory or practice of public administration in the U.S. until well after 1950." See: Paul Van Riper. 1983. "The American Administrative State," 479.

⁵⁴ Woodrow Wilson. 1887. "The Study of Administration." *Political Science Quarterly* 2 (2): 221.

⁵⁵ *Ibid.*, XXX

⁵⁶ *Ibid.*, 213

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All of this is to say that, under the new science of administration, federalism is valued only when it is properly sorted. Sorted federalism is not riddled with conflict or debate. Sorted federalism allows citizens to hold their multiple governments accountable. When conflict emerges, it is an administrative issue in need of correcting. The science of administration can be applied to issues of scale, diversity, and contradicting goals. Multiple governments remain, but it is not a federalism of political contestation among semi-autonomous governments. Rather, federalism exists under the superintendence of administrators and the tools of social science.

As with Wilson's Progressive brethren, the real difference between an unreformed politics and the new Progressive politics is the achievement of self-choice *and* efficiency. And, whereas the framers of the Constitution specified a perpetual trade-off between those two, the new science of administration identified a way to overcome the timeless dilemma. It was possible to be free and efficient at the same time.

Wilson's scientific study of administration can be too easily caricatured as a naïve faith in the wisdom and benevolence of expert-driven rule. Wilson did not so much seek to supplant the people's voice with that of bureaucrats as he did to give that voice unity, and therefore power to direct an organized, efficiently run administrative apparatus. For Progressives, the modern presidency was to be imbued with ambition to break through old legal formulations and transcend state borders to become a leader of a newly-constructed nation. Holding firm to the idea that power in a constitutional system naturally evolved to project its "straightforward and unquestionable power," Wilson eventually came to see the presidency as the institution most ripe to politically power over the army of scientific administrators.⁵⁷ Stressing the national character of the presidency, Wilson suggested that the president alone uniquely captured and commanded

⁵⁷ Woodrow Wilson. 1908. *Constitutional Government in the United States*. New York, NY: Columbia University Press.

the full force of American politics because of the institution's "extraordinary isolation" from the demands of party politics and Congressional deliberation. Especially with the rise of the United States as an industrial and world power, he argued, the president should strive to "be as big a man as he can," for in *modern* America: "there is but one national voice in the country and that is the voice of the President." As soon as the president was to assume office, the president must realize that, "the nation as a whole has chosen him, and is conscious that it has no other political spokesman. He is the only national voice in affairs... He is the representative of no constituency, but of the whole people...If he rightly interpret the national thought and boldly insist upon it, he is irresistible."⁵⁸

The fusing of these two modern concepts of power – administration and presidentialism – politicized the apolitical science of administration and rationalized an institution constitutionally induced into conflict. Throughout the 1800s, national administrative authority emerged from Congressional action, and as the powers of the national bureaucracy grew in the late 19th Century, it was the Congress which sought to exert its constitutional right of administrative oversight in reorganizing a nascent, national bureaucracy.⁵⁹ As the administrative capacity of the federal government grew alongside rising expectations for national authority during the Progressive Era administration and requisite reorganization of administrative agents became a presidential problem. Culminating with the presidency of Franklin Roosevelt and the 1936 Brownlow Committee to study the management of federal programs, the presidency became the "centerpiece of a liberal administrative state."⁶⁰

⁵⁸ Ibid., 68.

⁵⁹ Oscar Kraines. 1958. *Congress and the Challenge of Big Government*. New York, NY: Bookman Associates.

⁶⁰ Sidney M. Milkis. 1993. *The President and the Parties: The Transformation of the American Party System Since the New Deal*. Oxford, UK: Oxford University Press, p. 107; See also, Barry D. Karl. 1963.

Presidential administration has no bounds, because administration, as a managerial concept, is incompatible with a constitutional system that establishes multiple centers of authority within government and between governments. As Leonard White, author of the preeminent textbook on public administration throughout the mid-20th century wrote:

"There is an essential unity in the process of administration, whether it be observed in city, state or federal governments, that precludes a "stratified" classification of the subject. To treat it in terms of municipal administration, state administration, or national administration, is to imply a distinction that in reality does not exist. The fundamental problems such as the development of personal initiative, the assurance of individual competence and integrity, responsibility, coordination, fiscal supervision, leadership, morale are in fact the same; and most of the subjects of administration defy the political boundaries of local and state government.⁶¹

Or, as Herbert Storing summarizes, the new advocates of presidential management, and coordinated federalism argued that "administration is the heart of modern government precisely to the extent that public administration in modern government is not mere administration, but the main field within which political and constitutional problems now move."⁶²

The new science of administration suggests that nonpartisan leadership of public opinion and management of the bureaucracy are the essential mechanisms for enhancing economic and social reform. The "administrative presidency" exposes the myth that such reforms are ever truly apolitical. Modern presidents, building on theoretical and practical developments that had their origin in the Progressive Era have attempted to strengthen their capacity to achieve policy objectives by wielding administrative powers through the bureaucracy rather than navigating a complex system of separated powers. Liberal reforms, which dominated the post-World War II

Executive Reorganization and Reform in the New Deal: The Genesis of Administrative Management. Cambridge, MA: Harvard University Press.

⁶¹ Leonard White. 1926. *Introduction to the Study of Public Administration*, First Edition. New York, NY: MacMillan, 1.

⁶² Herbert J. Storing. 1965. "Leonard D. White and the Study of Public Administration." *Public Administration Review* 25 (1): 48.

era into the late 1960s comported easily with the Wilsonian concept of presidential power. Richard Nixon and Ronald Reagan – in capturing an administratively empowered White House, proved that the president’s “extraordinary isolation” allowed them to move policy in a conservative direction as well.⁶³ Rampant polarization within the Congress has made both parties even more dependent on presidential leadership and unilateral action.⁶⁴ Despite their differences, the power of the modern presidency has captured both parties’ ambitions and has bestowed bipartisan legitimacy on the Wilsonian doctrine of presidential management, especially as it concerns state-federal relations.

The implications of this new constitutional theory and accompanying institutional developments are threefold. First, the administrative presidency emerged alongside new rhetorical and partisan expectations. Indeed, the legitimacy of new administrative tools and executive-structures depended, in part, on the fact that few issues or problems laid outside the president’s ever-expanding purview. As Americans routinely witness, presidents define what federalism means to them as a constitutional principle on the campaign trail and while in office. Federalism has become the stuff of electioneering slogans, and legislative branding. For Lyndon Johnson it was “creative,” for Nixon “new,” and for Clinton, the Democratic Party coalesced around their president who declared that the time had come for “a reinvigorated federal-state-local partnership.”⁶⁵

⁶³ Richard Nathan. 1983. *The Administrative Presidency*. New York: Wiley.

⁶⁴ Sidney M. Milkis and Nicholas F. Jacobs. 2017. “‘I Alone Can Fix It’: Donald Trump, the Administrative Presidency, and Hazards of Executive-Centered Partisanship.” *The Forum* 15 (3): 583-613.

⁶⁵ William A. Galston and Geoffrey L. Tibbetts. 1994. “Reinventing Federalism: The Clinton/Gore Program for a New Partnership Among the Federal, State, Local, and Tribal Governments.” *Publius: The Journal of Federalism* 24 (3): 23-48.

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Second, having defined federalism as a presidential prerogative, presidents are free to pursue administrative correctives to the federal-state-local relationship through the enhanced administrative capacity of the Executive Branch. The president has a plan and states and localities are not off limits. Efficiency is the *modus operandi* of effective administration; the White House can rely on state actors to develop and implement policy. Moreover, the president can use the administrative latitude built into law to bring recalcitrant jurisdictions in line with presidential objectives, in spite of any statutory change. Waivers, grant-incentives, the threat of litigation, and agency guidance create new policy and new politics.

Finally, the institutionalization of the federal-state-local relationship through rhetorical and administrative developments creates new expectations of the states and localities themselves. Sub-national political actors are resources for presidential politicking. Governors can take the place of a skeptical Congress if “efficient” administration requires more spending. Mayors and their national lobbying associations support bypassing state agencies in the name of enhanced cooperation or coordination, even if a few more strings are attached. Decentralized administration must prove to be as efficient as possible, lest subnational executives lose their claim to political relevance.

Consequently, presidents seek to use the powers of the executive office to carry out policy goals even when those goals clash with a “principled” belief in federalism.

Tensions between System One and System Two: Presidential Federalism

The Madisonian conception of American federalism may provide for an enduring institutional arrangement that structures decentralized policymaking in the modern era. And, it is perhaps an over exaggeration to suggest that contemporary intergovernmental relations is "the completion of the twentieth century revolution in public administration first enunciated by

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Woodrow Wilson.⁶⁶ But, as an idea, federalism underwent a profound change as a result of new theories of governance promoted during the Progressive era. Progressives claimed that a new society emerged, and that a new science for managing society was in their hands. "The advent of a new society," Leonard White argues, "took the issue boldly away from the constitutional lawyers and the orators, settled it in broad outline by the pressure of events and vested the *modus vivendi* largely in the hands of the administrators."⁶⁷ Nevertheless, Madison's system induces conflict between national and sub-national actors, in part by defining their supporting constituencies in terms of varying geography. The president – the only elected official with a national constituency – does not share this incentive. Indeed, the presidential impulse for "partnership," "coordination," and "cooperation," is at direct odds with federalism's conflictual nature. The Madisonian system also suggests that when national outcomes do emerge, a certain degree of generality will exist to account for meaningful differences in state political economy and culture. The modern presidency thrives on that generality and seeks to push legislative delegation further. When such acquiescence is not forthcoming, presidents have developed new administrative tools to take advantage of statutory ambiguities. Finally, the Madisonian system assumes that there is something "in the nature of things" that perennially limits federal aggrandizement. The enhanced administrative capacity of the modern executive – a ballooning White House Staff, a judiciary largely deferential to agency determinations, and a gridlocked Congress – can overcome the limitations that, in 1789, seemed natural. And, the nationalized and media-driven "movement" politics of the modern presidency threatens federalism's ultimate

⁶⁶ Stephen L. Schechter. 1981. "On The Compatibility of Federalism and Intergovernmental Management." *Publius: The Journal of Federalism* 11 (2): 127.

⁶⁷ Leonard White. 1933. *Trends in Public Administration*. New York, NY: McGraw-Hill, 8.

political safeguard: that the people would find their geographically-distinct political communities meaningful and worth preserving.

Madison gives further insight into the tension between the first and second systems in one of his Party Press Essays, which were published anonymously in the *National Gazette* in 1791-92. Writing on the topic of “consolidation” Madison returned to the theme that dominated the ratification debates: the threat that the states would be combined into a single government. First, Madison suggests that the consolidation of states into one government would almost inevitably extend the executive’s power. Absent the divided responsibility of local or regional authority in the many state legislatures, Madison argues that there would be no conceivable way that a single deliberative body would be able to handle the legislative workload. The second line of argument in Madison’s argument also concerns federalism’s relation to executive power. “In such a state of things,” he speculates, “the impossibility of acting together, might be succeeded by the inefficacy of partial expressions of the public mind, and this at length, by a universal silence and insensibility, leaving the whole government to that *self directed course*, which, it must be owned, is the natural propensity of every government.” The growth of executive power presents an accountability problem as well as a serious threat to the prospects of self-government. Here Madison suggests that consolidation fundamentally challenges the idea that a people could be adequately represented in the lawmaking process. Lacking political efficacy, citizens will in time be rendered politically silent and despondent, ultimately leaving government to a “self-directed” as opposed to popularly controlled course. In this defense of federalism Madison highlights the promise of self-government, stressing executive power’s insensitivity to that promise but also its realization under a form of decentralized governance. In the end, governmental consolidation

threatens to sever the connection between citizen and government at the foundation of constitutional self-governance.

Of course, the states are not consolidated and Madison's conjured image of monarchical rule has not materialized. The states exist and the institutional structure that would at once limit executive power and create overlapping administrative units survives. But it survives alongside a doctrinal theory of administrative management that creates bold new governing expectations at odds with the constitutional system's original governing ends. In this situation of layered constitutional logics, law becomes more mutable as presidents seek to rationalize a constitutionally conflictual system to make good on partisan ends. Yet often times those ends are defined by state and local actors themselves. For example, about half of all state governors have a lobbying office in Washington, and mayors, since at least the 1920s, have relied upon professional organizations to ensure that their demands are heard.⁶⁸ In addition to lobbying for new law, state and local executives exert tremendous pressure on federal officials during the implantation of law. Due to their reliance on subnational administrative capacity, the presidency cannot simply steamroll recalcitrant localities into compliance. As such, administrative discretion often provides opportune moments for subnational officials to bargain for a more federalism-friendly outcome. The courts, too, retain much of their constitutional role in referring intergovernmental disputes. In fact, as the political processes that guarantee states a place in the system become more administrative and submerged, judicial decisions may have become more important in determining just what lines of authority exist.⁶⁹

⁶⁸ Jennifer M. Jensen. 2016. *The Governors' Lobbyists: Federal State Relations Offices and Governors Associations in Washington*. Ann Arbor, MI: University of Michigan Press.

⁶⁹ Connor M. Ewing. 2016. "Structure and Relationship in American Federalism: Foundations, Consequences, and 'Basic Principles' Revisited," *Tulsa Law Review* 51: 689-731.

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Nevertheless, while states remain important political actors, their dependence on national fiscal and institutional resources sets a limit on how much they can negotiate, which diminishes the dissenting role they play in constructing national majorities. States and the federal government can cooperate in mutually self-serving arrangements, but there is little inducement to take into account the whole governing picture. Moreover, with the rise of a more executive-centered party, administrative bargaining is highly sectionalized. Through the presidency, states can secure more favorable outcomes and thus safeguard their constitutional status, but those outcomes are not always “state interests” so much as Republican or Democratic interests. In the judiciary, executives, including ambitious attorneys general, have found the courts an effective place to pursue their partisan objectives, often with little regard to how decisions might matter for federalism under different distributions of partisan power. State political culture has become wrapped up in broader national debates, exposing the American people to leaders who scorn institutional restraints in defense of the national party objective.

Donald Trump’s presidency sheds further light on promises and perils of presidential federalism. The tension between the two constitutional understandings described above grows with each passing presidential administration, but the tension we outline also becomes especially clear with the transfer of power between a Democratic and Republican administration. Specifically, Trump's presidency reveals three problematic tendencies that emerge from these layered institutional logics: the growing mutability of federal law; the weakening financial stability of the intergovernmental relationship; and presidential-federalism’s contribution to political and sectional polarization.

Mutability in the Law

Presidential-federalism is a principal contributor to mutability of federal law. It is common for most who study America's current political malaise to lament the plague of "gridlock" that prevents effective governing responses to public problems. Yet even a cursory review of the last nine years would show that the political system responded to a flurry of demands for new policy.⁷⁰ The issue is when those demands keep changing.

President Trump motivated his campaign, in part, on disparaging the "major power grabs of authority" that peppered the Obama administration. Since taking office, however, Trump has not only used that executive authority to overturn Obama's administrative actions, but to redirect them towards longstanding conservative ends. For state and local governing officials, these new administrative directives represent major challenges to their own ability to effectively respond to citizen demands. The rescission of several Obama-era guidance directives – Title IX on college campuses, restroom accessibility for transgender students, prohibiting military grade weapons-sales to local police – are all noteworthy instances of presidential-federalism's inherent mutability. By the stroke of the presidential pen, policy was reversed.

State-level action is responsible, in part, for one of President Trump's most high-profile administrative decisions to date – the repeal of the Deferred Action for Childhood Arrivals (DACA) policy. The move was evidently an attempt to strengthen the president's ties to his conservative base, but it was also a decision more or less forced by the impending lawsuit threaten by ten states' attorneys generals. Once rescinded though, fifteen other states filed lawsuits to prevent repeal. The fate of millions remained precarious until the Supreme Court

⁷⁰ R. Shep Melnick. 2014. "The Conventional Misdiagnosis: Why 'Gridlock' is Not Our Central Problem and Constitutional Revision is Not the Solution." *Boston University Law Review* 94: 767-793.

decided that their status would remain unsettled until the normal appeals process was exhausted. In a striking display of the opportunities and constraints posed by presidential federalism, Trump at once appeared empowered and impaired. States at once remained relevant and dependent on the rulings of the federal courts. The judiciary served its function as an important arbiter of controversies between national and subnational actors, but the likelihood of future policymaking through such presidential overreach has hardly abated.

The administrative changes to Medicaid, in particular, will likely remain one of the most enduring policy changes enacted by the current administration. Failing to make good on his pledge to end Obamacare, Trump relied on the tools of the administrative presidency to fundamentally transform healthcare policy anyways. Almost one year after taking office, the Director for the Centers for Medicare and Medicaid Services sent a guidance letter to each state Medicaid director informing them of new demonstration project - section 1115(a) - waivers.⁷¹ With agency permission, the new guidance allows states to restrict Medicaid benefits to state residents who are unemployed, or who do not meet of forms of “community engagement.” In redefining the eligible population of beneficiaries, the guidance letter represents the most significant change to the program since the legislative expansion of benefits under the Affordable Care Act. This time, however, no new statutory authorization was necessary. And within one day, CMS approved Kentucky’s plan to impose work requirements and remove 95,000 state residents from Medicaid roles, saving an estimated \$2 billion over the course of five years.⁷² The fiscal and partisan upshot is that the new waiver allowances might persuade the 17 states who refused to expand Medicaid under the Affordable Care Act to do so if CMS grants

⁷¹ Centers for Medicaid and Medicare Services. “Opportunities to Promote Work and Community Engagement Among Medicaid Beneficiaries, Letter to State Medicaid Directors.” January 11, 2018.

⁷² Matthew G. Bevin. 2016. “Memorandum of Request for a Section 1115 Demonstration Waiver to Sylvia Burwell.” *Kentucky Health*, 24 August.

them waivers. Republicans in North Carolina, Virginia, Kansas, and Utah indicated shortly after the CMS announcement that they would introduce such legislation.⁷³

To be sure, waivers within the Medicaid program have been essential features of policy innovation and “entrepreneurship” by state governments since the 1960s. Moreover, executive-negotiated changes to Medicaid have been important policy tools in an era of partisan polarization.⁷⁴ However, it is not clear if waivers-by-design represent a tool of last-resort in the shadow of legislative gridlock, or if the program’s rapid growth and ever-increasing complexity demand Congressional acquiescence to the executive. Though one could argue that the rapid sea-change in agency policy and program directives are legitimate responses from an election that ushered in a new partisan administration, in the context of the federal system this democratic argument rests on the assumption that the citizenry is able to comprehend both the decision-making process and the policy consequences that emerge from that process. According to the structural logic of the Constitution, the people are the ultimate judge of changes to the distribution of authority between levels of government. But, as Madison wrote in *Federalist* 62, “It will be of little avail to the people, that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood...or undergo such incessant changes than no man, who knows what the law is today, can guess what it will be tomorrow.” Though federalism is by no means a simple form of government, it is oriented towards making self-governance more realizable. With its vast

⁷³ Jeff Stein. 2018. “How Trump May End Up Expanding Medicaid, Whether He Means to Or Not.” *The Washington Post*, 28 January.

⁷⁴ Frank J. Thompson. 2012. *Medicaid Politics: Federalism, Policy Durability, and Health Reform*. Washington, D.C.: Georgetown University Press.

administrative powers and ubiquitous, yet opaque, presence, presidential-federalism poses a considerable challenge to that ideal.

Intergovernmental Finance

Budgetary authority in the United States might ultimately rest with the U.S. Congress, but fiscal accountability is a presidential prerogative – one that implicates the entire federal structure. The generality built into the federal appropriations process presents presidents with multiple, obscure mechanisms to enact policy change. And since approximately 17 percent of all federal outlays, or four percent of GDP, flow through state and local governing institutions via grants-in-aid, these presidential directives remain as consequential as formal legislative revisions.⁷⁵ Thirty federal departments and independent agencies in the executive branch oversee those funds. Moreover, presidential budget proposals necessarily implicate state and local budgets. Although they are not legally binding appropriations, they nevertheless transform plans and expectations of federal, state, and local government actors. For example, just three months on the job OMB Director Mick Mulvaney ordered that agencies must use the President’s budget proposal in submitting their budget requests for FY2019. Thus, agency heads must plan as if Congress were to follow through on the near \$1.4 trillion cuts to the non-defense discretionary budget over ten years.⁷⁶ States and localities, likewise, use OMB circulars to anticipate federal spending and taxing priorities. OMB sets and unilaterally revises the budgetary standards for ensuring efficient coordination of federal-state-local spending targets.⁷⁷

⁷⁵ Congressional Budget Office. 2013. “Federal Grants to State and Local Governments.” *Government Printing Office*, 5 March. Retrieved on March 14, 2018 (<https://www.cbo.gov/publication/43967>).

⁷⁶ Office of Management and Budget. 2017. “Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce.” Memorandum for Heads of Executive Departments and Agencies, 12 April. *Executive Office of the President*.

⁷⁷ Office of Management and Budget. 2004. “OMB Circular A-87 Revised, 10 May.” *Executive Office of the President*.

The “fiscal sustainability” of state and local government is tied to presidential initiative and managerial tools.⁷⁸ In giving states and localities greater budgetary flexibility, the Trump administration has set its sights on regulatory reform. Pledging to repeal two regulations for each new one passed, the longer-term effects will likely emerge from new Regulatory Reform Task Forces, now present in each federal agency.⁷⁹ Likewise, the administration’s “Clean Power Plan” is likely to generate a fiscal boon for states dependent on oil, natural gas, coal, and nuclear energy resources.⁸⁰ And, the Medicaid work-requirement waivers previously discussed add further uncertainty to the fiscal future, as healthcare costs comprise a growing percentage of all government expenditures. While many of these managerial changes might grant states a budgetary reprieve, their effects are contingent on the current presidential administration. If a hallmark of health budgetary politics is the ability to plan for long-term financial viability, then the politics of presidential federalism provide, at most, a temporary reprieve to the major fiscal challenges states and localities face.

The Trump presidency has also enlivened a formerly esoteric debate over fiscal imbalances between the states. For over 100 years, the federal government allowed individuals to deduct the amount they paid in state and local taxes (SALT) from their overall tax burden. By limiting the deduction for SALT on federal income filings, the Republican tax reform hits hardest those living in states with higher costs of living, tax rates, and property values. The politics of the policy have not gone overlooked. As New York Governor Andrew Cuomo

⁷⁸ Robert B. Ward and Lucy Dadayan. 2009. “State and Local Finance: Increasing Focus on Fiscal Sustainability.” *Publius: The Journal of Federalism*

⁷⁹ Donald J. Trump. 2017. “Identifying and Reducing Tax Regulatory Burdens.” Executive Order 13789. Federal Register, vol. 82, no. 79, p. 19317-19318.

⁸⁰ Donald J. Trump. 2017. “Presidential Executive Order on Promoting Energy Independence and Economic Growth.” Executive Order 13783. Federal Register, vol. 82, no. 128, p. 31396-31397.

noticed, this means that the SALT deduction matters most for those living in states that traditionally vote Democratic: California, New York, New Jersey, Massachusetts, and Illinois, are the battlegrounds for America's new "economic civil war."⁸¹ The political back-and-forth is deeply substantive, and it is tied up to an intractable feature of the American federal system: the federal "balance of payments" problem. Those who argue for a limited SALT deduction question why some states should effectively subsidize high-spending, high-taxing experiments in others. The other side points to the fact that those living in those high-tax states routinely give more to the federal government than they receive back from it. The new tax code is the work of a Republican Congress, but the political consequences clearly comport with the nationalized, polarized, and presidency-centered politics that at once saw Republicans abandon their traditional commitment to balanced budgets, while also dismissing those states that traditionally go "blue" in presidential elections.

Other examples of this new economic sectionalism abound. The president's second year in office began with a flurry of proposed tariffs on imported steel and aluminum. The economic effects are national, but importantly are viewed by the White House as geographically differentiated: some areas of the country *might* benefit from these punitive measures, while others will pay the difference in higher prices. A testament to the geographic offsets of this trade policy, China explicitly acknowledged that its proposed retaliatory measures target agricultural exports from states that helped send Trump to the White House.⁸² It is also noteworthy that the dramatic budget increases Trump secured for the Department of Defense are also tied to

⁸¹ Michael Greve. 2017. "Governor Cuomo Gets It, Sort Of: So Does The Donald." *Law and Liberty*, January 11. Retrieved on March 14, 2018 (<http://www.libertylawsite.org/2018/01/11/governor-cuomo-gets-it-sort-of-so-does-the-donald/>).

⁸² Lingling Wei, Yoko Kubota, and Liza Lin. 2018. "China to Target Trump's Base in Tariff Response." *Wall Street Journal*, 21 March.

predictable partisan, and geographic, boundaries. Such largesse clearly points to the powerful voice states have in contemporary policymaking.

Plebiscitary Politics

Like his predecessor Barack Obama, Trump's odds-defying ascendance to the presidency in 2016 marked a new chapter in the age of presidentialism. Like Obama, Trump styles himself as the leader of a "movement" dedicated to transforming an isolated party establishment. Like Obama, Trump built his base through the unprecedented (if not as technical) command of media. Sensitive to the fact that the substance of Obama and Trump's messages are radically divergent, their method of communication has nevertheless further ritualized the independent and plebiscitary nature of presidential-politicking. Tip O'Neill once famously declared, "All politics is local." After the 2016 Election, it is fair to say that (most) politics is presidential.

In the domineering shadow of the president, states have tried in earnest to remind their citizens of their constitutional autonomy and relevance. Many states – mostly Democratic – refused to cooperate with the President's election integrity commission, which disbanded eight months into operations. The U.S. Conference of Mayors spearheaded an effort to maintain municipal commitment to the Paris Climate Accord's pollution targets after Trump withdrew from the international deal in June 2017. After the Interior Secretary Ryan Zinke moved to open up all U.S. coastlines to offshore drilling and oil exploration, governors balked. Notably, fellow Republican Rick Scott, Governor of swing-state Florida, secured an exemption after high-profile, one-on-one meetings with the administration. Presidential politics does not challenge the legal authority of state and local governments *per se*; and states have used the federal judiciary to block many presidential directives, including, at least temporarily, the president's immigration ban. However, further aggrandizement challenges the institutional restraints on political actors

who make determinations of where the boundaries of state-federal authority lie. In no policy domain is this clearer than in how states and Trump have clashed over immigration enforcement.

Given his campaign promises, it is not surprising that Trump's executive actions on immigration have dominated his administration. Just five days after his inauguration, Trump signed his third executive order, which set new priority guidelines for federal immigration officials, but also signified legal and fiscal consequences for any state or municipality that refused to cooperate with Department of Homeland Security Officials.⁸³ Claiming the power to impound federal funds for non-compliant states across a wide range of policy issues, the administration went further that March in publishing a lengthy list of non-compliant police departments in an effort to shame them into cooperation. While President Trump's order faces ongoing legal challenges, his administrative actions and accompanying rhetoric have galvanized state-led efforts to cut off intergovernmental transfer for cities and counties in their jurisdictions. Before Trump's inauguration, Texas Governor Greg Abbot (R) threatened to withhold nearly \$1.8 billion from Travis County after a highly-public spat with its newly-elected sheriff Sally Hernandez, who ran a campaign pledging to reduce cooperation with federal officials. Similar state-local conflicts erupted in North Carolina.

However, for all the high-profile showdowns, no definitive conclusion emerged with regards to federal or state authority. Almost immediately after signing the "sanctuary city" executive order, federal judges sided with attorneys representing San Francisco and Santa Clara counties who argued that presidential withholding is unconstitutional. The opinion rests on familiar Constitutional terrain and a long list of precedent that limits presidential discretion on

⁸³ Donald J. Trump. 2017. "Enhancing Public Safety in the Interior of the United States." Executive Order 13768. Federal Register, vol. 82, no. 18, p. 8799-8803.

conditional grants-in-aid.⁸⁴ To add salt to the President's growing wounds, the California state legislature passed three new laws to challenge directly the administration's growing crackdown on unauthorized immigrants: Assembly Bill 103 grants authority for the State Attorney General to inspect federal facilities; Assembly Bill 450 restricts private employers interactions with federal immigration officials during routine audits; and Senate Bill 40 prohibits both state and local officials from relaying information about detainees to federal officials in most cases. Not to be deterred, the Department of Justice filed a lawsuit in early March 2018 against the entire slate of new California laws. In a defense sure to induce partisan whiplash, California pleaded the Tenth, resting its case on Rehnquist-era decisions prohibiting executive commandeering of state and local government agents.⁸⁵

Such back-and-forth might indicate a revived decentralized spirit in the American polity, if not increased interest in the Tenth Amendment. However, it is not so clear that Trump's administrative battery and vigorous litigation signify anything healthy about the federal-state relationship. Congress has repeatedly failed in its efforts to attach conditions to federal grants-in-aid that might coerce states and cities into cooperation. Moreover, such "coercion" seems directly at odds with the Supreme Court's recent decision over the fate of Obamacare, which finds unconstitutional any "economic dragooning that leaves the States with no real option but to acquiesce." The so called, "gun to the head" provision that struck down Medicaid expansion requirements was, in a pre-Trump era, the only silver lining Republicans claimed on that decision.⁸⁶

⁸⁴ *Pennhurst State Sch. & Hosp. v. Halderman*. 1981. 451 U.S. 1.

⁸⁵ *Printz v. United States*. 1997. 521 U.S. 898.

⁸⁶ *National Federation of Independent Business v. Sebelius*. 2012. 567 U.S. 519.

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The political war zone created by these lawsuits does not seem to have “law” as the intended outcome. Victory for the Department of Justice and Attorney General Jeff Sessions would have wide ranging legal precedent for federal authority over the states, and for future presidential administrations to set policy by withholding federal grants-in-aid. The political maelstrom on display will alter the legal and institutional restraints that parties and their presidents will make in the future. Presidents continue to behave as if they are the nation’s doctor, teacher, pastor, and engineer. Meanwhile, those supposedly closest to the people remain hamstrung by federal directives and national party loyalties. Presidential-federalism makes distinct sub-national communities more dependent on the political success of their leader in the White House. In nationalizing the political conversation and policy consequences of every administrative action, presidential-federalism challenges the very idea of whether anything in contemporary U.S. politics is, “in the nature of things,” truly local anymore.

Conclusion

Federalism emerged out of debate over whether it was possible to achieve self-government on a large scale. For the framers, the central problem of democracy was majoritarianism, and federalism thwarted majority-rule. For the Progressives, the central problem of democracy was accountability, and federalism made it more difficult to hold elected officials accountable. The solution for the framers was an extended republic, yes, but one that established multiple governments sharing jurisdiction. As a result, governments would compete for power, which would ensure a certain degree of protection against majority rule. When Progressives reinterpreted the problem of democracy to be one of accountability, they did not necessarily abandon federalism. Federalism was an appropriate structural principle when it enhanced public accountability, chiefly through the efficient administration of the public law. This required new

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institutions as well as new theories about intergovernmental relations. Administrative efficiency supplanted political choice as the end of federated governance.

Much of the conflict over the utility and endurance of American federalism therefore relates to a disagreement about the possibility and desired scope of political action in the first place. However, it is difficult to argue that an advocate for federalism necessarily is an advocate for “small” government. At the founding, those who argued for greater state autonomy were arguably in the position of protecting a more interventionist and overbearing civic authority – particularly in areas such as regulating religious life, and in manipulating the private economy (currency adjustments). However, if there is any doubt that the conflation between “states’ rights” and “small government” is dubious, at best, recall that such monikers were invoked by segregationists who demanded that the state interfere in regulating the most basic and private interactions of its citizenry. For a black family in 1950s Virginia, there was no *bigger* government than the one in Richmond telling them where to eat, where to sit, and what “appropriate” civic behavior looked like.

Federalism – as a system of institutions that act on one another – is therefore much more about how individuals are governed and how they choose to govern themselves, rather than the total amount of governance. There is a compelling argument that federalism – just as design principle – limits the total size of government in a polity, but such a limitation, as Madison points out, is as large or as small as the underlying political culture of the national community – the “nature of things.”

By dismissing the notion that federalism is inherently *conservative* while *liberals* seek to forever nationalize political power, it is possible to see how presidents of both political parties, while disagreeing on many important partisan issues, nevertheless subscribed to a similar vision

of what modern governance in a federal structure should entail. As Derthick persuasively reveals:

*A principled stand in favor of federalism would not be a stand in favor of decentralization or states' rights, but rather the perseverance of the compound. This would require nationalists and majoritarians to recognize that the United States is a nation made up of distinct political communities, and that citizens conduct their politics, including deliberations about national policymaking and president choosing, in part as members of those communities... On the other hand, it also requires defenders of states' rights to acknowledge that the distinct political communities, to be legitimate, cannot claim autonomy. They must honor constitutionally prescribed standards of the United States for citizenship and political participation... If they fail to meet a just and reasonable standard of democracy, the bargain at the heart of American federalism fails.*⁸⁷

President Johnson did not put an end to federalism by ordering the Department of Justice to monitor elections in the South, just as Nixon did not revive federalism when he slowly dismantled redistributive elements of the Great Society through enhanced presidential control. The New Deal did not get rid of state authority, and the bi-partisan embrace of presidential power during the Eisenhower administration did not erase state autonomy. These actions fundamentally transformed the political mechanisms by which individual political communities could define and express their distinctiveness by tying it to presidential politics.

Elected officials, for sure, operate within that broader environment of court-delimited authority. But the courts, even in their most far-reaching decisions – *U.S. v. Lopez*, *Printz v. United States*⁸⁸ – have not been able to dismantle the structure of presidential-federalism that emerged in the 1960s and 1970s. In fact, the court's federalism jurisprudence stands in stark contrast to its willingness to expand executive authority and engage in wholesale deference to administrative agencies in interpreting Congressional statutes.⁸⁹ In fact, now that federalism is

⁸⁷ Martha Derthick. 2001. *Keeping the Compound Republic: Essays on American Federalism*. Washington, D.C.: Brookings Institution Press, p. 4.

⁸⁸ *U.S. v. Lopez*. 1995. 514 U.S. 549; *Printz v. United States*. 1997. 521 U.S. 898.

⁸⁹ *Chevron v. Natural Resources Defense Council, Inc. et al.* 1984. 467 U.S. 837.

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administrative and presidency-centered, presidents, especially conservative ones, aggressively pursue litigation strategies in order to overturn judicial limits on national authority.⁹⁰ In seeking to make the federal order more rationale and institutional through administrative procedures, reformers have changed the locus of conflict from one dominated by legislative deliberation, elections, and the formation of electoral constituencies, to ones centered on grant administration, lawsuits, regulation, and executive discretion. States and localities remain important sites of political activity, but in almost every consequential instance, such activity is in response to presidential politicking and White House control. It is not the presence of conflict that distinguishes the current federal system from its earlier self; it is the type of conflict.

It is deeply ironic that the presidents who championed wondrous visions of a unified American people contributed so much to the fragmentation of its political sensibilities. The political contestation ensured by constitutionalizing multiple, separate governments remains, but it is fueled by a form of administrative governance that champions executive management and presidential dominance of that political process. As a result, the slightest inequities and most marginal of distinctions in how people want to be governed, are elevated to the highest realms of partisan warfare. It was not inevitable that this mode of governance would emerge. Presidential-federalism had to be theorized, advocated, and ultimately constructed in a pre-existing political structure. Presidents have sought to use the powers of the executive office and its administrative apparatus to carry out policy goals – regardless of their underlying ideological commitments, presidents must demonstrate their *policy mindedness*. And, as a result, as Hugh Hecllo suggests, this transformation was “about the triumph not of policies – many of which were failures and

⁹⁰ On this point, see Jacobs and Ewing, “The Promises and Pathologies of Presidential Federalism,” p. 23.

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ruthlessly criticized – but of policy itself.”⁹¹ Therefore as the administrative state has enveloped and transformed all levels of government, even presidents bent on making a “New Federalism” are best seen as a continuation of this same developmental process rather than an aberration or hurdle to its trajectory. Presidential dominance of federalism makes decentralized governance an institutional arrangement that clouds a national conversation over what types of inequalities are permissible, stunts the attainment of legitimate party goals, and perpetuates a false illusion that the presidency can equally represent a country that is constitutionally designed to remain unequal.

In sum, modern presidential governance – with its policy-minded focus on administrative outcomes – comes into conflict with the political processes promoted by federated government. While presidents have tried to reconcile these conflicting ends, the incentives and nature of executive administration are largely at odds with those political goals. Decades of reform, stemming from the Progressive ideal, have left the White House and advocates for localized power disappointed. At the same time that localities captured greater influence in federal policymaking, they became more beholden to the motivations of presidential authority. That is a legacy of Progressive thought. These were problems that first animated the aspiration to re-create federalism at the turn of the 20th century. They are still problems - ones that remained buried underneath a mass of administrative innovations and institutional transformations.

⁹¹ Hugh Hecl. 2005. “Sixties Civics.” In *The Great Society and the High Tide of Liberalism*, eds. Sidney M. Milkis and Jerome M. Mileur. Amherst, MA: University of Massachusetts Press, 62.

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The federal government remains reliant on state authority in the expansion and implementation of national policies because states developed independent administrative capacities that pre-date the federal government's ability to execute programmatic reform. Scholars, however, have neglected the fact that the federal government was essential in the development of that state capacity. During the 1930s and the 1940s, as a part of Franklin Roosevelt's New Deal, the National Resources Planning Board (NRPB) succeeded in establishing planning agencies in all but five states. State planning agencies developed voluntary relationships with the NRPB and other federal agencies, but remained functionally autonomous. State planners viewed their role broadly, and organized state-level responses to a vast number of policy problems. As a result, when Congress abolished the NRPB in 1943, planning remained a vibrant component of the newly "modernized" state governments. Federal efforts to extend national programs into areas traditionally dominated by state-level policymaking after the New Deal had to contend and cooperate with these prevailing administrative entities. Nevertheless, planners spoke a similar language and operated under a similar set of assumptions about the overarching goals of the federal system. More often than not, these networks of intergovernmental planners found new ways to design policies and sell them to a public traditionally weary of federal intervention.

The NRPB and its efforts to nourish a tradition of state-level planning does not, on its own, answer the question as how or why American federalism has come to be defined by presidential negotiation, grants, regulations, waivers, and administrative bargaining. Scholars have identified several mechanisms by which states are able to persuade federal officials to devolve, waive, or strike out statutory provisions that govern intergovernmental policy implementation. Beginning in the Great Depression, but taking off during the Great Society,

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states increasingly have come to rely on governors to lobby for and negotiate favorable outcomes with federal lawmakers and administrators. In addition to lobbying for new law and revised regulations, state and local executives exert tremendous pressure on federal officials during the implantation of law. So long as law and regulation requires a certain degree of deference to and support from state agencies, the federal government cannot simply steamroll recalcitrant states into compliance. However, in order for intergovernmental integration to take place, state and national policymakers must have some mechanism of identifying relative interests. Beginning in the late 1920s, and culminating in the 1940s, the federal government deliberately established institutional structures with the purpose of coordinating state and federal political agendas. While these efforts culminated in the budgetary and administrative reforms pursued under Lyndon Johnson and Richard Nixon, their origins date to the short-lived New Deal era planning agency: the National Resources Planning Board.

The creation of state planning agencies during the New Deal and their perpetuation after the NRPB's termination complicate the traditional narrative on the transformation of American federalism in the 20th Century. First, in tracing the role of planners, planning agencies, and supportive governors in the states, I direct attention to a neglected set of governmental actors and policy entrepreneurs in American political development.¹ Scholarship on the historical evolution of federalism is overwhelmingly focused on changing jurisprudence and Congressional appropriations, including during the New Deal. Drawing on archival evidence from the personal papers of the NRPB's lead planners, I emphasize the political construction of state-federal

¹ On policy entrepreneurship, see: Daniel P. Carpenter. 2001. *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928*. Princeton, NJ: Princeton University Press.

relations following from the establishment of a strengthened executive branch during the New Deal.²

Second, I draw attention to the political role that planners, social scientists, and administrators played in enacting constitutional and institutional change.³ Planning was not a value-neutral endeavor, and the decision to invest planners with greater authority and voice reverberated throughout the political system; this chapter, in particular, will emphasize the connection between theories of planning and arguments in favor of stronger executive power, be it through presidential or gubernatorial leadership. These theories emerge in the personal writings of the NRPB planners, but also from Roosevelt himself. Louis Brownlow, who was chiefly responsible for studying and recommending the enhanced administrative powers of Roosevelt's "third New Deal," was also immersed in the work of the NRPB's reorganization efforts.⁴ His contact – and professional contracts – with the board reveal another dimension to the New Deal's planning efforts.

Finally, the legacy of state and national cooperation in planning provides insights about the ability of presidents to pursue organizational and partisan ambitions in what scholars increasingly identify as America's "executive-centered federalism."⁵ Roosevelt and the NRPB

² On the creation of a strengthened executive branch, and its relationship to decentralized party politics and administrative government, see: Sidney M. Milkis. 1993. *The President and the Parties: The Transformation of the American Party System Since the New Deal*. New York, NY: Oxford University Press.

³ On the politicization of social science, including through the NRPB's efforts, see: Barry D. Karl. 1974. *Charles E. Merriam and the Study of Politics*. Chicago, IL: The University of Chicago Press; Barry D. Karl. 1976. "Philanthropy, Policy Planning, and the Bureaucratization of the Democratic Ideal." *Daedalus* 105 (4): 129-149.

⁴ See also, Barry D. Karl. 1988. "Constitution and Central Planning: The Third New Deal Revisited." *Supreme Court Review* 6 (1): 163-201.

⁵ Michael Greve. 2016. "Our Polarized, Presidential Federalism," in Zachary Courser, Eric Helland, and Kenneth Miller (eds.), *Parchment Barriers: Political Polarization and the Limits of the Constitutional Order*. Forthcoming. George Mason Legal Studies Research Paper No. LS 16-37. Available at SSRN: <https://ssrn.com/abstract=2885932>.

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consciously sought to preserve and expand essential elements of state and local governance, with a particular emphasis on the development of bureaucratic competence, intergovernmental communication, and interstate cooperation. To the extent that modern presidents face similar political hurdles and make similar claims about their own role in reconstructing or rebalancing the federal system, the NRPB points to the generative moments when these new presidential obligations, or pathologies, first emerged. This chapter traces the NRPB's development of state planning agencies beginning in 1933 and concludes with a discussion of its legacies, as revealed by the politics that laid behind Johnson's efforts to establish a new, "creative federalism."

The New Deal and the National Resources Planning Board

The National Resources Planning Board was the first national planning agency in American history. Though it no longer exists, it remains the only federal effort to purposefully and comprehensively coordinate government policies that had a focus on their long-term implications. Initiated in the first few months of President Roosevelt's New Deal, the NRPB drew immediate scorn for its connotations of communist and fascist economic planning boards. However, the NRPB was a peculiarly American form of planning. With strong connections to business-leaders, universities, and civic organizations, the NRPB never possessed command-and-control authority.⁶ Most important, in order to make planning a more routine part of American governance, the NRPB relied on and nourished planning efforts within the semi-independent states through voluntary outreach and financial encouragement.

⁶ This point is recognized by some scholars, but is limited to the NRPB's relationship with professional social science organizations (e.g., SSRC) and graduate schools of public administration. See: Patrick T. Reagan. 1999. *Designing a New America: The Origins of New Deal Planning, 1890-1943*. Amherst, MA: University of Massachusetts Press.

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In the aftermath of Roosevelt's 1939 government reorganization, the NRPB finally fell victim to its congressional opponents and ceased operations September 1, 1943. Other government agencies filled the void where the NRPB once operated, especially within the Office of War Mobilization and its emphasis on "reconversion" and post-War planning efforts. The Employment Act of 1946 and the creation of the Council of Economic Advisors sustained other efforts at planning and macroeconomic management the NRPB initiated. The institutional reforms of subnational bureaucracies, which the NRPB designed and promoted, complemented Roosevelt's other attempts to modernize, or depoliticize, administrative government in the states and localities - reforms such as the 1940 Hatch Act.⁷ Likewise, an enhanced Budget Bureau led by Harold Smith provided subsequent presidents with rigorous cost-driven policy analysis, and remained dedicated to weeding out administrative redundancies in the federal system.⁸ Under Truman and Eisenhower, the presidency renewed the effort to restructure the executive branch to streamline bureaucracy, limit departmental myopia, and enhance the long-range considerations of agency planners. Nevertheless, these efforts were continuations of the new forms of expert-driven social, economic, and resource management that the NRPB legitimated. And in its

⁷ The 1939 Hatch Act placed restrictions on federal civil servants, which prohibited their overt engagement in political activities while on the job. The 1940 Act extended those prohibitions to employees of state and local government. Roosevelt was not an enthusiastic supporter of either of these bills, but he nevertheless signed them into office. The extension of Hatch Act restrictions to state and local employees is one of the most significant reforms of the country's decentralized party system. It had the effect of severely weakening the power of state and local party bosses, furthering the nationalization of the two-party system. Yet, in order for it to be consequential, the NRPB's efforts at professionalizing and standardizing bureaucratic practice was needed. See: James R. Eccles. 1981. *The Hatch Act and American Bureaucracy*. New York, NY: Vantage Press; Louis Boyle. 1991. "Reforming Civil Service Reform: Should the Federal Government Continue to Regulate State and Local Government Employees?" *Journal of Law and Politics* 7 (2): 243-288.

⁸ Andrew Rudalevige. 2007. "Inventing the Institutional Presidency: Entrepreneurship and the Rise of the Bureau of the Budget, 1939-49," in Stephen Skowronek and Matthew Glassman (eds.), *Formative Acts: American Politics in the Making*. Philadelphia, PA: University of Pennsylvania Press.

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project, the NRPB extended that new governing legitimacy outside the national government to transform the capacities and expectations of state government.

The NRPB's most far reaching report was the outgrowth of a year-long consultation with state and national planners over the direction of American public policy after the war concluded. Together, it marked the high tide of New Deal planning in terms of policy prescription and political appeal. The "American Beveridge Report," from which Roosevelt would beatify the country's new economic bill of rights in his 1944 State of the Union, was also the NRPB's great undoing. By including state planners - indeed, relying on state planners for accurate portrayals of the social and economic condition of most Americans - the NRPB demonstrated that its decentralized model of planning, voluntary communication, and information sharing could produce transformative visions for the American polity. Just as decentralized planning built off a tradition of local governance in the United States, so too did the NRPB capitalize on a language of rights and individual freedom in spelling out a new age of democratic mass planning:

we look forward to securing through planning and cooperative action, a greater freedom for the American people. Great changes have come in our century... Too few corresponding adjustments have been made in our provisions for human freedom. In spite of all these changes, that great manifesto, the Bill of Rights, has stood unshaken 150 years. And now to the old freedoms we must add new freedoms and restate our objectives in modern terms: FREEDOM OF SPEECH AND EXPRESSION, FREEDOM TO WORSHIP, FREEDOM FROM WANT, AND FREEDOM FROM FEAR, these are the universals of human life.⁹

When President Roosevelt championed this new economic covenant with the American people, he secured his legacy as a forward-looking, progressive leader. However, when a set of elite, un-elected planners offered it for consideration, it drew the immediate scorn of Congress.

⁹ National Resources Planning Board. September 1942. *Post -War Planning: Full Employment, Security, Building America*. Washington, D.C.: U.S. Government Printing Office. See also: U.S. Congress. House. Committee of the Whole House. 1942. *Security, Work, and Relief Policies, 1942, Two Reports of the National Resources Planning Board*. 78th Cong., 1st Sess., Doc. 128.

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The rise and fall of the NRPB reveals how planning -- as an idea and an institution -- fomented new institutional rivalries and new venues for ideological contestation inside the federal system. Planning was an attempt to redefine American governance at every level, and its successful incorporation into the framework of American governance set off new expectations and norms for intergovernmental politics.

The American Planning Tradition Begins

As a part of FDR's famed 100-days, Congress established the Public Works Administration (PWA) in June 1933 and confirmed Harold Ickes as its director. Ever the pragmatist, Ickes believed that government-sponsored land-use studies would aid the PWA's efforts in spending money speedily and in those areas most in need of unemployment relief. Traditionally, federal public works spending was a highly political affair. But, Ickes believed that relying on local politicians or Congress for advice was inefficient if the goal was to revive the national economy. President Herbert Hoover had considered establishing a "National Advisory Council" that would serve a similar purpose in collecting information and publishing necessary research on the changing American landscape. Building off the prior administration's efforts, Ickes established his own board, from which the American planning tradition most fully emerged.

The name and organization of the NRPB underwent several changes in its ten-year history, but there was a remarkable consistency to the board's objective and degree of influence inside the White House. Without a doubt, this consistency stems from the fact that the board's leadership – its pragmatic and visionary lead planners – remained at the helm throughout: the president's uncle, Frederic A. Delano, the first political scientist at the University of Chicago, Charles E. Merriam, and the head of the Social Science Research Council and former chairman

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of Hoover's committee to study planning, Wesley Clair Mitchell.¹⁰ Charles W. Eliot 2nd, served as the board's executive director throughout its tenure, providing further stability during the NRPB's many organization changes and Congress' ever-present hostility.

With the exception of Merriam, political scientists have largely neglected the history of New Deal planning, and its immediate aftermath.¹¹ We know, however, that the massive list of public works projects compiled by the NRPB helped inform post-WWII government spending and that the War Department drew on the industrial location studies during the government's mobilization for the war;¹² and the NRPB's more sociological-oriented studies helped to inform, if not inspire, the architects of the GI Bill.¹³ To date, many of the land-use studies and mapping efforts first drawn up in the 1930s continue to inform reclamation and water conservation efforts. In addition, most scholarly treatments of the NRPB are written by planners, with the purpose of educating planners about the mistakes and missed opportunities of their predecessors.¹⁴ And,

¹⁰ The National Resources Planning Board underwent three organizational changes during its ten-year history, but the scope and function of the planning agency was remarkably consistent. The 1933 National Industrial Recovery Act established, with a congressional line-item, the Public Works Administration (PWA). The PWA used discretionary funds to establish an advisory board, the National Planning Board (NPB), which existed for just one year. From 1934 to 1935, the NPB transformed into the National Resources Board (NRB), which was a transition in name only. Under Executive Order 7065, in 1935 Roosevelt changed the NRB into the National Resources Committee, so that funds from the Emergency Relief Appropriation Act could be used to support the planning efforts. Finally, under the president's new governmental reorganization powers (plan No. 1), in 1939 the NRB became the NRPB, but the board still drew funds from emergency relief funds and the executive's discretionary "emergency" account.

¹¹ Charles E. Merriam. 1935. "Planning Agencies in America." *The American Political Science Review* 29 (2): 197-211; Charles E. Merriam. 1940. "The National Resources Planning Board." *Public Administration Review* 1 (1): 116-121; Charles E. Merriam. 1944. "The National Resources Planning Board: A Chapter in American Planning Experience." *The American Political Science Review* 38 (6): 1075-1088.

¹² Jason Scott Smith. 2006. *Building New Deal Liberalism: The Political Economy of Public Works, 1933-1956*. Cambridge, UK: Cambridge University Press; Otis L. Graham. 1976. *Toward a Planned Society: From Roosevelt to Nixon*. New York, NY: Oxford University Press.

¹³ Suzanne Mettler. 2005. *Soldiers to Citizens: The G.I. Bill and the Making of the Greatest Generation*. New York, NY: Oxford University Press.

¹⁴ Philip W. Warken. 1979. *A History of the National Resources Planning Board*. New York, NY: Garland Publishing. Landon G. Rockwell. 1945. "The Planning Function of the National Resources Planning Board." *The Journal of Politics* 7 (2): 169-178.

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almost definitionally, any emphasis on planning cuts against a still dominant perspective that much of the New Deal was pragmatic, day-to-day, or expedient, rather than well-designed and robustly conceptualized.

The NRPB might have begun with a limited focus on public works planning, but Ickes also gave Delano, Merriam, and Mitchell the charge to study the need for planning throughout the entire governmental system. In considering how methods of modern engineering and agricultural science could be used to make government spending more cost-efficient (more man-hours per dollar), Ickes also wanted to adopt methods of modern social science in making industrial and agricultural practices more sustainable in the long-run (less susceptible to fluctuations in the business-cycle), so that, as Ickes argued, “our successors might not be faced sometime in the future with a similar situation.”¹⁵ Roosevelt admired both these goals and as the New Deal grew in scope, the president tasked the PWA with studying how the bureaucracy could apply new concepts of public administration beyond public works projects.

The short-term and long-term charge culminated with the board’s 1934 “Final Report,” titled “A Plan for Planning.” Issued just over a year into Roosevelt’s administration, the document set out a lengthy list of land reclamation projects and public works, which would inform government spending up until the outbreak of World War II. In addition, the report laid out a separate agenda that would make the New Deal a transformative revolution in American governance. As the board wrote

The experience of our day shows that no system, political or economic, unless it faces frankly the grave realities of modern economic and governmental life and boldly takes the initiative in broad plans for a better day, can be protected against explosion that wrecks and twists, while social discontent struggles to build some new structure

¹⁵ Harold L. Ickes. 1935. “Why We Need a National Planning Board.” *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 3.

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promising more to the body and soul of those who feel themselves disinherited by the existing order of things.¹⁶

Running for the presidency in 1932, Roosevelt was less than clear in stating exactly what his prescription for relief, recovery, and reform would entail. However, the board bespoke a language of democratic transformation that laid behind FDR's promise to bring about a new day of "enlightened administration." As Sidney Milkis argues, "Believing that a strong, independent presidency had a more secure place in the American tradition than 'responsible' party government, Roosevelt aimed at building a more responsible democratic government within the presidency rather than through a more permanent link between the executive and legislature."¹⁷ If Roosevelt was to supplant or "transcend" traditional party politics, the presidency had to acquire the instruments of modern government that would allow the institution to fulfil its new-stated obligations of national programmatic action. In a word, the president required planning.

The planning efforts conducted and encouraged by the NRPB never harbored the more statist, centralized, or command-and-control ambitions of other nations. Rather, due to the country's strong tradition of partisan politicking and anti-statist culture, planners recognized that any such efforts would be dead on arrival. More so, planners, especially Delano and Merriam, believed that planning could reinvigorate the public's trust in representative government. As much as their task on any single day was to write land-use studies or study population projections, the NRPB was acutely aware that they had to teach a reticent public that American liberalism could accommodate a certain type of planning. As Patrick Reagan summarizes, "New Deal planning differed from its counterparts in other nations as a result of both different national

¹⁶ National Planning Board. 1934. *Final Report: A Plan for Planning*. Washington, D.C.: Government Printing Office, p. 22.

¹⁷ Sidney M. Milkis. 1985. "Franklin D. Roosevelt and the Transcendence of Partisan Politics." *Political Science Quarterly* 100 (3): 480.

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and historical settings and the personal background, ideas, institutional networks, and political environment encountered by planners in the American arena.¹⁸ Planning, NRPB-style, depended upon voluntary cooperation with other institutions.

The Politics of Planning Agencies

The relationship between planning and a strengthened executive has a practical and theoretical dimension. As it developed in the American political context, the NRPB was beholden alone to President Roosevelt. In its final report, the board recommended that any planning agency be “directly responsible to the country’s chief executive” so that it can “promote closer coordination among the plans” drawn up throughout the executive branch.¹⁹ While the NRPB routinely shared its reports with Congress, and testified on a handful of occasions before various committees, the NRPB understood that its main function was to advise the president. Delano, in fact, felt that Congressional-engagement would not only sap the board of its independent-character, it would inflame the jealousies of members who lacked a research body of their own – a belief well justified after the NRPB gained its own appropriations-line in 1939.²⁰

On a theoretical level, the executive-oriented nature of the NRPB contributed to the strengthening of the institutional presidency during the New Deal – the creation of a “modern presidency” that drew ideological nourishment from Progressive ideals of a powerful, central actor who could overcome the constitutional system of checks and balances. Cognizant of the fact that planning represented a challenge to prevailing constitutional norms, the NRPB (often drawing on Merriam’s scholarship) lauded its distinctiveness and continuation of American constitutionalism in much the same way as President Roosevelt. “Under the original theory of

¹⁸ Reagan, *Designing a New America*, p. 7.

¹⁹ National Planning Board. 1934. *Final Report*, 15-19.

²⁰ Marion Clawson. 1981. *New Deal Planning: The National Resources Planning Board*. Baltimore, MD: The Johns Hopkins University Press, 214-22.

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our Government the Cabinet was to be the National Planning Board,” the board wrote to the president, but, “that proved disappointment despite the high general character of the men and also because the Cabinet men were naturally interested in their own departments.”²¹ Building a separate arm of the administrative presidency would re-invigorate the original promise of Hamilton’s “energetic executive.” Elsewhere, planners infused 20th Century planning with a sense of 18th century constitutionalism and revolutionary spirit. At the end of the 1800s, Merriam wrote,

no country had done more extensive national planning than the United States. Our program, first of all, was based on the greatest heresy of the time, namely, that governmental arrangements or constitutions could be planned and made. The program included the abolition of hereditary government and the adoption of democracy, the adoption of the Federal system through the Constitution (itself a piece of economic-political planning), a land system reaching from the abolition of primogeniture and entail to the homestead act, and the American system of tariff.²²

If planning had always been a central feature of American government, the NRPB hoped to offer a re-interpretation, not a wholesale revision, of the constitutional experiment of which federalism was an essential component.

In addition to its institutional implications, planning took on a political function due to broad understanding of what the planning mission entailed. The board’s very name suggests a realm of policy-making bordering on the mundane and uncontested – measuring the amount of remaining national resources. Yet, as Ickes revealed, “the President made it perfectly clear that he intended under the term ‘National Resources’ to include both natural and human resources.”²³

²¹ National Planning Board to Franklin D. Roosevelt. June 25, 1934. In *White House Official File 1092*, Franklin D. Roosevelt Library, Box 1.

²² Charles E. Merriam. 1935. “National Planning in Practice.” *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 6-9.

²³ Harold L. Ickes. 1935. “Why We Need a National Planning Board.” *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 4.

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With a capacious understanding of national resources, the board's "Plan for Planning" outlined four areas that presidents must plan for: physical planning – man's use of natural resources and the limitations on our use; sociological planning – population trends and their relation to welfare, education, health, unemployment, leisure time and recreation; government planning – methods and reorganization of local, metropolitan, state, and national units; economic planning – problems of production, consumption, and fair competition.²⁴

The NRPB set clear limitations on what it planned, and the planners, especially after the board's dissolution, repeatedly emphasized the advisory nature of planning in the American context: their reports were nothing but suggestions for the president to follow-up on, presumably with Congressional approval. Never did the NRPB or corresponding state planning agencies set production targets, and never did they ever possess authority to penalize governmental or non-governmental actors with failing to execute plans in a timely or efficacious manner. The absence of direct coercion, however, does not mean that planning was apolitical. Plans, by their mere presence, change expectations and behaviors. In that, information provided by planners is powerful. It gains power vis-à-vis other institutions because, "Plans – undergirded by claims of logic, reason, and rationality – are powerful weapons in the battle for public opinion."²⁵

America's system of separate institutions sharing power gave a peculiarly "voluntarist" form to the NRPB and state-planning agencies it sponsored, but it also enhanced the power of the planners themselves. If persuasion was a principal instrument of presidential power, information was key to inter-branch and inter-governmental negotiation. In addition, as West Churchman notes, planning monopolizes "the conversation over the setting of national objectives through the use of rational processes and rules." And, as Churchman recognized, "electoral democracy is, of

²⁴ National Planning Board. 1934. *Final Report*, 15.

²⁵ Aaron Wildavsky. 1973. "If Planning is Everything, Maybe It's Nothing." *Policy Sciences* 4 (1): 140.

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course, a type of planning apparatus.”²⁶ As such, the NRPB challenged elected representatives' claims to planning, and, ultimately government action. Or as Aaron Wildavsky argues, “There can be no planning without the ability to cause other people to act differently than they otherwise would. Planning assumes power. Planning is politics.”²⁷

The NRPB was most clearly political in its plans to remake various political institutions, including those at the state and local levels. State planning, in other words, was to be no different than federal efforts. The scale of the activity mirrored its subnational task, but state planning agencies were still dedicated to the task of gathering information (“obtain an estimate of the situation”), formulating a plan for dealing with the problem, and then revising that plan by suggesting coordinating action with other State departments. “State planning,” the NRPB celebrated, “by drawing a picture of the attainable future, possess an extraordinary opportunity to capture the imagination of the people, and to provide guides and aids to assist the politically responsible State officials...”²⁸

Moreover, just as the NRPB’s national orientation centered on increasing the independence and prestige of the executive office, so too did their state-level ambitions center on reforming and strengthening gubernatorial power. “No other agency in the State government,” the Board argued in its report on state planning, “is charged with taking an over-all, long-range view of the activities of the State government. This is a function for which the planning board is peculiarly adapted. It may be said that this is the job of the legislature or the Governor, but

²⁶ West Churchman. 1968. *The Systems Approach*. New York, NY: Delacorte Press.

²⁷ Wildavsky. 1973. “If Planning is Everything, Maybe It’s Nothing.” 132.

²⁸ National Resources Committee. “The Future of State Planning,” 1938. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 19.

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neither possess continuity in personnel, staff assistance, or freedom from the pressure of day-to-day activities to do so.”²⁹

Indeed, the NRPB’s criticism of state government and federal-state relations reveals the mammoth political aspirations of governmental planning. Governors, mayors, and the President of the United States required planners because, “Representative bodies were founded on and continue to exist upon a presupposition of a relatively simple and homogenous society, since only under such conditions can a representative body cope with the problems of government.” Planners were necessary because “Legislatures are driven by the sheer limitations of time and human capacity to disintegrate into an aggregate of specialists, loosely held together, and unable to consider the multifarious activities of government as a composite whole.”³⁰ Recognizing that the NRPB’s planning efforts were, in fact, political does not mean that the legions of opposition that it aroused were correct in defining the mission and extent of the board’s powers. Unsurprisingly, any mention of the word “planning” was bound to enliven Roosevelt’s opponents who, since the first 100 days, were adamant that the president was one step away from instilling full dictatorial control. Planning, to Roosevelt’s detractors, meant socialism, and then it meant totalitarian fascism; it did not, according to opponents, mean capitalism in a free society.

If the power of the NRPB and Roosevelt’s plans depended on convincing other actors in the system that such plans were desirable, the politics of planning involved more than just a good public relations campaign. Through its emergency relief efforts, a greater proportion of the federal budget was going to supplement state and local welfare rolls than at any point in American history. The new conservation and public works programs ushered in by the Depression created overlap between what states had traditionally done and what national

²⁹ Ibid., 17.

³⁰ Ibid., 22.

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politicians were willing to try. The effectiveness of these programs depended on whether or not state policies and federal policies were reasonably congruent. But so long as Roosevelt and his New Dealers sought to enshrine new governmental responsibilities and to transform the relationship of the citizen to the State, the political problem posed by federalism was more arduous than a coordination problem within any one particular policy or program.

Transforming American liberalism required voluntary cooperation, and this demanded a shared faith in planning at all levels of the federal system. For Roosevelt and the leaders of the NRPB, the most efficient way to spread the planning gospel was to build new temples for it within the state governments themselves. They would never command states to plan, but in encouraging and assisting in the development of state planning agencies they never had the need. As Merriam argued two years after the start of Roosevelt's presidency, "Our urgent problem is to coordinate these various planning agencies with each other and also relate them to State planning, to city planning, and to county planning in order that sound national policies may be developed on a genuinely national basis." If national planners allowed the presidency to fulfil its peace time functions, state planners could empower governors to meet their own citizens' demands. Planning, from city to nation, signaled that "A new world is well within our reach if we can organize and act to obtain it...If there is affliction and bitter distress, it is because we will not reach out and take the gift of the gods in our day."³¹

State Planning Boards as Cooperative and Contesting Structures

The development of state planning agencies was just one component of the NRPB's decade-long mission to create a culture and system of governmental and economic planning in

³¹ Charles E. Merriam. 1935. "National Planning in Practice." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 8-9.

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the United States. At its height, the NRPB was comprised of a central staff in Washington, D.C., ten field offices with directors responsible to the NRPB, various local offices in select cities, and an ever-fluctuating number of special commissions drawn from experts working in universities and the private sector. When state planning boards formed, they existed independently of the NRPB's chain of command. Often that relationship was symbiotic, especially in designing national population studies and sharing government-produced statistics. Nevertheless, in a strict sense, state planning boards competed with the federal government, offering up their own plans for government and policy reform within the 45 states and three territories (Hawaii, Alaska, District of Columbia) in which they operated.

The decision to create independent state boards at once reveals an introspective awareness of the NRPB's own limitations and the true extent of its reformist ambitions. Remaking national government was a priority, but so much of what the national government did relied on complementary efforts within the states, whether it was through joint-funding schemes (e.g., expansion of unemployment benefits), or joint-administration of public works projects (e.g., state government sponsorship of PWA, CCC, and CWA proposals).³² Therefore, the federal government required institutions to coordinate federal-state implementation. Moreover, to the extent that the NRPB relied on Congress to appropriate funds for its various projects, state level planning boards could exert similar pressure on their own legislatures, thereby increasing the likelihood of government action.

Only five states had planning boards prior to the NRPB and the only New York and Wisconsin's could point to any notable accomplishments. Even before the NRPB's 1934 "Final

³² For a more policy-driven analysis of the changing state-federalism relationship during the New Deal, the standard account is offered by: James T. Patterson. 1969. *The New Deal and the States: Federalism in Transition*. Princeton, NJ: Princeton University Press.

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Report,” the national planning agency began a program to provide financial and technical assistance to governors interested in establishing their own planning agencies. In 1935, the Supreme Court’s *Schechter Poultry* decision struck a fatal blow to many of the New Deal’s more visionary efforts, including the effort to make national planning a permanent feature of the American State. However, the White House viewed the decision as an opportunity to further shore up the political independence and executive-centered nature of planning boards within the states. In the shadow of defeat, Roosevelt argued that the accomplishments of the NRPB had so far been stunted by its strong connection to public works spending – a process dominated by the “wild raids” of Congressmen desperate for projects in their district. An independent Board could escape Congressional parochialism and establish public works spending on a national level.³³

More to the point, so long as national ambitions faced a two-sided threat from the courts and the Congress, the states remained fertile territory for extending the New Deal’s programmatic liberalism. Margaret Weir has suggested that the New Deal’s liberal ambitions were stunted by the fact that states maintained “elite-biased politics” and possessed “limited policy tools” for enacting new programs; by limited policy tools, Weir is especially concerned with the decentralization of land-use policies and zoning decisions to localities.³⁴ While state planning boards never sought to challenge many instruments that Weir highlights, including race-based exemptions to federal policies and malapportioned representation in state legislatures, federally-sponsored state planning is partially responsible for the ways in which states “undermined liberalism during its high tide in the 1960s.”³⁵ It is precisely because of the New

³³ Franklin D. Roosevelt to Jo Byrnes and Joseph Robinson. April 20, 1936. In *White House Official File 1092*, Franklin D. Roosevelt Library, Box 1; Harold Ickes to Franklin D. Roosevelt. February 8, 1936. In *White House Official File 1092*, Franklin D. Roosevelt Library, Box 1.

³⁴ Margaret Weir. 2005. “States, Race, and the Decline of New Deal Liberalism.” *Studies in American Political Development* 19 (1):151-172.

³⁵ *Ibid.*, 152.

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Deal's successes in developing an emergent form of state-capacity through planning boards that states "provided multiple arenas in which the foes of liberalism could consolidate their power, refine their appeals, and develop their evolving justifications for restricting the scope of federal activism."³⁶ The political logics and administrative capacities of the post-New Deal states may have limited a more participatory and nationalized liberalism, but as the development of state planning boards reveals, it was a limitation by design.

National, Regional, State, and Local Planning Boards

Prior to 1933, only five states had state planning laws; by 1942 all but five states (including Washington, D.C. and the territories of Alaska and Hawaii) had institutionalized the practice.³⁷ To a certain extent, the NRPB was only possible because of the experience planners had gained within states and localities during the 1910s and 1920s. At the local level, planning became a more institutional element of municipal governance during the Progressive Era. National planning is a continuation of this longer history of municipal planning, more fully tied to developments and reform movements from an earlier generation.³⁸

The NRPB's sole chairman, Frederic Delano is a personal testament to planning's localist origins, and offers a partial reason for the board's sustained efforts to nourish a division of policy responsibility between the nation, states, and various localities. Subscribing to a more flexible

³⁶ Ibid., 172; See also, Keith E. Whittington. 2007. "Preserving the 'Dignity and Influence of the Court': Political Supports for Judicial Review in the United States" In Ian Shapiro, Stephen Skowronek and Daniel Galvin (eds.), *Rethinking Political Institutions: The Art of the State*. New York, NY: New York University Press.

³⁷ Maine, as with most northeastern states, adopted a state planning law in 1935, but it was repealed in 1937. The other states that had yet to adopt a planning law by 1938 were: West Virginia, Minnesota, Kansas, and Arizona. West Virginia, Minnesota, Kansas, and Arizona adopted planning agencies after 1938, but Texas, Idaho, and Nebraska abolished their boards. Delaware and Ohio never adopted planning boards by statute or executive order.

³⁸ Daniel Schafer (ed.). 1988. *Two Centuries of American Planning*. Baltimore, MD: Johns Hopkins University Press; Mel Scott. 1969. *American City Planning since 1890*. Berkeley, CA: University of California Press; John L Hancock. "Planners in the Changing American City, 1900-1940." *Journal of the American Institute of Planners* 33 (1967): 290-304.

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variant of “dual federalism,” Delano spent an entire career leveraging the fact that the U.S. possessed a system of semi-independent governments competing with one another for the affections of its citizens. Delano helped to found and then served as chairman of Washington D.C.’s Capital Park and Planning Commission from 1926 through 1942 – the commission largely responsible for enacting the federal district’s own “city beautiful movement.” He served as the first chairman of the Brookings Institution, whose founding mission was to provide research services for state governments, and to assist state bureaucracies in updating their accounting systems for social service delivery.³⁹ And, as Dean of local planning, he toured the country promoting localized variants of the planning commission, including New York, Chicago, and Los Angeles. Merriam, too, had amassed considerable experience in dealing with reformed municipalities, and served on planning boards in his hometown, Chicago.

When Delano and Merriam approached the president in spring 1933 with the idea of drawing up a plan for planning, they also sent out notifications to the nation’s governors of a new pilot program for establishing state planning boards. Later that year, Ickes convened a meeting of the nation’s governors to advise them on the practicality, and soon-to-be necessity of state planning boards. Using the example of New York and Wisconsin, who had benefited tremendously from the outpouring of funds from Ickes’ PWA, the NRPB provided technical and financial assistance for the provision of new state boards. The Governors responded even more enthusiastically than anticipated and followed FDR’s example in establishing state-level boards by executive order.

³⁹ Delano remained as chairman of Brookings throughout the 1930s. This created some uneasy conflict within the White House after the Congress hired Brookings to study the economic successes of the National Recovery Act and returned a very negative report. Frederic A. Delano to Franklin D. Roosevelt. January 14, 1935. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 2; Harold G. Moulton to Frederic A. Delano. April 23, 1935. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 2.

Table 1: Year-to-Year Change in State Planning Boards, 1933-1938

Calendar Year	Total	Governor's Boards	Statutory Boards
1933	14	9	5
1934	42	33	9
1935	46	13	33
1936	47	11	35
1937	48	6	42
1938	47	5	42
1939	46	5	41
1940	47	5	42
1941	46	4	42
1942	46	5	41

Source: Count of state planning boards and their authorizing form are taken state directories published in the National Resource Council's 1935 report on state planning, and the National Resources Planning Board's June 1942 report on state planning.

Over time, states gradually codified state planning agencies begun by the governors, supplementing federal funds doled out by the NRPB. The amount of funding offered by the NRPB and state legislatures varied considerably, given differences in population as well as enthusiasm from state officials. On a per-capita level, Puerto Rico, the District of Columbia, Hawaii, and Alaska received the most funding, although these district planning agencies drew all their support from the NRPB (Delano also chaired Washington, D.C.'s board). However, state spending varied and was independent of the Governor's political party. Small regional biases emerge in New England (Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut) and the in-land West (Montana, Colorado, Nevada, Utah, North Dakota).

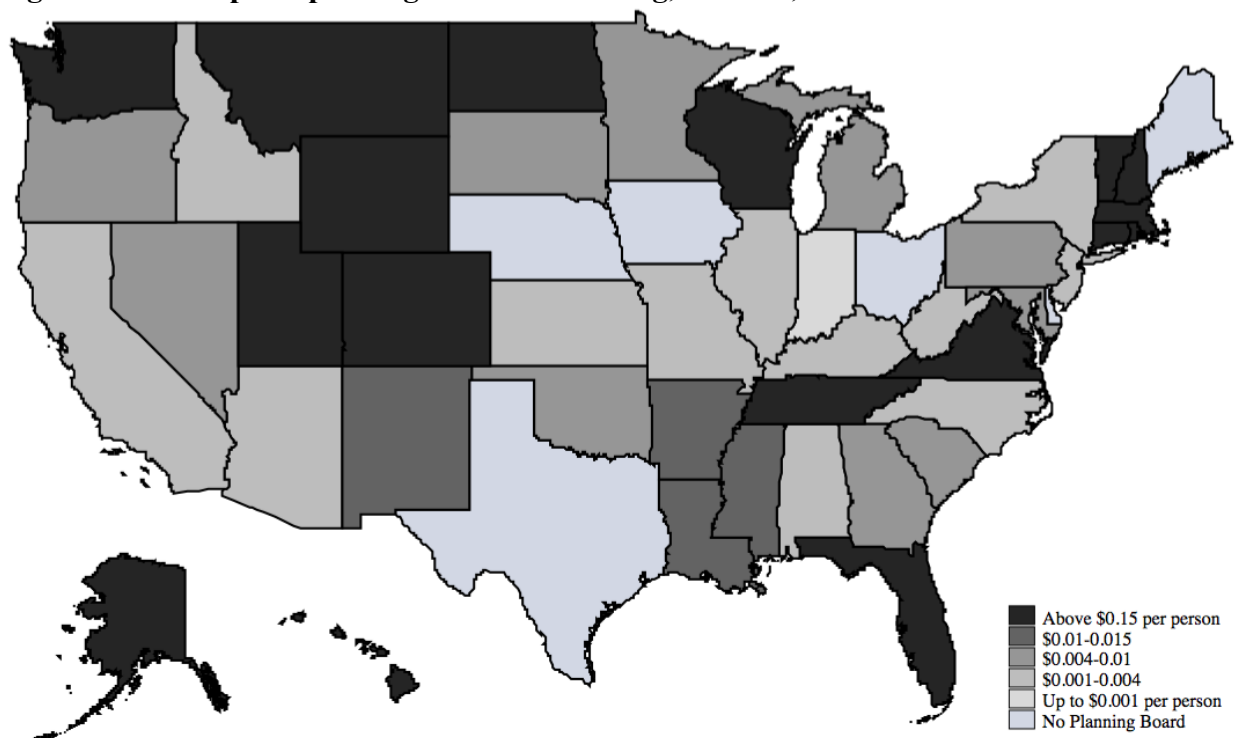
New Hampshire's Governor, John G. Winant (R), was first in line for the NRPB's new experiment. As Charles Eliot later praised, Winant "telephoned rather than wait for the mails"⁴⁰ after Icke's Governor's conference. As a result, New Hampshire, and Winant's embrace of planning, became the exemplar for other states to follow. Winant styled himself as a strong,

⁴⁰ Charles W. Eliot, 2nd. 1934. "State Planning Boards." *American Civic Annual*. Washington, D.C.: American Civic Association, Inc.

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progressive executive in the likes of Woodrow Wilson and Franklin D. Roosevelt.⁴¹ He was the first New Hampshire governor in the 20th century to return to the office after a constitutionally-mandated hiatus, and he made the reform of government a top-priority. Outside the president's Democratic Party, he nevertheless developed close ties with the administration for his support of New Deal programs – especially the adoption of new state planning board.

Figure 1: Per-Capita Spending on State Planning, FY1942, State and Federal Funds



Note: Per-capita spending for Alaska, Idaho, Kentucky, North Carolina, North Dakota, and South Dakota are derived from 1940 spending levels (the last available year) and U.S. Census data. Iowa, Nebraska, Maine, and Texas abolished their state planning boards prior to 1940; Delaware never had a state planning board. *Source:* National Resources Planning Board. 1942. *State Planning*. Washington, D.C.: U.S. Government Printing Office.

⁴¹ Winant broke a long-standing precedent in the New Hampshire Republican party and ran for a second term following a brief hiatus. As Governor, he championed minimum wage proposals, federal works programs, and successfully pressured the legislature to raise municipal debt limits, which had previously limited social welfare rolls. See John G. Winant. 1947. *Letter From Grosvenor Square: An Account of a Stewardship*. Boston, MA: Houghton Mifflin Company.

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Winant, with the encouragement and technical support of the NRPB, also established the New England Regional Planning Commission, which drew voluntary membership from Maine, New Hampshire, Massachusetts, Rhode Island, Vermont, and Connecticut.⁴² The NRPB encouraged regional networks of state planners to supplement the work of national field offices – often by working in tandem on various inter-state problems and by sharing staff. New England’s regional commission held conferences throughout the year, attended by top leadership of the NRPB to arrange joint planning studies and water basin analyses. In addition, these regional conferences provided opportune moments for governors to share the political lessons learned in teaching citizens about the necessity of state planning boards. For instance, at a 1934 meeting Vermont’s Governor, Stanley C. Wilson, boasted to his colleagues that he convinced the traditional conservatives of his state to adopt a planning board by emphasizing the economic savings that an expanded governor’s office could produce.⁴³

Winant was the first, but he was not unique among the nation’s governors for his embrace of the NRPB’s planning plans. Other governors, in establishing their own boards through executive order, enthusiastically announced a new age of government. “The fundamental objective of a State plan,” Indiana Governor Paul McNutt (D) declared, “is the provision for healthful, convenient, pleasant living conditions in situations affording abundant opportunity...Calm and deliberate thinking upon the needs of the entire population is essential.” Massachusetts Governor James Michael Curly (D) used his inaugural address to upbraid the

⁴² Charles W. Eliot 2nd. “Address before the New England Council, Boston, Massachusetts.” November 24, 1933. In *John G. Winant Papers*, Franklin D. Roosevelt Library, Box 124.

⁴³ “Minutes of the New England Regional Planning Commission, Eagle Hotel, Concord, New Hampshire.”

April 1, 1934. In *John G. Winant Papers*, Franklin D. Roosevelt Library, Box 124; Frederick P. Clark. 1935. “The New England Regional Planning Commission.” *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 135-136.

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legislature for failing to have previously adopted a planning board as doing so would have meant that “the severity of the present depression might either have been avoided or materially lessened.” For Colorado Governor Edwin Johnson (D), the “coordinated, intelligent, and well-considered programs” proposed by the State Planning Commission was the only way to “get away from the hit-or-miss methods of the past.” In a majority of cases, state governors made the special plea that failure to enact a state planning statute would put them at a disadvantage in receiving federal funds. Or, as Michigan Governor Frank Fitzgerald (R) lamented in 1935, “If the communities of the State do not get together on a unified plan, we can look forward to nothing more than the failures to get Federal assistance which marked the last two years.”⁴⁴

Icke’s personal plea to the governors for an invigorated state planning movement was not mere rhetoric; planning could help states get the federal money that was owed to them. As the WPA estimated, 82 percent of state planning board staffs received funding from federal grants-in-aid through the emergency relief appropriations. Planning, in the short term, could reduce unemployment levels by attracting statisticians, engineers, surveyors, and office clerks. Every state board hired full-time, and often part-time consultants for various reports and research projects – indirectly funded by the federal government, but directed by state-appointed officials.⁴⁵ More important, the NRPB promised that it would work with state planning agencies as a type of grant facilitator, building off the limited funding packages the NRPB could directly make to states. This “bait” and “glue” approach would set an important precedent for another presidency-led endeavor three decades later: President Johnson’s Model Cities initiative (see

⁴⁴ National Resources Planning Board. February 12, 1935. “What the Governors Think of State Planning.”

⁴⁵ Between 1935 and 1938, the NRPB spent \$ 661,325 of its 2.2-million-dollar budget on consultants for state planning boards, more than any single other itemized endeavor. Additional funds, especially for water basin studies, came from the Civil Works Administration, the WPA, and the Federal Emergency Relief Agency.

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chapter six). For instance, the NRPB helped state planning agencies employ stenographers and land surveyors through the Civil Works Administration. The NRPB directed State Emergency Relief Administrators (federal employees) to provide lists of unemployed, but capable personnel. Any plans drawn up by state planning agencies would receive top priority, increasing the likelihood that federal funds would flow into areas of needed relief. And, as NRPB consultants were advised, they were most effective in gaining the support of political recalcitrant by touting the cost saving element of coordinated government. By the NRPB's own estimates, for example, a state planning consultant who advised on issues of state agency duplication could save tens of thousands of dollars in identifying redundant efforts.

Like their national counterpart, the state planning boards understood the scope of their planning activity broadly. When considering statutory requirements for representation within state planning boards, the most widely represented cabinet departments were state highway, health, education, and finance. According to the NRPB's requirements to receive funding, state planning boards were required to have some element of citizen participation, but these interpretations varied considerably across the states (see Table 2 in the following section). Members from Winant's Cabinet, for example, represented the Highway, Forestry, and Education Departments; seven citizens joined the Governor in constituting the new State Planning Board including the Dean of Dartmouth's medical school; the president of the University of New Hampshire, a former mayor, bank president, and college professor.

The paramount goal of the NRPB, after recognizing the initial enthusiasm from several of the state governors, was to get boards up and running. Delano, Merriam, and the rest of the NRPB staff recognized that their national efforts benefited from successful planning efforts within the states. For one, it made national planning seem less invasive, if states and their

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governors were openly accepting the help of the federal government. State planning provided the administration with its most promising “avenue” for overcoming constitutional limits on national administrative power. For federal programs to pass constitutional muster, they needed “State cooperation,” and relied on “State constitutional powers” in order to justify federal interventions within states. Using the Tennessee Valley Authority as a model, NRPB planners viewed the types of joint-funding, joint-planning examples as the key to a new form of cooperative federalism.⁴⁶

On a deeper level, the NRPB believed that with state cooperation, they would quickly be able to establish planning as the new normal in modern government. Throughout the 1930s the NRPB offered significant encouragement on both the technical and political aspects of any new planning board: organizational structure to assure broad scope of state planning activities; creation of enabling legislation to make it permanent; list of suggested studies. The only required plan that the NRPB mandated as a part of its funding was report on transportation networks, and a ten-year public works program within six months of receiving funding. As Merriam testified, such leniency was necessary in order to “encourage experimentation and special studies of problems peculiar to the States so as to develop special needs and possible solutions in a variety of fields.”⁴⁷

With the help of NRPB consultants, most states codified their planning boards so that they outlasted the tenure of any single governor (most of whom were still limited to one term in office).⁴⁸ Beginning in 1934, the NRPB circulated model state legislation for enabling state

⁴⁶ Charles W. Eliot 2nd to Frederic A. Delano. “Items for Attention of the President.” March 19, 1936. In *White House Official File 1092*, Franklin D. Roosevelt Library, Box 1.

⁴⁷ Harold Ickes to John G. Winant. November 27, 1933. In *John G. Winant Papers*, Franklin D. Roosevelt Library, Box 124.

⁴⁸ Coleman B. Ransone. 1956. *The Office of Governor in the United States*. Birmingham, AL: University of Alabama Press.

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planning boards. Maryland's 1933 Act and Washington's 1934 enabling statute provided practical guidance for the nation's governors seeking to convince their legislatures that planning added value to state governance. An idealized bill written at the direction of Harvard professor Henry Hubbard (Graduate School of City Planning) signaled the relative degrees of citizen participation to State executive officers that the NRPB found desirable.⁴⁹ The NRPB also provided a model set of local zoning enabling acts that were already on the books in some states. However, as NRPB and state planners routinely lamented, these laws did little to regulate the use of "public property": parks, bridges, parkways, playgrounds, streets, and all public utilities. With time came further study of state-local enabling legislation. In the 1940s, with most states possessing enabling legislation, the NRPB shifted its attention to circulating model legislation for municipal and regional planning; state planning associations further dedicated themselves to spreading model zoning legislation following the NRPB's termination.

To be sure, the policy scope of state planning agencies, particularly between 1934 and 1939, was often larger than federal efforts. State planners issued studies on rural school consolidation, metropolitan cooperation among local governments, water conservation, public housing, art commissions, and, most prolifically, recreation studies that are largely responsible for the network of state parks Americans enjoy today.⁵⁰ The success of these efforts eventually convinced the NRPB to adjust its own network of regional planners to accommodate state

⁴⁹ National Resources Planning Board. "Eighth Circular Letter." April 23, 1934. In *John G. Winant Papers*, Franklin D. Roosevelt Library, Box 124.

⁵⁰ Karl B. Lohman. 1934. "Taking Stock of Planning in Illinois." *American Civic Annual*. Washington, D.C.: American Civic Association, Inc., 143-146; C.F. Clayton. 1934. "Land Utilization as a Basis of Rural Economic Organization." *American Civic Annual*. Washington, D.C.: American Civic Association, Inc., 147-149; Lavinia Engle. 1934. "Maryland Sets Up a Planning Board." *American Civic Annual*. Washington, D.C.: American Civic Association, Inc., 153-157.

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planning agencies. Regional Planning Commissions served at the pleasure of the NRPB, but in composition, state agency planners made up significant proportions of these inter-state boards.

“The Future of State Planning”

By all accounts, the rapid expansion of state planning surprised the leaders of the NRPB. The eagerness displayed by the states’ governors to nurture the “lusty infant” of state planning, as Merriam said, was a welcome reprieve to the hostility they felt within the national halls of power – both from Congress and elsewhere in the federal bureaucracy. As one state consultant wrote, in the very first months of the NRPB’s decentralizing efforts,

In the past few months, there has been a great increase in interest, and it would not require a great deal of education to create a Planning consciousness in this State. I talked before the State Municipal League two weeks ago and was surprised at the change in the attitude of mayors, city managers, and other public officials. Where heretofore planning has been considered a fad by many of them, they are today conscious of the fact that it is absolutely essential to the progress of their communities.⁵¹

Throughout its various iterations, the NRPB’s senior leadership played an important administrative role in coordinating decentralized programs – despite its formal prohibition to intervene in bureaucratic management. Delano traveled throughout the U.S. on behalf of the administration to meet with governors, state planners, and federal field offices who worked closely (often in the same building) with state-level bureaucrats. While the most pressing needs addressed by New Deal agencies like the CCC and WPA were immediate work relief, Delano provided the data and curried the political support to demonstrate that reforms made in the name of federal-state cooperation would pay off after the immediate economic crisis ended. From reports he relayed back to Roosevelt, it is clear that one purpose of Delano’s trips was to coach federal field agents and state planners on how to develop a political constituency in support of

⁵¹ National Resources Planning Board. February 11, 1935. “Digest of Experience of State Planning Consultants.”

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progressive government's newfound capacities – designs for pavilions at state fairs, routine tours of state research facilities, arranging meetings between university officials and state legislators, and the widespread publication of the planners' great accomplishment, maps.⁵²

Delano's emphasis on political strategy in the states reinforced a motivating idea that state planning fit into a broader agenda of routinizing American planning and making it compatible with the America's decentralist tendencies. Delano and the rest of his planners at the NRPB held rather dismal opinions of the average voter; they shared, however, the president's resolve that the day of "enlightened administration" would not emerge without their confidence. Decentralized planning and increased reliance on state and local spending could, however, create that necessary confidence. As Delano wrote following FDR's 1939 plea to Congress for increased spending, "a large proportion of the population are either too indolent or unintelligent to appreciate the force of his [the president's] words." If state and city leaders could be convinced to cooperate in the federal government's efforts though, the average voter could learn the lessons of modern economics and public administration.⁵³

Despite the rapid acceptance of legal state planning requirements, Delano, Merriam, and other national planners lamented the wasted potential of many state planning boards. The boards had proven remarkably successful in a number of areas, but only six states, they believed, could be said to have been using the state planning boards to their "full potentialities" by 1935. As the board turned its attention to the issue of executive reorganization at the federal level in 1936, they simultaneously began a series of reports on the importance of executive leadership within the states, and the necessary reforms required in order to transform state governance.

⁵² Frederic A Delano to Harold L. Ickes. August 5, 1935. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 1.

⁵³ Frederic A. Delano. January 4, 1939. "Comments on the President's Address to Congress." In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 2.

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The NRPB's *The Future of State Planning* report bespoke the promise of centralized leadership at the state level. Written by such notables as Louis Brownlow, V.O. Key, and Harold Gosnell, the *Future of State Planning* pre-dates and parallels the more famous set of recommendations that emerged from Roosevelt's 1937 Committee on Administrative Management, chaired by Brownlow, and encouraged by Merriam, Delano, and other NRPB planners.

Throughout the report, the NRPB, often with the advice of state planning boards, recommended necessary changes to be made throughout state government – none, of course, more important than the elaboration of planning efforts already taking place. And, just as the 1937 Brownlow Commission advocated for a stronger independent executive to steer policy and manage the bureaucracy, so too did the NRPB's *The Future of State Planning* articulate the need for strengthened gubernatorial powers. Strong governors, naturally imbued with reformist ambitions, required the necessary powers to wrangle unprofessional bureaucracies and cooperate with programmatic reforms at the national level.

The most pervasive myth the report sought to dislodge was the idea, circulating amongst various states, that planning could exist in a fragmented, departmentalized state. And, just as Brownlow's Commission would fight that urge and advocate for stronger reorganization powers, so too did *The Future of State Planning* critique pre-existing bureaucratic practice at the state-level: "The loyalty of the permanent public servant to his bureau, division, or service is at its best the driving force in the performance of striking public service; at its worse, arrogance, narrowness, and disregard for the public interest."⁵⁴

⁵⁴ "The Future of State Planning," p. 24.

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V.O. Key's influence is particularly striking, as it offers a more robust condemnation of state-level pluralism within and outside of government. Arguing for the need of a single, executive agency to control state bureaucracy, the report argued that

“It is inaccurate to speak of ‘the’ administration; it consists rather of a series of special interests in a sense no different from other pressure groups. Each service has its own constituency and each is concerned primarily with advancing its own cause...As now constituted the administrative branches are no more able than legislatures to consider governmental policy as a coordinated whole.”⁵⁵

The NRPB's critique of legislative and bureaucratic behavior pointed towards one solution: decentralized planning structures. Delano, whose background was in large, corporatized railroads, extended the analysis offered by public administration scholars to further justify the board's emphasis on state, and then local, planning. “There is a great tendency to centralize in large corporations and in government,” Delano argued, “I believe that a minimum amount of direction from the central authority is desirable. Men who define ideas feel that if they have all the authority and direction in their own hands, they can secure for a time at least a greater efficiency and net result. But eventually there will be a very great loss from discouraging men in the field from doing their own thinking. Authorities in Washington should do only those things which the states cannot do for themselves.”⁵⁶ Delano recognized that institutional structure was largely responsible for the dearth of talent within state bureaucracy. Channeling progressive ideas of state experimentation and policy diffusion, the NRPB argued that, “The long-range

⁵⁵ National Resources Committee. “The Future of State Planning,” 1938. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 19, p. 22. The use of the term “pressure groups” is almost certainly Key's and predates his seminal work *Politics, Parties, and Pressure Groups* by five years.

⁵⁶ Newspaper clippings on Frederic A. Delano's speech before the Commissioners on Interstate Co-operation. April 17, 1936. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 2.

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emphasis in planning must be on the interdependence of the various levels of Government, not on the definition of mutually exclusive spheres of activity.”⁵⁷

As with state planning, the onus was on states themselves to take up the NRPB’s call for action. The report detailed with greater precision the types of informal advice that had been circulating among the nation’s governors earlier in the decade about how to secure planning’s place in state government. For instance, the NRPB recognizing that for many powerbrokers within the states, “resources planning” suggested physical planning. This was to the planner’s benefit, as the appearance of limited goals made for good politics while new state planning agencies tried to establish themselves in pre-existing bureaucracy. However, planners were adamant that such “prolonged concentration of attention on ‘physical’ matters” was antithetical to the aims and promise of planning more generally. Indeed, because “human resources require more ingenuity and involve as many government agencies,” it was all the more necessary that state planning boards take on the functions that pre-existing state agencies had long neglected.⁵⁸

In addition to offering practical advice, the NRPB used its discretionary powers to carry out its project on its own. For example, *The Future of State Planning* emphasized the necessity of independent staff directly accountable to a state’s governor. In most cases, the state planning board served this role. In order to extend this aspect of good governance, the NRPB adopted new advisory policies for state planning. Following from the report, the NRPB elected to emphasize technical and advisory assistance as opposed to large lump sums or grant payments, thereby providing “more help to those States which help themselves.”⁵⁹ According to the NRPB, the most significant problem affecting the nascent state planning approach was the problem of

⁵⁷ On state experimentation in Progressive thought, see: David Osborne. 1988. *Laboratories of Democracy*. Boston, MA: Harvard Business School Press.

⁵⁸ “The Future of State Planning,” p. 12.

⁵⁹ “The Future of State Planning,” p. 2.

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experienced men. In order to ameliorate this issue, the NRPB established new, permanent field offices with a full-time technician and planning counselor. Each field office was instructed to create a centralized list of consultants within the region to create “economy and efficiency” within the states⁶⁰ and to facilitate the funneling up of information to the Washington office.⁶¹

Within the report, the NRPB argued for a new understanding of federated division of powers: “When closely related functions affecting the same people in the same territory are fortuitously allocated to different units of government, with widely differing financial resources, it is only by chance that policies, priorities, and programs are concurrently adopted and followed which really reflect the interests of the people within the area.”⁶² If legislators could not be counted on to share information, planners could, and so the NRPB piloted programs by which state and federal administrators could transfer between state and federal agencies tasked with implementing the same program; in addition, the NRPB convened conferences of state and federal administrators within a policy area to identify problems of policy implementation and recommend legislative correctives.

More than anything, the NRPB report offered a frank acknowledgement that “There can be no truly national planning without State planning... Only through State planning can the programs of different governments be harmonized.”⁶³ Yet, for planning to emerge in the states, public administrators had to overcome similar obstacles against centralized, elite-driven control. In the end, this could only be achieved if planners exercised some sense of forbearance, lest they enrage the legislators who prided themselves on crafting visions of their state’s future.

⁶⁰ Harold Ickes. “Assistance to State and Regional Planning Agencies.” May 13, 1937. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 2.

⁶¹ National Resources Committee to Franklin D. Roosevelt. October 30, 1937. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 2.

⁶² “The Future of State Planning, p. 23.

⁶³ “The Future of State Planning,” p. 1.

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“Representative government,” the report concluded, “moreover, rests upon a faith in gradualism...Planning offers a method for the partial implementation of the theory of gradualism...faith in a dramatic, long-range plan may serve as a catharsis for the discontent which sometimes arises from impatience with the short-run errors of representative government”⁶⁴

Planning “From the Ground Up”

Following the bitter fight surrounding Roosevelt’s 1939 Executive Reorganization plans – of which the NRPB figured prominently among its opponents – Congress levied new responsibilities on the board in an effort to restrict Roosevelt’s personal discretion over what the board studied. The new 1939 Stabilization Act and the Budget and Accounting Act mandated several new reports from the NRPB, including studies that had to incorporate information from the state and local planning agencies guided by NRPB field offices. As a result, field services took on greater significance in the NRPB’s overall mission, creating new financial pressures for maintaining national planning, but diverting more funds to support state boards. Delano viewed such obligations as a continuation of the NRPB’s long-standing mission to develop plans “from the ground up,” while recognizing the novelty of Congressional interference and what it portended for the future.⁶⁵

By the time the NRPB closed its doors, it had transformed the federal working order by establishing new institutions, specifically tasked with making that intergovernmental politics more rational and efficient. Efficiency, however, presupposes a mutually defined end. And much of the NRPB’s efforts at state planning were efforts to convince governors, legislators, and

⁶⁴ “The Future of State Planning,” p. 24.

⁶⁵ Frederic A. Delano to Franklin D. Roosevelt. April 16, 1940. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 3.

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planners themselves just what type of planning was necessary and desirable in modern America. As *The Future of State Planning* made clear, the operating assumption on behalf of all state planners was that a “larger and larger proportion of the national income” would be spent for public purposes; therefore “if planning is to be ‘over-all’ planning, it must devise techniques for the balancing of values within a framework that gives due regard both to the diverse interests of the present and to the interests of the future.”⁶⁶

New institutions emerged, and these new institutions were indispensable to carrying out much of the New Deal. Each state submitted rolling six-year programs of public works projects - projects that informed the work of federal agencies. The NRPB collected those data, calculated percentages to be covered by states and municipalities, and ranked priorities in accordance with those sub-national plans. These projects included new public buildings, flood control infrastructure, reclamation projects and land purchases, and a national system of airports.⁶⁷

It is notable that among the many successes the NRPB credited itself, state planning was viewed as an essential foundation for their entire work. State planning boards, while sometimes failing to convince legislators of their necessity, had “become more useful to agencies of the Federal Government.” As a result of their presence, planners possessed a “better interpretation of State and local needs to the National Government and a better understanding of Federal programs by State governments.” These sentiments were echoed by federal administrators who shifted between state and national agencies, and who were largely responsible for executing the nitty-gritty of federal programs. “The extra-legal methods of diplomacy,” one consultant wrote,

⁶⁶ “The Future of State Planning,” p. 19.

⁶⁷ National Resources Planning Board. “A Federal Six-Year Program of Public Works for 1941-1946.” September 16, 1939. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 3.

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“have in many cases been found adequate to secure the integration of State policies necessary for co-operation with Federal agencies.”⁶⁸

As a result of these institutional developments, planners and public administrators grew into a national, recognizable profession. In their numbers and sheer ubiquity across New Deal programs, planners exerted tremendous influence in the development of federal and state initiatives. However, even though the NRPB required planning agencies and special commissions to have some mechanism for citizen input, it is clear that New Deal planning had a particular citizen in mind: educated, politically established, and connected to major centers of industry.

Table 2 displays the vocational composition of the 47 state planning boards in operation in 1940 (5 Governor’s boards; 42 by legislative statute). An average of nine members served on a state planning board, but the size varied widely across the states; Illinois’ was the largest with 20 members, while New York, Maryland, Idaho, and Arizona each had five-member boards. Some boards were entirely made up of private citizens, such as Oregon’s 19-member board, while other boards practically skirted participation requirements by including one or two members from the community on a board stacked with Cabinet officials and Department heads; Louisiana’s board had one professor, the Dean of Louisiana State University’s Law School, serve with six members of the Governor’s Cabinet.

⁶⁸ National Resources Planning Board. February 11, 1935. “Digest of Experience of State Planning Consultants.”

Table 2: Demographic Overview of State Planning Agencies, 1940

Occupation of Planner	Total Number for All Boards	Percent of All State Planners	Average Number on State Boards
<u>Private Sector</u>	260	61.32%	5.65
Academia	43	10.14	0.93
Business/Industry	73	17.22	1.59
Editor/Publisher	25	0.06	0.54
Attorney	11	2.59	0.24
Labor/Farm Union	11	2.59	0.24
Citizen	97	22.88	2.11
<u>Public Sector</u>	164	38.68%	3.49
Governor	13	3.07	0.28
Health & Education	24	5.66	0.52
Highway & Roads	16	3.77	0.35
Public Works	17	4.01	0.37
Conservation	31	7.31	0.67
Other State Office	46	10.85	1.00
Local Official	17	4.01	0.37

Note: Business Leaders include members of state Chambers of Commerce, Industrialists, Real Estate Board officials, and Bankers. Health and education officials include members of state welfare departments; public works officials include state engineers; conservation includes departments of agriculture and environment. *Source:* Counts are taken from the National Resources Planning Board’s 1940 Directory of State Planning Agencies.

On average, state planning boards were comprised of a majority of private citizens, but those with personal connections to banking, finance, and heavy industry crowded out other economic sectors. In many states, these included dominant industries such as Hormel and Land O’Lakes in Minnesota and Dow Chemical in Michigan. Citizens included a variety of occupations (listed and unlisted), but most frequently drew architects and private engineers. Professors – especially political scientists – were especially overrepresented, and are evidence of the political and governmental objectives most planning boards shared.

Structurally these state planning boards were tied to the Governor’s office by NRPB design. Situated as such, boards could coordinate, have the unambiguous voice of “public policy”, maintain its independence from other agencies, and have the Governor’s confidence during times of political tumult or turnover.

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The reports of state planning agencies during the 1930s and 1940s reveal the immense, modern form of power Governor's gained with the establishing of state boards. In New York – long a bastion of strong gubernatorial power – the state board's first report was groundbreaking in scope of research and inventiveness of recommendations: state-financed purchase of sub-marginal land to help consolidate school districts and shore up local government budgets; de-incorporation of nearly 50 units of local government to defray road maintenance costs borne by the state; the assumption of 9 million acres for public parkland as a way of securing the state's dwindling water supply;⁶⁹ the creation of a public works project bank for counter-cyclical unemployment relief; the empowerment of county and municipal zoning boards through state legislation to create single-use zoning districts and apply density restrictions in suburban development.⁷⁰ In Arkansas, the state planning agency collected the first set of formal population statistics regarding the relative proportion of African-Americans to white residents, by county; as these were also areas of high farm-tenancy and depopulation, the Governor was advised that “expenditures be held to a minimum” for financing public works improvements.⁷¹ Vermont's state planning agency dedicated almost one-third of its 1938 report to the Governor, explicating the work it had done on identifying suitable ski resorts and winter sports facilities in order to boost tourism.⁷²

⁶⁹ In one revealing instance of the inherently political nature of planning, the New York State Board writes, “Ethically it is no less a crime to steal from those who are to come after us than from those who live with us. Natural resources of social, of water, of forest and of beauty form a heritage. It is our duty to hand it on to succeeding generations unimpaired, and if possible enhanced and improved,” p. 50.

⁷⁰ *State Planning for New York: Summary Report of Progress to Governor Herbert H. Lehman*, January 1935. New York State Planning Board. Digitized by the University of Michigan.

⁷¹ *Progress report of the Arkansas State Planning Board*. November, 1936. Arkansas State Planning Board. Digitized by the University of Illinois at Urbana-Champaign, p. 22

⁷² *State of Vermont: Report of State Planning Board, 1937-1938*. 1938. Vermont State Planning Board. Digitized by the University of California.

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In addition to a broad research and policy program, the boards took their cue from NRPB officials and made public relations an end in its own right. Working with state planners, the NRPB developed a television series with NBC to survey the work of state planners, and publicized materials through various academic and professional societies (Social Science Research Council, American Council on Education, American Council of Learned Societies).⁷³ The emphasis the NRPB placed on public outreach only grew as much of its wartime and post-war planning operations were duplicated inside the EOP. Under Delano, the NRPB collected lists of pro-planning publications and encouraged their circulation within various civic organizations. “Their efforts,” Delano told Roosevelt, “will play a major part in determining the informed ‘grass roots’ public opinion from which all planning – local, regional, national and even international – must gather its strength and on which the acceptance and successful execution of any plan depends.”⁷⁴

Almost immediately following the issuance of the NRPB's plan for post-war planning, Congress held hearings to determine the fate of national planning. Congress had always been suspicious of FDR's national planners - evidence enough of the power they could wield on behalf of the president - but their latest recommendations were so far reaching and prescribed such activist intervention, that many felt planning mission had gone too far. As Congressional opinion turned against the planners in the spring of 1943, Delano, Merriam, and George F. Yantis (Mitchell's replacement) appeared before the House Appropriations Committee in one last effort to save the planning commission. Committee members accused the NRPB of duplicating government activity, in direct contradiction to their economizing mission; they used the NRPB's

⁷³ Frederic A. Delano to Franklin D. Roosevelt. June 17, 1940. In *White House Official Files 1092*, Franklin D. Roosevelt Library, Box 3.

⁷⁴ National Resources Planning Board. “War Time Planning – War and Post-War, Introduction.” July 1943. In *Charles Palmer Papers*, Franklin D. Roosevelt Library, Box 1.

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own reports on the effectiveness of state planning to challenge the idea that any national planning was necessary; and the committee, Democrats and Republicans, challenged the utility of the board's population studies. However, of all the accusations, one struck to the core of the controversy that swarmed around the NRPB – the plans, reports, and recommendations – while in a strict sense, advisory – carried enormous prestige. “I wish that every American could read those reports and analyze them,” Senator Robert A. Taft (R) warned,

Instead of absorbing merely a pleasing picture of Utopia from the headlines in the press... every social welfare program must recognize two principles, and the National Resources Planning Board recognizes neither. In a broad sense, only those who are working today can support by their labor those who are not working today... [Second], we must see that the people who do work, who do save, who do provide their own homes and their own doctors, are better off than the Government beneficiaries. Otherwise we will remove every incentive to work and work harder.⁷⁵

Taft's fundamental point proffered little rebuttal: decisions about who gets what, when, and how are the substance of politics and contestation.⁷⁶ The NRPB's plans were not mere compendium of data – they were evaluations of government responsibility. In much the same way as Roosevelt's strengthened presidency heralded a new conception of the people's representative, the NRPB challenged the Congress' monopoly on setting the nation's agenda. Pleading modesty, Yantis could only offer the excuse that, “we are all victims of our ineptness in respect to publicity.” Despite the intense lobbying efforts of state planning agencies to persuade members of Congress to maintain funding for the NRPB, the House Appropriations Committee, in a closed vote, refused to provide any funding for any planning purposes.⁷⁷ The Senate, after

⁷⁵ Robert A. Taft. May 19, 1943. “American Progress After the War.” Introduced into the *Congressional Record* on May 27, 1943. A2623.

⁷⁶ Harold D. Lasswell. 1936. *Politics: Who Gets What, When, How*. New York, NY: Whittlesey House.

⁷⁷ During House hearings in which an ailing Frederic Delano could hardly read his opening remarks, several members of Congress openly confessed that they had come to a new appreciation regarding the NRPB's mission after hearing from Governors and state planners in their home states. See: U.S.

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weeks of hearings, attempted to restore \$200,000 for a skeletal staff dedicated to advising state and local boards. A conference committee, even with the insistence of FDR, rejected even that. On June 18, 1943, Congress awarded \$50,000 for the purpose of consolidating the NRPB's assemblage of data and reports for posterity; all work was to cease September 1st.⁷⁸

The Legacy of the National Resources Planning Board on Presidential-Federalism

In deliberately seeking to preserve various elements of America's constitutional tradition, the NRPB set off a developmental process that continues to this day. Federalism is neither dead nor fully what it once was, and this, in part, has to do with the relatively conservative (or conserving) ambitions of FDR and the New Deal planners. When Congress ordered the NRPB to close – its only remaining function to collect its documents and create an archival history of the records – planning suffered a momentous political defeat.⁷⁹ Never again would a single federal agency claim responsibility for comprehensive planning and coordination. State planning boards lost their federal funding, and with the end of World War II, state legislators proved as eager as Members of Congress to reestablish their prerogatives. Roosevelt offered very little public defense of the board as Congress attacked it and some have viewed this as a sign of the NRPB's relative weakness and unimportance in the totality of the New Deal. More so, when the NRPB ended, so to do the histories of the national and state planning.

Congress. House. Committee on Appropriations. 1943. Hearing on the Independent Offices Appropriation Bill for 1944. 78th Cong., 1st Sess.

⁷⁸ "New Plea Issued for Postwar Works." *The Washington Post*. May 25, 1943; "Fate of the NRPB Hangs in the Balance." *New York Times*, June 16, 1943; "Abolition of NRPB Voted By Congress." *New York Times*, June 19, 1943.

⁷⁹ 57 Stat. 169, Chapter 145. June 26, 1943. "An Act Making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1944, and for other purposes."

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However, It would be a mistake to see the end of the NRPB as the end of America's planning experiment. By 1956, only eight of the original 47 state planning agencies remained; and one of those had not met for 14 years. Yet, agencies change names, and governments reorganize – indeed, state governments reorganized largely along the lines proposed by state planning agencies. As Francis Pitkin observed in the early 1950s, “while agency names have been altered and fields of responsibility have been changed or redefined, some heritage of the early state planning responsibility remains...”⁸⁰ Planning, in the aftermath of the NRPB, did not so much end as it was dispersed.

Disjointed Planning Post-NRPB

The end of the NRPB altered the development of administrative capacity within the states, but in dispersing planning authority across different government agencies within the federal and state governments, it is not useful to think of relative capacities as becoming weaker or stronger. New institutional tensions arose, creating new avenues for policy creation by public administrators at all levels in the federal system. Alan Brinkley's literature defining work notwithstanding, the coming of World War II did not permanently end New Deal reform.⁸¹ While many of the New Deal agencies that existed prior to 1940 failed to survive in the war's aftermath, the planning and administrative structures established in the 1930s continued to thrive, especially within state and local governments. Indeed, planning for war had the effect of reinforcing the network of intergovernmental planning agencies, because federal war departments required the support and coordination of state and local governments between 1940

⁸⁰ Francis A. Pitkin. 1956. “Federal Relationship to State Planning.” *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 19-25.

⁸¹ Alan Brinkley. 1995. *The End of Reform: New Deal Liberalism in Recession and War*. New York, NY: Vintage Books.

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and 1945. States and localities were primarily responsible for implementing federal policy in expanding public housing, building up transportation networks, and managing military industrialization. Those plans not only set off a particular developmental trajectory for much of the urban and suburban landscape post-war, war-time administrative experience helped to institutionalize state and local planning.⁸²

The NRPB had viewed itself as the central coordinating institution amongst a set of institutions deliberately designed to remain at once independent and interdependent in their functions. Without that centralized direction, planning certainly became more redundant and rigid, but it remained a central feature of American governance in the post-war period. At the federal level a host of new agencies and departments emerged with dedicated planning functions. And, given the development of New Deal policy that relied on state planning processes in the 1930s and 1940s, these new institutions carried with them intergovernmental responsibilities much like the NRPB.⁸³ To support state planning boards, the NRPB continued to act as a clearinghouse for government data in addition to producing its own. When it formally ceased operation, the data collection operations located elsewhere in the federal government persisted. As with the voluntary efforts of the NRPB to encourage planning, New Dealers viewed agencies

⁸² Some of the best work on this subject comes from scholars interested in the New Deal's effects on racial segregation. The decentralization of decision-making authority in areas such as public housing and industrial site management are responsible for exacerbating racial inequalities, despite dramatic increases in public investment. See: Richard Rothstein. 2017. *The Color of Law: A Forgotten History of How Our Government Segregated America*. Washington, D.C.: Economic Policy Institute; Ira Katznelson. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth Century America*. New York, NY: Norton.

⁸³ Among others, this point is noted by none other than Charles W. Eliot 2nd -- Everyone seems afraid to call it National Planning, -but we do have a Council of Economic Advisers, a National Security Resources Board, a Natural Resources Branch and a Civil Works Branch in the Bureau of the Budget, and now a recommendation from the Hoover Commission on Reorganization for a "Board of Impartial Review" ... That is vastly more than we had in 1933-34 when the first National Planning Board made its report on a "Plan for Planning". Charles W. Eliot. 1950. "Next Steps in National Planning." *Journal of the American Planning Association* 16(1): 6-10.

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like the Bureau of Industrial Economics (Commerce) and the Bureau of Agricultural Economics (Agriculture) as encouraging grass-roots planning at the community level by businessmen and farmers.⁸⁴

Indeed, it is more accurate to suggest that planners, members of Congress, FDR, and Truman sought to re-institutionalize aspects of the NRPB after its NRPB's termination. Charles Palmer, a real estate developer who had earned special prominence in directing federal public housing efforts during the war, spearheaded the EOP's efforts as the NRPB closed up its operations in late 1943.⁸⁵ Working with the hollowed out NRPB staff who remained to categorize the board's files, Palmer eventually proposed a massive reorganization of Cabinet-level departments. In doing so, Palmer channeled the White House's growing belief that post-war planning was to become "the main task, in the sphere of domestic politics, of the whole government in the post-war period." Palmer's National Development Board never emerged as a full executive reorganization proposal, but the Council of Economic Advisors (CEA) established under the 1946 Employment Act mirrored the hierarchical, but broad structure of his plans. Like the eventual CEA, the proposed National Development Board was entirely situated within the Executive Office of the President; it possessed the primary power to "initiate proposals and require proposals be initiated by departments;" the Secretary was directly responsible to the president; and the committee board would represent the constituent elements of the entire federal

⁸⁴ Charles Palmer to Mordecai Ezekiel. 1943. In *Charles Palmer Papers*, Franklin D. Roosevelt Library, Box 1.

⁸⁵ Roosevelt designated Palmer as a Special Assistant on January 1, 1943; Palmer's role was to create a "special report" on post-war development, as it related to various agency spending in wartime mobilization. Replicating, but not supplanting the work of the NRPB, Palmer's mission confirms to some extent FDR's personal interest in the prospects for national planning. See, Charles Palmer to Charles Eliot. January 23, 1943. In *Charles Palmer Papers*, Franklin D. Roosevelt Library, Box 1.

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bureaucracy.⁸⁶ While most scholars suggest that Keynesian, counter-cyclical deficit spending emerged following the war, Roosevelt's planners had adopted that language at the outset of World War II.⁸⁷ The new Budget Bureau was tasked with the same policy analysis and management functions that the NRPB once championed; and working with the CEA, Budget viewed as a top priority the need to plan and coordinate local-state-federal fiscal relations in an interconnected context through the study of such issues like tax duplication – a pernicious issue that would occupy presidential economists through the Nixon administration.⁸⁸

Likewise, within most states, formal planning agencies gave way to new economic and development councils. Governors acquired new budget offices, and a variety of good government commissions emerged to reevaluate and economize the obligations thrust upon states during the previous fifteen years. The lack of a planning council does not mean that states no longer planned. Rather, governors and their staff took greater ownership of the coordinating responsibilities that the state planning agencies was touted. However, the research, administrative, and intergovernmental cooperation aspects remained in various agencies. For example, in Indiana, Governor Ralph Gates (R) relied on an informal schedule of Government Service Conferences that brought various field officers from different agencies together to plan and identify redundancies; Gates' new "Economic Council" took the lead in identifying areas for targeted state investment, while soliciting new policy ideas from various civic organizations.

⁸⁶ Charles Palmer. "Organization for Post-War (Details Attached)," August 1943; Charles W. Eliot to Charles Palmer. January 22, 1943. In *Charles Palmer Papers*, Franklin D. Roosevelt Library, Box 1.

⁸⁷ See, for example, FDR's chief agricultural economist, Mordecai Ezekiel. 1943. "Jobs for All." In *Charles Palmer Papers*, Franklin D. Roosevelt Library, Box 1; Mordecai Ezekiel. August 2, 1942. "Making the War Worth Winning." In *Charles Palmer Papers*, Franklin D. Roosevelt Library, Box 1. See also, Delano's widely circulated and published remarks on "National Income and National Expenditures," January 9, 1940. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 2.

⁸⁸ See, "Memorandum." 1932. in Folder "Banking Reforms, Gold Standard," In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 2.

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Federal liaisons became permanent features of the state's forestry, flood control, and transportation departments. And the state continued to financially and administratively support local planning.⁸⁹ Similarly, in Mississippi, a new "Agricultural and Industrial Board" replaced the state's planning agency. With a more dedicated focus to diversifying land use, attracting tourists, and promoting tourism, the board's scope was not nearly as large. Nevertheless, the other functions and personnel of Mississippi's planning board transferred to separate, and recently established, departments of transportation, health, and education. In Louisiana – a latecomer to the NRPB's incentive program – the Department of Public Works maintained an entire bureau dedicated to planning, whose primary function was to coordinate plans among local parish development boards; those local boards drew up community plans that encompassed far more than infrastructure improvements and land reclamation projects, touching upon a host of public issues, from juvenile delinquency to farm tenancy.⁹⁰

States across the country adopted a similar model, and despite a more fragmented planning structure, state planners still viewed their role broadly. A review of Michigan's "Department of Economic Development" reveals a similarly capacious understanding of planning:

- 1) To advance the welfare and prosperity of the people by encouraging and seeking proper use of the State's resources in the development of its communities, areas, and industries,
- 2) To devise and direct an economic development program for the State,
- 3) To strive for coordinated and efficient development of the State and the best utilization of its natural, material, and human resources, and

⁸⁹ Kenneth L. Schellie. 1946. "Indiana's Planning Program." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 75-79.

⁹⁰ William G. Zetzmann. 1953. "Louisiana Set-Up." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 114-115.

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- 4) To encourage and assist in sound community and regional planning in the State and to act as the State's official liaison.⁹¹

As it relates to the politics of this new dis-jointed planning, two observations stand out. First, while planning and its constituent activities – agency coordination, long-term research, intergovernmental negotiation – remained, these functions were no longer directly housed within the governor's personal office and staff. Second, very little evidence suggests that these new boards and departments were as dependent on citizen participation as were the NRPB-sponsored boards; if anything, planning became more professionalized and less democratic.

If Indiana, Michigan, and Mississippi represented one form of decentralized planning within state bureaucracy, Wisconsin provided an alternative, post-NRPB model. Wisconsin had been at the vanguard of state and local planning since the turn of the 20th century. The "Wisconsin Idea," champion by visionaries like Robert La Follete and Charles McCarthy advocated for a purer type of democratic politics within state government, but one guided by experts who could "apply the common rules of efficiency" to the administration of the public welfare.⁹² There, the state planning agency continued to function much as it had done during the hey-day of national planning. Governors who rode a more conservative tide to power succeeded in abolishing several state departments, but maintained the planning office, which had come to define mid-western pragmatism. By the end of the war, the board's functions had expanded to

⁹¹ State and County Planning Services. 1949. "Round Table on State and County Planning Services." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 27-37.

⁹² Theodore Roosevelt wrote a special introduction to *The Wisconsin Idea*, in which he praised the decentralist ethos of McCarthy and his fellow Wisconsin administrators. As Roosevelt described, the types of planning arrangements on display in Wisconsin amounted to a type of "scientific popular self-help," which other states could adopt. See: Charles McCarthy. 1912. *The Wisconsin Idea*. New York, NY: The MacMillan Company.

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encompass natural resources, transportation, education, vocational education, and the standardization of local zoning ordinances.⁹³ Several states joined Wisconsin and extended new state authorizations. Virginia's planning board, for instance, largely mirrored the organizational structure of its predecessor. A mix of geographically dispersed private citizens worked alongside heads from the departments of public education, commerce, conservation, health, and agriculture. Following in the philosophy of the NRPB's devolutionary priorities, one of the leading priorities of Virginia's planning board was to encourage localized "master plans" that drew on a mix of local officials and paid consultants (as opposed to private citizens whose "knowledge of the technical phases of planning and whose dedication to the cause of community betterment" would not "assure a plan acceptable to the governing body").⁹⁴

State planning - whether incorporated into state budget offices, spread out through cabinet departments, or maintained under a state planning agency – persisted in no small part because federal guidelines required it. While Congress terminated national planning, it increasingly mandated that states establish pre-clearance and coordinated implementation procedures in order to receive federal grants-in-aid. Federal administrators determined whether states had adequate plans for ensuring that various categorical grants fit within a generalized framework for "contemplated State action."

For members of Congress and federal administrators, the shining example of the post-war planning model was highway construction. As has been noted, states created or "modernized" their own highway and public roads departments as a condition for receiving federal funds.

⁹³ M.W. Torkelson. 1947. "Observations on State Planning Agencies and Their Work with Special Reference to Wisconsin." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 49-60.

⁹⁴ *Practical Steps in Town Planning: An Outline Guide for City and Town Officials*. September 1947. Virginia State Planning Board. Digitized by the University of Illinois at Urbana-Champaign, p. 3.

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Under the 1944 Federal Aid High Act, the states received additional monetary support for planning fully integrated networks of roads that would connect rapidly growing cities to the primary and secondary rural highways. State highway engineers consulted with national transportation officials; national engineers laid out priorities for inter-state road connections; on an annual basis, each state submitted a comprehensive plan to the Public Roads Administration; the Director's office could use those plans to determine priority projects and signal to state administrators where national funds were forthcoming. Intergovernmental communication kept funds flowing.

In contrast, the absence of state planning procedures created new difficulties for implementing the growing number of federal programs dependent on state administrative capacity. The Civil Aeronautics Administration deliberately bypassed state aviation boards in distributing funds in their effort to build a national network of several thousand airports. Tension between the national agency and corresponding state agencies provoked tensions and, according to Congressional investigations, led to a backlog in airport construction projects. Likewise, most states lacked a dedicated planning agency for reducing rates of child poverty under the 1935 Social Security Act. Lacking a dedicated planning agency, the U.S. Children's Bureau routinely rejected or delayed disbursement when states submitted unsatisfactory plans.⁹⁵ From these difficulties, Congress developed new restrictions in the grant-in-aid system to require subnational planning agencies and more ritualized forms of intergovernmental negotiation.⁹⁶

⁹⁵ These assessments come from a report written by the Council of State Governments and endorsed by the First Hoover Commission in their study of executive branch organization. U.S. Congress. Senate. Committee on Expenditures in the Executive Departments. 1949. *Federal-State Relations by the Council of State Governments*. 81st Cong., 1st Sess., Document No. 81.

⁹⁶ These statutory requirements help to influence the development of what Terry Sanford labeled "picket fence federalism," or the networks of siloed administrative departments at the local, state, and federal levels who were successful in advocating for greater amounts of funding year after year. See: Terry Sanford. 1967. *Storm Over the States*. New York, NY: McGraw-Hill.

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Formal and informal encouragement of state planning in a system of federal grants-in-aid supplemented other statutory requirements that grew from the decentralized New Deal State. As a condition for receiving grants in public welfare, unemployment relief, and public health programs, states had to adopt merit-based hiring procedures and extend civil service protections to administrators, which further helped to professionalize the bureaucracies designed by the NRPB a decade earlier. In other grant programs, Congress required states to create licensure requirements for public employees who provided services paid for, at least in part, by federal funds (e.g., K-12 public education, agricultural extension, highway construction).⁹⁷

The NRPB's program for planning always depended on state-level support, but it also drew significant energy from state-supported institutions of higher learning. State agricultural colleges and their extension stations provided much of the necessary research that formed the basis of natural resource conservation efforts. In the post-war period, these institutions drew more direct funding from Congressional appropriations rather than NRPB and state contracts. Nevertheless, planners and government agents at each level in the federal system continued to rely on these institutions.

This network approach to post-war planning was not just a haphazard attempt to continue the NRPB's mission, it reflected the underlying logic of Delano-Merriam style planning that they had long valued – if only for political reasons. Delano, for instance, celebrated the role that the Russell Sage Foundation had played throughout the 1920s in bringing together city and town planners from around New York City and the tri-state area. The foundation, in effect argued Delano, created “sort of a bureau of planning service” to act as “advisors and co-ordinators of

⁹⁷ U.S. Congress. Senate. Committee on Labor and Public Welfare. *State and Municipal Fair Employment Legislation: Staff Report*. 1953. 82nd Cong., 2nd Sess.

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their suggestions.”⁹⁸ Delano and the NRPB’s executive director, Charles W. Eliot 2nd (grandson of the former Harvard president) were tireless advocates in establishing schools for regional and state-wide planning at the university level.⁹⁹ Rexford Tugwell, whose affiliation with the NRPB was always informal but which outlasted his own short tenure in Roosevelt’s administration chaired and expanded the University of Chicago's Graduate School of planning, which emphasized the decentralist philosophy that informed the NRPB and state boards. Organizational networks of planners filled the holes where decentralized and localized parties once ruled. State and national planners were not the only loci of power in this new system; academics, private research institutes, and philanthropic institutions like the Ford Foundation were also essential partners in this new form of associational politics.

While the focus of this chapter so far has been on state planning agencies, it is also important to note that federal efforts to encourage planning extended to municipal and county governance. New federal programs implicated local governance as directly, if not as often, as they did state governments. Of particular note are the federal government’s efforts in the Department of Agriculture (Extension Services; Farm Credit Administration; Rural Electrification, Soil Conservation), Federal Loan Agency (Home Loan Bank Board; Federal Housing Administration), Federal Works Agency (Public Works, Public Buildings, and U.S. Housing Authority). For example, under NRPB guidance, the Department of Agriculture established emergency, county-level planning boards to help determine changes to crop production in the aftermath of natural disasters; local public housing agencies established to

⁹⁸ Frederic A. Delano. November 19, 1923. “Regional Planning Next! Address at the Chicago Regional Planning Association.” In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 1.

⁹⁹ Frederic A. Delano to James Bryant Conant. October 30, 1935. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 4; H.V. Hubbard to Frederic A. Delano. August 25, 1939. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 4.

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receive U.S. Housing Authority loans were encouraged to have ex officio standing on municipal planning boards in order to develop comprehensive area master plans; and local Advisory Committees of the National Youth Administration formed to coordinate public works projects with the planning priorities of NRPB-funded local planning agencies, when both agencies were still in operation. In one noteworthy example, the Soil Conservation Service came to frequently rely on local governments (counties) to identify properties and home owners who would benefit from federal land purchases. Since inefficiently worked land created tax delinquencies, county governments had a vested interest in identifying and then policing land to be converted into communal grazing, in line with federal policy.¹⁰⁰

These coordinated efforts to encourage federal-local cooperation in program implementation supplemented the NRPB's intensive studies of land-use policy, public works studies, and urban design ordinances. For example, a temporary committee funded directly by the NRPB formed to study "rural-urban-fringe" areas, recommended a uniform set of local regulations to preserve green space and low-density housing tracts. Delano, given his experience in the city beautification movement of Washington, D.C. was particularly interested in the management of local municipalities, 90 percent of them failing his strict standards for financial accountability. Channeling the Progressive-era notion of city management, he lamented in private that "Our cities are not managed as a department store has to be managed, but as a political organization, which does not realize that the income of a city can be nursed and must be nursed to be commensurate with the outgo for improvements and betterments."¹⁰¹

¹⁰⁰ *Federal Relations to Local Planning: Circular XIV*, December 15, 1939, National Resource Planning Board, National Archives at College Park, MD, Records Group 187, Series: Working Reports, 1939 – 1942.

¹⁰¹ Frederic A. Delano to Guy Mason, August 11, 1942. In *Frederic A. Delano Papers*, Franklin D. Roosevelt Library, Box 1.

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Following the NRPB's termination, the emphasis state-level planners placed on local planning continued. State enabling legislation for planning boards routinely carried a directive that they must encourage and facilitate the development of county, municipal, and regional planning commissions. As academic departments grew more concerned with the problems posed by metropolitan coordination and suburban sprawl, state planners took the early lead at establishing special service districts to regulate and plan for increased usage of natural resources.¹⁰² The federal government's urban renewal program further incentivized the creation of local housing authorities, which also drew support from state planning agencies. State budgeting agencies assisted growing municipalities with capital budgeting techniques; often the indexing of local legislation was a large enough priority for state planners to get some publicity.¹⁰³

State planning, as well as local planning, persisted after federal support diminished. So much had planning become the routine that at the fiftieth anniversary celebration of the American Planning and Civic Association (which Delano chaired for over a decade), the association's chairman feted the accomplishments of the discipline in routinizing the practice within the states and cities. However, as with any discipline, the focus and rhetorical emphasis remained on the frontiers of metropolitan, national, and even global administration.¹⁰⁴ This was a vision that built on the successes planners had achieved in the post-war period.

¹⁰² F.J. Osborn. 1948. "The Future of Large Metropolitan Areas." *Journal of the American Institute of Planners* 14 (3): 16-20.

¹⁰³ Francis A. Pitkin. 1953. "Pennsylvania's State Aid to Local Planning." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 107-109; Philip B. Fleming. 1949. "Federal Works and Community Planning." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 49-55; Dan S. Martin. 1953. "Tennessee Service." *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 109-114.

¹⁰⁴ Howard K. Menhinick. 1954. "After Fifty Years, What Next?" *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 1-11.

The Long-term Effects of State Planning in a Layered Polity

By 1950, the New Deal planner Rexford Tugwell and his then colleague at the University of Chicago, Edward Banfield, wrote an article to celebrate the accomplishments that planners had achieved at the national level, despite Congressional recalcitrance. Yet, they lamented how the continued animosity, especially pronounced at the national level, limited the necessary influence of managed governmental growth. As they complained, President Truman often dismissed the advice of his economic advisors, planners duplicated (and often contradicted) one another because they were spread across different agencies. The lack of a central planning organization seriously encumbered the single most important goal of post-war planning, counter-cyclical fiscal policy to create full-employment. Lacking an institution like the NRPB, which had, in many ways, coordinated deficit spending in targeted areas, state and local governments "could not be brought to time their expenditures properly... [and were] likely to go on spending when times were good and cutting their budgets to the bone when times were hard."¹⁰⁵

The growing preeminence of Neo-Keynesian fiscal policy redefined the field of public administration in the post-war period. If the tools of public administration (policy analysis, resource analysis, demography, governmental management) could be combined with full-employment budgeting techniques and macroeconomics, the "new world" the NRPB once envisioned could actually be achieved, so national planners thought. State and local planning continued in their New Deal contexts, while national planners - and students of national planning - directed their attention to new tools of macroeconomic fiscal policy, which placed less

¹⁰⁵ Rexford Tugwell and Edward Banfield. 1950. "Governmental Planning at Mid-Century." *The Journal of Politics* 13 (2): 159.

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emphasis on specific devices for government interventions.¹⁰⁶ When President Eisenhower commissioned the Kestnbaum Commission to study the changing nature of federal-state-local relations, the report represented, for many, a necessary reckoning with the limits of this macro-approach. And yet, the Kestnbaum report sympathized, and encouraged a continuation of the NRPB's decentralist philosophy for reforming state and local government (see chapter four). What federalism required was an “urgent need for action on the part of the States to increase their own capacity for meeting the needs of modern government...more efficient organization of state administrations, better balanced state and local tax structures, and extension of a greater amount of home rule to properly organized county and municipal governments.” These were issues that state planners had now come to claim as their primary prerogative, and to which the Kestnbaum report placed fully in their hand. Less revolutionary than descriptive, the agenda for advocates of federalism was to figure out how to make these policy-making systems once again more coordinated, more efficient, more interdependent, and better planned.¹⁰⁷

Lyndon Johnson continued what FDR and his planners had yet to accomplish in redefining American federalism by building new administrative institutions dedicated to achieving intergovernmental cooperation.¹⁰⁸ The executive-centered aspirations of Johnson's creative federalism placed the reformist impulse deep within the executive-branch. While Congressionally-dominated grants-in-aid remained the primary financial mechanism for the

¹⁰⁶ The Council of State Governments. 1949. “State Planning and Development,” *The Book of the States, 1948-49*, p. 269-272.

¹⁰⁷ It is interesting to note that Kestnbaum, neither in his remarks nor in the official government report, places any of the onus for addressing these problems of state planners. See: Meyer Kestnbaum. 1956. “The Report of the President's Commission on Intergovernmental Relations.” *American Planning and Civic Annual*. Washington, D.C.: American Planning and Civic Association, Inc., 1-3.

¹⁰⁸ For a fuller discussion of Johnson's reform efforts, see: Nicholas F. Jacobs. " The Political Dynamics of 'Creative Federalism': President Johnson, the Mayors, and the Development of Federal-Local Urban Policy in the 1960s." Paper prepared for delivery at the 2016 Policy History Conference, Tempe, Arizona.

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president's "creative federalism," the administration actively sought to combat problems it had with their structure -- particularly within state and local planning departments. Small administrative changes had large effects on how much time and energy federal officials could dedicate to conceptualizing and then implementing further changes to the grant-making process. For example, Budget Director Charles Schultze and senior BOB officials turned to devising procedures for agencies to find legislative authorization to waive specific grant-requirements. Of significant importance is the 1967 decision by the Federal Housing Administration and Small Business Administration to waive economic-security provisions for federally-backed loans – a statutory requirement that severely restricted the amount of monies funneled to predominantly minority communities.¹⁰⁹ And, working with the Congress, administration officials actively sought independent appropriations for the training of local and state bureaucrats in order to strengthen the administrative capacity of subnational executive power. While waiting for Congressional action to arrive in 1970, BOB officials used discretionary authority to place federal officials inside state and local agencies, by swapping them for state and local officials. These executive training partnerships were essential lines of communication early in the Great Society, and further helped to solidify subnational political support for the experimental programs that traditionally define the Great Society.

Johnson's creative federalism meant communication in planning, and even if the president never recognized that he benefited from the intergovernmental planning structures established twenty years earlier, he president proved remarkably successful in re-legitimizing his new governmental project. The Great Society depended on federalism insofar as it required the

¹⁰⁹ Marvin Watson to Lyndon B. Johnson. August 25, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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active support of state administrators and their governors. Budget bureaus, government administrators, and, an amorphously defined group of planners within the nation's 51 Executive Branches had transformed the way states and the nation operated, and they continued to exert influence into subsequent presidential administrations to the point where federalism is now presidential prerogative.

Conclusion

Most scholars who have sought to explain the increased complexity of local-state-federal relations during the New Deal and its immediate aftermath have looked to Congress and the power it exerted over the sprawling system of federal grants-in-aid. The federal courts, of course, are natural arenas for determining the constitutional demarcations of federal versus state power. And, as the 1955 Kestnbaum Commission famously concluded, states and their constitutional structure are, at least in part, to blame for the gradual transferring of power to the federal government.

All of these perspectives highlight important moments of constitutional change and the projection of power between different levels of government. So far neglected in the extant scholarship, however, is the effect that *planning*, as a discrete area of governmental activity, had on the transformation of America's compound republic.

The development of state and national planning agencies during Franklin D. Roosevelt's administration suggests that the development of American federalism was extensively influenced by the students and practitioners of public administration who held considerable influence in the development of New Deal policy. In the final analysis, land use policy, natural resource conservation, and population studies were not just essential policy reforms of the New Deal era – they were *political* efforts to transform the boundaries of American federalism through the

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development of state planning boards. The national government never commanded the states to adopt planning agencies or to make the social sciences a more routine part of state governance. Despite that, the NRPB was remarkably successful in developing a tradition of planning, networks of administrators, and routinized communication between the national and state governments. As with the NRPB, the planning ethos faded into other parts of state government following World War II, primarily in the form of strengthened governors' offices and budget bureaus. As the number of federal grants-in-aid to the states ballooned throughout the 1940s and 1950s, these networks proved essential in developing what scholars refer to as the age of "cooperative federalism." In the 1960s, President Johnson and his own "Brains Trust" rejuvenated the effort to bring state and national policy in closer alignment. In developing new structures of administrative cooperation, the 1960s ushered in another era of intergovernmental relations. Yet, these reforms were only necessary because of the lingering institutional and cultural effects ushered in by the NRPB in the 1930s. Contrary to extant accounts that emphasize the New Deal's preemption of local and state control, Roosevelt and the National Resources Planning Board sought to transform federalism into a more administrative, executive-centered, rationalized system. As a result, planners gained responsibility, often to the detriment of other political structures that were once essential to the preservation of place-based communities.

These reforms are also important moments of political change in their own right. By interrogating the New Deal's descriptive theory towards place-based communities, identities rooted in place, and a multi-region party system, I hope to further elaborate on the alternative constitutional theory offered in the New Deal era – one that recognized the limits of centralized, and presidential-dominated politics. In stressing the political aspects of the NRPB, I urge scholars to take more seriously the political and institutional implications of planning more

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generally, and the role that theories of public administration have had on the transformation of state capacity at all levels in the federal system.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

American federalism underwent a profound change in the mid-20th century. Of course, federalism is always going through profound changes, by intentional design – this is what Madison meant when describing the “neither wholly national nor wholly federal” structure of the new American federalism.¹ For all that change, however, both major parties in the United States shared the concept of a managed, presidency-centered form of federalism. Neither party explicitly embraced this conception, nor did they give any rhetorical indication of its importance to their larger governing goals. Rather, both parties paid lip service to the tradition of state governance and local control. But such rhetorical nods were fleeting and opportunistic. The presidency took on greater importance following FDR's tenure, and the relationship between state and nation increasingly was defined by the institutional prerogatives of the nation's chief executive, even when Republicans were in control at the national level. When the needs of the modern presidency conflicted with state and local governance, the presidency won out.

The political opportunism that undergirded, and continues to structure much of America's partisan conflict, places federalism in the middle of the most pressing debates in American politics. However, the parties' shifting stance on questions related to federalism tends to cloud the bipartisan embrace of presidential-federalism. Republican or Democrat, both parties and their presidential candidates bought into an intellectual tradition born during the Progressive Era, given institutional force during the New Deal, and intellectually cemented during the 1950s. Despite campaign rhetoric to the contrary, conservative and liberal administrations have

¹ Federalist 39.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

expanded the powers of the national government, and have coupled that expansion to new forms of administrative power: regulatory reform, presidential memorandum, budgeting and auditing, an independent staff, statutory discretion, and the power to reorganize federal bureaucracies. In enhancing the powers of the modern presidency, both left and right have given authority and power to the presidency for redefining federalism.

The Commission on Intergovernmental Relations (1953-1955), more commonly referenced as the Kestnbaum Commission after its chairman Meyer Kestnbaum, was a watershed moment in the development of presidential-federalism. In the four decades following Franklin Roosevelt's 1937 Committee on Administrative Management (Brownlow Committee), each president launched his own committee to study the organization of the executive branch.² And, each of those committees ventured deeply into the subject of intergovernmental relations. However, the Kestnbaum Commission, recommended by Eisenhower's first reorganization commission, was the first to solely focus on issues related to American federalism. The commission, unlike many, led to immediate, tangible changes in the ways that states and localities related to the federal government. Specifically, the Kestnbaum Commission was largely responsible for the creation of two federal institutions that presidents would come to rely on for shaping American federalism over the next half-century: the White House Office of Intergovernmental Affairs and the U.S. Advisory Commission on Intergovernmental Affairs.

² Harry Truman's Commission on the Executive Branch of Government, 1947-1949 (First Hoover Commission); Dwight Eisenhower's Commission on the Organization of the Executive Branch of Government, 1953-1955 (Second Hoover Commission); the President's Advisory Commission on Government Organization, 1953-1960 (Rockefeller Commission); Lyndon Johnson's Task Force on Government Organization, 1964-1967 (Heineman Commission); Richard Nixon's Advisory Council on Executive Organization, 1969-1971 (Ash Council). To be sure, Kennedy is not featured among this list, although he too adopted Task Force commissions, like Johnson, to study the executive branch.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

These two new institutions provided enhanced capacity for presidents to transform federalism -- capacities that intersected with the state-level administrative institutions promoted by the National Resources Planning Board (chapter three), and which augmented the president's other chief instrument for managing federalism, the Bureau of the Budget, and later, the Office of Management and Budget (chapters five and seven).

The Kestnbaum Commission is a unique moment in American political development, not only for its institutional consequences, but also because it established an intellectual consensus regarding American federalism. And, by established, I mean just that. The studies, reports, and meetings that took place over the Commission's two years of existence had an independent effect on the way that academics, administrators, and even presidents understood American federalism, and the executive's role in making that federalism applicable to a "modern" American society. It does not merely represent the culmination of attitudes about federated governance in the 1950s, it cemented a fully Progressive understanding of integrated government in the country's political tradition.

What is most remarkable is that the Kestnbaum Commission legitimated this Progressive framework even as it claimed to roll back many of the Progressive inspired changes to government that took place during the New Deal. Supporters of the Commission, none the more prominent than President Eisenhower, viewed its work as a conservative assault on the prevailing liberal order, which had permitted the federal government to grow in size, and legislate in domains usually reserved for subnational governance.

Overlooked, however, is the fact that the Kestnbaum Commission, while challenging the size of the federal government, did so by advancing a Progressive conception of American federalism. And, in doing so, the Commission legitimated the idea that intergovernmental

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

politics is something to be managed by the country's chief executive using the tools of administrative governance. In the aftermath of the New Deal, the Democratic and Republican parties coalesced around a mutually shared faith in the managerial conception of the presidential office.³ On the left, this faith reached its prominence with the presidency of Lyndon Johnson; on the right, Richard Nixon was the first to demonstrate how the administrative presidency could help mobilize a conservative base. But both these presidents were, in part, responding to an intellectual consensus that developed in the 1950s about the development and management of public policy in a federated system.

In many ways, the intellectual consensus fostered by the Kestnbaum Commission helped to usher in the ubiquity of “policy-mindedness” present on the ideological left and right in contemporary America. This transformation of federalism sits at the heart of what Karren Orren and Stephen Skowronek term the “policy state,” or the reasons why “policy has expanded its role in American government and society by eroding the boundaries and dissolving the distinctions that once constrained policy’s reach.”⁴ At one point, Orren and Skowronek contend, federalism operated as an essential constraining “structure” that limited the reach of policy and hamstrung the capabilities of policy entrepreneurs to advance new government-led solutions “to secure their positions and enhance their power.”⁵ Yet, ever since the Constitution's ratification, federalism has been “hollowed out,” to the point where “federalism flourishes today as an opportunity structure.”⁶

³ Peri E. Arnold. 1976. “The First Hoover Commission and the Managerial Presidency.” *The Journal of Politics* 28 (1): 46-70.

⁴ Karen Orren and Stephen Skowronek. 2017. *The Policy State: An American Predicament*. Cambridge, MA: Harvard University Press, 5. See also, Jeffery A. Jenkins and Sidney M. Milkis. 2014. “Introduction: The Rise of a Policy State?” in *The Politics of Major Policy Reforms in Postwar America*, ed. Jeffery A. Jenkins and Sidney M. Milkis. New York, NY: Cambridge University Press.

⁵ Karren Orren and Stephen Skowronek. 2017. *The Policy State*, 17.

⁶ *Ibid.*, 96.

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The Kestnbaum Commission complements the emphasis Orren and Skowronek place on rights and judicial interpretation of the general government's powers. Indeed, it was only after this administrative revolution in intergovernmental relations that the national government could fully exercise its newly justified authority by leveraging the governing capacities and powers found in subnational governments. The administrative doctrines promoted by the Commission placed less emphasis on rules, guidelines, and law, by celebrating the flexibility and discretion inherent to intergovernmental bargaining and negotiation. Federalism's original structure persisted in the aftermath of Kestnbaum, but it was sutured to a new administrative logic that gave political actors more power to override the very constitutional constraints they believed to be reviving.

The Political Motivation for the Kestnbaum Commission

The Progressive Era might have given form to the theoretical framework that made presidential-federalism politically palpable in the American constitutional tradition, but it was not until the 1950s that it took full hold in the halls of power. Throughout the 1930s and 40s, an intense and rancorous debate raged over the permanence of the New Deal state. At one level, the division between conservatives and the new liberals fractured over the question of government intervention in the private economy and civil society. A few principled politicians even drew the fine distinction between federal, or national, expansion, and the provision of those services at the state and local level. Nevertheless, these debates over scale and scope of government activity hinged on a discordant disagreement over the powers of the American presidency, the size of the executive office, and the influence that the White House was to hold in managing this new, more-capacious State.

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Just as numerous political actors sought to refashion the executive office over the national bureaucracy, so too did politicians and political reformers of both ideological persuasions seek to reconfigure the federal order to make the president the chief-administrator of American federalism. Whereas the bi-partisan embrace of modern presidential power emerged out of the 1937 Brownlow Committee (President's Committee on Administrative Management) and the 1947 Hoover Commission (Commission on the Organization of the Executive Branch of the Government), so too did the collective appreciation for modern presidential-federalism emerge from its own intensive study and reformist ambitions: the 1953-1955 Kestnbaum Commission.

The Kestnbaum Commission is therefore a part of a broader intellectual tradition in public administration and theories of presidential governance, which challenged a more pluralistic understanding about who designs, implements, and evaluates public policy. Throughout the 1800s, it was widely believed that national administrative authority emerged from Congressional action, and as the powers of the national bureaucracy grew in the late 19th Century, it was the Congress which sought to exert its constitutional right of administrative oversight in reorganizing a nascent, national bureaucracy.⁷ As the administrative capacity of the federal government grew alongside rising expectations for national authority during the Progressive Era, and in the aftermath of the Great Depression, administration and requisite reorganization of administrative agents became a presidential problem. President Franklin Roosevelt created the Brownlow Committee in 1936 to study the management of federal

⁷ Brian Balaough.2009. *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America*. Cambridge, UK: Cambridge University Press; Oscar Kraines. 1958. *Congress and the Challenge of Big Government*. New York, NY: Bookman Associates.

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programs, but with the effect of, as Sidney Milkis writes, “to establish the executive office as the centerpiece of a liberal administrative state.”⁸

The release of the 1937 Brownlow recommendations set off a firestorm of political controversy – an ensuing contest that would pit the powers of the institutional presidency at the heart of the debate over what, in fact, constituted public life in the United States. The eventual 1939 Executive Reorganization Act did little to temper the political furry, but it moved the country closer to “the day of enlightened administration,” that Roosevelt promised when first running for president.⁹ However, considering that both “enlightenment” and “administration” are historically contested concepts, a Republican-controlled Congress revamped efforts of administrative reform just eight years later. The 1947 Lodge-Brown Act created the newest in a series of commissions to study the organization of the Executive Branch. Unlike Brownlow, however, Congressional leaders maintained considerable discretion in naming committee members who, among several objectives, would recommend “limiting expenditures,” “abolishing services,” and “defining and limiting executive functions.”¹⁰ Brownlow had sought to “economize” only to the extent that such reforms would further secure the new programmatic commitments of the New Deal Welfare State; the 1947 Commission was statutorily obligated to challenge the very foundation of that State. And, as if the distinction between the two was not already transparent, the Republican Speaker of the House, Joseph Martin, choose former

⁸ Sidney M. Milkis. 1993. *The President and the Parties: The Transformation of the American Party System Since the New Deal*. Oxford, UK: Oxford University Press, p. 107; See also, Barry D. Karl. 1963. *Executive Reorganization and Reform in the New Deal: The Genesis of Administrative Management*. Cambridge, MA: Harvard University Press.

⁹ Franklin D. Roosevelt. “Campaign Address on Progressive Government at the Commonwealth Club in San Francisco, California.” September 23, 1932.

¹⁰ Public Law 162, 61 Stat. L. 246 (1947), Section 1.

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president Herbert Hoover – the personification of anti-Roosevelt, anti-New Dealer-ism -- to chair the reorganization task force.¹¹

Remarkably, in the 277 distinct recommendations to the Congress, the Hoover Commission did not fundamentally challenge the executive's preeminence in matters of administration or organization. Instead, as Harvey Mansfield, Sr. argued, "the Commission's reports, which avoided like poison any mention of the Brownlow Committee, made the doctrines of that Committee orthodox. They tended to strengthen President Truman's hand with Congress. And they effected no measurable savings in expenditures."¹² As they were, these "paradoxical" results out-Roosevelted Roosevelt in championing presidential governance. In short, the Hoover Commission had little effect in challenging the institutional balance of power on the horizontal axis of governmental authority.

The mid-20th Century was the high-tide of presidentialism and remained so as a result of Hoover. Piece-by-piece Congress legislatively endorsed many of the Hoover Commission's recommendations, with the upshot being that by the end of Dwight Eisenhower's tenure in 1961, federal government expenditures climbed by almost 25 percent, as a percentage of gross domestic product. Much of that increase came at the behest of bold presidency-led initiatives: military spending, a massive infrastructure program, including the interstate highway system, and direct grants to localities -- for the first time ever -- to help build sewer and wastewater systems. Contemporary portrayals of policy development in the 1950s neglect this fierce partisan challenge to the New Deal State.¹³ As David Mayhew has described this typical characterization,

¹¹ On the politics of choosing Hoover to chair the Commission, hereafter aptly named, "The Hoover Commission," see Arnold, "The First Hoover Commission and the Managerial Presidency," p. 50-52.

¹² Harvey C. Mansfield. 1970. "Reorganizing the Federal Executive Branch: The Limits of Institutionalization." *Law and Contemporary Problems* 35 (2), 483.

¹³ Typical of this account, among many, see: James MacGregor Burns, *The Deadlock of Democracy: Four-Party Politics in America* (Englewood Cliffs, N.J.: Prentice-Hall, 1963); James L. Sundquist,

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“For the Eisenhower years, those are often seen in policy terms as a forgettable interlude – a kind of time-out. Not much was happening under the former general often dismissed as a centrist place-holder.”¹⁴ Policy only started moving again with the declaration of a “New Frontier” and the inauguration of a young, ambitious new president. But such was not the case. Domestically, a firestorm of controversy mounted as the New Deal policy state matured. The suburbs continued to swell as millions of Americans fled the cities. Government policy fueled the growth of the suburbs, and responded in kind. The Federal Housing Authority continued to provide mortgage insurance for middle-class, white Americans seeking to purchase homes in stable, suburban neighborhoods; the Interstate Highway System expanded the possibilities of metropolitan living and made low-density communities possible; the Housing Act of 1954 provided direct aid to local governments to rebuild city centers; in 1956 the federal government provided aid to states and cities to construct wastewater treatment facilities for the new suburbs. Government emerged in new ways as well. The Court's 1954 decision in *Brown v. Board of Education* sparked an energetic campaign of resistance, prompting the federal government to flex its police powers, first in Little Rock, and then throughout the Deep South. Even the Cold War transformed American federalism. In response to the Soviet launching of Sputnik, the federal government sent millions to K-12 public schools as a result of the 1958 *National Defense Education Act*.

The implications of Eisenhower's presidentialism on the vertical distribution of State authority are less than clear and were reason enough for why the president commissioned a follow-up study to first Hoover. By the time Eisenhower entered the White House, the

Politics and Policy: The Eisenhower, Kennedy, and Johnson Years (Washington, D.C.: Brookings Institution, 1968).

¹⁴ David Mayhew, “The Long 1950s as a Policy Era,” in Jeffery A. Jenkins and Sidney M. Milkis (ed.), *The Politics of Major Policy Reform in Postwar America* (Cambridge, UK: Cambridge University Press, 2013).

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presidency enjoyed clear advantages over the Congress in setting the direction of federal policy; the Courts, too, had proved reticent to challenge the managerial presidency consensus.¹⁵

However, for all the change in governmental organization, states still retained much of their pre-New Deal status and authority. Writing in 1964, William Riker set out to categorize and numerically rank the relative roles of federal and sub-national governments in seventeen substantive policy domains. One thing was certain to Riker: “Both kinds of governments have grown with the nation, but the federal government seems to have become somewhat more conspicuous than that of the states.” And yet, when comparing the state-federal responsibilities between 1910 and the mid-20th Century, state governments had, according to Riker, only ceded primary responsibility in just four issue areas: economic production, monetary policy, care for the indigent, and civil rights.¹⁶ State-federal relations were certainly nationalized by 19th century standards, but neither the national nor the state governments were hegemonic following the end of World War II.

When Eisenhower also entered the White House, it was also the first time a Republican had led the executive branch in the aftermath of the New Deal's revolution in government expectations and presidential management. Republicans in the House and Senate eked out narrow majorities, providing the necessary political support for Eisenhower's campaign promises to reevaluate the totality of American governance that sprung up to compact two crises, foreign and domestic. Less than two months into his presidency, Dwight Eisenhower sent to the

¹⁵ It was not until 1971 when the Supreme Court fully articulated a theory of administrative rule-making under the Administrative Procedures Act in *Citizens to Preserve Overton Park v. Volpe* (401 U.S. 402). Better known is the 1984 Supreme Court decision in *Chevron, U.S.A., Inc. v. Natural Resources Defense Council* (468 U.S. 1227), which set a long-standing precedent of deference to federal agencies in how they interpret Congressional statutes and administrative discretion.

¹⁶ William Riker. 1964. *Federalism: Origin, Operation, Significance*. Boston, MA: Little, Brown, and Company, p. 83; a similar characterization, contemporaneous with Riker's, is also offered by Daniel J. Elazar. 1962. *The American Partnership*. Chicago, IL: University of Chicago Press.

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Republican Congress a proposal to study the changing nature of American federalism in light of the New Deal. On July 10, the Congress responded and established the U.S. Commission on Intergovernmental Relations in order to make sense of this transformative moment in American politics.¹⁷ Clarence Manion, a former supporter of Robert Taft's 1952 candidacy and dean of the Notre Dame Law School, was first tapped to lead the commission, before his advocacy for the Bricker Amendments drove a wedge between him and the administration. Yet, as Manion recalls, Eisenhower was an enthusiastic supporter of the new group, despite the controversy over its first chairman. "I agree we got to get them [states' rights] back," he remembered Eisenhower saying when choosing Manion, "But before you give the states their rights back, you got to leave them with something to execute them with. They' got to have the revenues and they've got to have access to tax sources in order to raise the money to execute those rights."¹⁸

With Kestnbaum as its new head, the Commission and its members styled themselves as a modern Constitutional Convention. Composed of governors (six of the 15 members), federal executives (three), professors (three), business leaders (two), and a mayor, the Commission was tasked, by Congressional statute, with three tasks:

1. Define the relations, allocate power to proper jurisdiction
2. Adjust fiscal relations so that each level of government operates in a "sound and effective manner."
3. Justify federal aid in areas where it is extended or limit it to cases of need.¹⁹

¹⁷ P.L. 83-109.

¹⁸ Manion also evaluated the eventual Kestnbaum report as follows, "Finally the President appointed Kestnbaum, a clothing man, and they eventually put out a report, which wasn't too bad. But of course, it wasn't the kind of report that they would have put out if I had stayed in." See: Interview with Clarence Manion by Maclyn Burg. April 2, 1976, for the *Dwight D. Eisenhower Library*. URL: https://eisenhower.archives.gov/research/oral_histories/.

¹⁹ PL 109 (July 10, 1953)

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In the final analysis, to fully understand the ubiquity of power of 21st century presidential-federalism – a conception that continues to sanction significant changes in government policy – it is necessary to take account of the Kestnbaum Commission’s implications for the institutional presidency. Directed to “examine the role of the National Government in relation to the States and their political subdivisions,” the Commission’s final report is both at once a comprehensive accounting of mid-20th century federal-state-local relations, and a call to empower the presidency in order to recover, and sometimes, re-define, what those intergovernmental relationships could look like. The tension between executive-centered management and the politics of non-centralized, deliberative, and experimental politicking run throughout the report, punctuated frequently with dissenting arguments from committee members representing both parties.

A Reinterpretation of Commission Reforms and their Effects

The eventual Kestnbaum report remains one of the most comprehensive surveys on post New Deal federalism to date. It is deeply theoretical, rich in historical detail, and draws on a wide array of data, especially budgetary, to understand the evolution of the federal system. It is split into two parts, of roughly equal size. The first considers the relationship between the national and state governments as a whole, emphasizing the changing fiscal nature between the two in the aftermath of seminal political developments such as the income tax, the Great Depression, and the diminishing fiscal base of the central city. The second part more closely examines specific policy domains, and examines the potential and problems of multi-governmental cooperation in each, from agriculture to welfare.

In many ways, the conclusions reached by the Commission are just as valid today as they were when first written. Volumes of additional scholarly work have confirmed the

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developmental accounts briefly sketched in its survey of American political history. Echoing Madison, the report concludes that "the almost continuous presence of a crisis, either economic or military, has accounted for vast expansions of National activities."²⁰ And, as a "decentralized agrarian society" gave way to the "political demands of an urban industrial nation," constitutional changes emerged to empower the federal government. Prohibitions on the states themselves, none more important than the general prohibition on running a deficit. The authors note that sequencing counts, and municipalities lost power when they needed it the most, as "the steady drift of the population to cities has run far ahead of the needed adjustments in municipal authority."²¹ Perhaps most problematic, the sustained reliance on the judiciary for working out the problems created more confusion than it was able to control: "So many judicial precedents of contrary tendency accumulated that the boundary lines became unpredictable and, indeed, a zone of governmental no man's land sometimes appeared to lie between them."²²

As a scholarly document, the Kestnbaum report is a fine work of political science. It is possible to quibble with certain details and emphasize greater degrees of cooperation that existed prior to the Progressive era. A small scholarly industry exists in making the point that the federal government exercised considerably more power in the 19th century than what was once believed.²³ Additionally, the report is perhaps too quick to gloss over the success many subnational governments enjoyed in regulating industrial growth in the absence of federal authority. Public safety and public health grounds justified a host of state and municipal

²⁰ The Commission on Intergovernmental Relations. 1955. *A Report to the President for Transmittal to Congress*. Washington, D.C.: Government Printing Office, p. 1.

²¹ *Ibid.*, p. 27.

²² *Ibid.*, p. 28.

²³ Stephen Skowronek. 2018. "Present at the Creation: The State in Early American Political History." *Journal of the Early Republic* 38 (1): 95-103; Brian Balogh. 2009. *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America*. Cambridge, UK: Cambridge University Press.

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interventions from intrusive vaccination laws, new building codes, fire and sanitary inspections, alterations to common law liability, and, most importantly, local zoning ordinances. Even then, the report's historical account is more often confirmed than seriously challenged.

However, the Kestnbaum report is not a scholarly document. It is, at its very core, a political one. Members were not asked to simply give a developmental account, or to present data on current government spending. They were tasked with evaluating the system, with making recommendations, and with identifying certain fundamental ends that federalism could achieve in the modern American polity.

To be sure, given the country's multiple political traditions and wide range of political movements, the very fact that the Commission considers federalism as a starting point gives the report a particular ideological cast. And yet, as we have seen, at various moments in American political history, both conservatives and Progressives have made a case for federated governance. Kestnbaum favored multiple governments instead of just one government. It is apparent that its understanding of federalism was founded on a fundamental appreciation for the rule of law and constitutional limits, which undergird constitutional politics. It is unequivocal in its assertion that there is absolutely a space, "in the field of concurrent powers...that the States can handle acceptably."²⁴ And for all those reasons, the Commission and its report remains celebrated as a conservative document, or as a moment of unique political resistance to the prevailing forces of post-New Deal liberalism that went seemingly unchallenged. It is an artifact, which demonstrates that the liberal consensus about the New Deal State was not all that consensual, and that there

²⁴ The Commission on Intergovernmental Relations, *A Report to the President for Transmittal to Congress*, p. 44.

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was deep suspicion about the federal government's ability to achieve the public's growing expectations.

It is too simplistic a reading to view the Kestnbaum report as only a challenge to New Deal liberalism. There are two ideological assumptions buried within the Commission's findings, which give it a bi-furcated character. Neither liberal nor conservative, it represents a watershed moment in the intellectual and political development of intergovernmental relations -- the full-scale justification of an integrated State, captained by a strengthened presidency. In specifying these two competing understandings of the federal system, we unearth much about the state of American federalism and the institutional impulses that undergirded the institutional reforms the Commission promoted -- reforms President Eisenhower and his successors successfully enacted.

The first assumption has already been discussed: federalism is, or at least can be, an appropriate way of arranging different government institutions. For this reason, Kestnbaum deserves its decades-long appreciation among students of federated government for the challenge it levied to more nationalist reformers. It is provocative in its insistence against standardization for standardization's sake: "If we are not willing to leave some room for diversity of policy, to tolerate some lack of uniformity in standards, even in many matters which are of national concern and about which we may feel strongly, the essence of federalism, even if not the legal fiction, will have been lost." It speaks about "enduring values," none more important than federalism's attention to civic participation and citizen voice.²⁵

The second assumption comes into conflict with the first: federalism is about properly sorted governmental activity. Federalism is not principally defined by its political character, in other words, but by the administrative arrangement of various government activities. To be sure,

²⁵ Ibid., p. 5.

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the Commissioners note quite early on in their report that the "problems of intergovernmental relations" are "not isolated problems to be completely surveyed or solved at one point in time. They are part and parcel of evolving public policy, requiring continuous study...this kind of debate will continue as long as our federal system endures."²⁶ However, it is quite clear both what is up for debate, and who gets to debate those fundamental political questions.

Participation, localism, experimentation, and citizen choice are all elevated throughout the report, but the Commission fundamentally exists to solve a problem through the process of sorting out government activity, making it easier for administrators to carry out their tasks, reduce redundancy in the system, and coordinate programs.

In a revealing paragraph, located on just page four of the mammoth report, the Commission elides what is *the* central question of designing federated systems: "The Commission does not essay a judgment as to whether unreadiness on the part of the States and localities or overzealousness on the part of the National Government, or both, may have caused the existing division of activities... The National Government and the States should be regarded not as competitors for authority but as two levels of government cooperating with or complementing each other in meeting the growing demands on both."²⁷ Later, as it concludes its sweeping history of American political development, the report further reveals its operative assumption: "Under our federal system, the division of responsibilities between the National Government and the States was once thought to be settled mainly in terms of power...The crucial questions now are questions of policy: Which level ought to move? Or should both? Or neither? What are the prudent and proper divisions of labor and responsibility between them?"²⁸

²⁶ Ibid., p. ix.

²⁷ Ibid., p. 4.

²⁸ Ibid., p. 33.

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Kestnbaum has a split character. Yet, in the final analysis, it shares more in common with the Progressive understanding of federated governance than with the framers of the U.S. Constitution. As with the Progressives, the key question is on how to secure proper administration of government. Administration -- properly coordinated, efficiently implemented, effectively integrated -- is an end of the federal system. Revealingly, this dual character is noted just as the report moves to its more substantive recommendations: "The task of this Commission, accordingly, is to determine, within the constitutional limits of National and State powers, and in the light of 165 years of practical experience, what division of responsibilities is best calculated to sustain a workable basis for intergovernmental relations in the future."²⁹

Constitutional limits and practical experience come into conflict, and when they do, the modern theory of intergovernmental relations sides with pragmatic solutions and administration innovation. If fiscal imbalance between governments was a problem, the system needed an administrative corrective to help correct it -- this time in the form of federal tax deductions for state and local taxes and bonds. Grants-in-aid to states and localities are complex, haphazard, and unsystematic? The Commission recommended further administrative fixes to reduce compliance costs, increase supervision, and encourage state participation. For example, in one recommendation that has come to define many federal grants-in-aid, the report recommended that Congress steer clear of setting precise amounts for specific tasks in an overall grant, and instead set minimum floors, giving states some authority in allocating the remainder of the financial award. There is no shortage of creative innovations -- anyone wanting to understand the degree of flexibility inherent in the field of public administration would benefit tremendously by reading through the bulk of the report.

²⁹ Ibid., p. 33.

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And yet, in stressing the need for coordinated and complementary government, the entire idea of conflict -- conflict animated by dueling administrative systems -- is lost. Federalism, as *The Federalist* describes, allows for cooperation when it is mutual and reciprocal. Federalism is also conflictual, and there are important political consequences to that conflict. Like the Progressives, the Commissioners agree in silence that the major political questions that produced the conflict of the past had finally given way, this time with the military and economic crises of world war and depression. There was still room for federalism in the American governing experiment, but only if it was sorted federalism. And, even if the distribution of policy authority changed over time, it changed because administrators either defined the problem differently, or devised new solutions to more efficiently combat it. The element of citizen choice was supplanted. The full dynamic nature of the federal system was constrained.

At several moments, the Commissioners themselves seem to recognize this. Federal grants-in-aid were among the most vexing problems the staff had to study. Simply grasping the full extent of federal intervention was an immense undertaking. Never, however, did the Commission challenge the idea of whether grants should be done away with completely. It could not. Grants were at the center of the current system, and if the goal was to make that system more operable, grants had to remain. The four governors on the Commission recognized this problem and, cordoned away in a lengthy footnote, object to the narrow administrative focus of the report's recommendations: "A grant-in-aid program should be the exception rather than the rule. Federal grants are not cloaked in magic. They derive their support from the same taxpayers that provide the wherewithal for all levels of government. If grants should become a part of every governmental activity, there is good reason to believe we would lose some of the substance

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of our present republican form of government and federal system."³⁰ How does one square such suspicions with dozens of recommendations to make the grant system more efficient, and thereby more likely to be used?

The reinterpretation of federalism is subtle and easy to overlook given the political context of the era. Moreover, because so many of the administrative correctives eventually become law -- setting the stage for decades of intergovernmental reform and adaptation -- it is understandable why the report, and President Eisenhower, receive much deserved credit for reenergizing interest in the principles of American federalism. But it is a particular type of federalism. And, just as the Progressives sought to anchor their theory of federated governance in the office of the presidency, so too did the Commissioners -- and all of its supporters on the left and right -- recognize that if federalism was to be defined as an administrative end, then the country's chief administrator needed to be empowered to make those necessary decisions. At the state and local level, governors and mayors needed enhanced authority to make decisions, negotiate with their federal partners, and integrate governments within their own jurisdictions.

To give the president greater control over intergovernmental relations, the report recommended new institutions at the federal level: a "center for overall attention to the problems of interlevel relations...located in the executive branch," comprised first of a special assistant in the EOP, and an Advisory Board responsible to the president that would convene meetings of governors, mayors, and "others."³¹ Collectively, these institutions emerged as the White House Office of Intergovernmental Affairs, and the U.S. Advisory Commission on Intergovernmental Relations.

³⁰ Ibid., p. 130.

³¹ Ibid., p. 86.

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Even with these new institutional offices, biased towards maintaining federated governance because of their respective constituencies, the report also echoes a revealing fault-line in the new paradigm of presidential-federalism. For all the benefits to be gain from reformed subnational institutions, the new advisory boards, and a more federalism-friendly EOP, the commissioners interjected a heavy note of caution: "The National Government now has within its reach authority well beyond what it requires for ordinary use; forbearance in the exercise of this authority is essential if the federal balance is to be maintained."³² As Madison might have responded, if men were forbearing, there would be no need for federalism.

The Office of Intergovernmental Relations and the Executive Office of the President

The White House Office of Intergovernmental Affairs (IGA) began with Eisenhower's appointment of former Arizona Governor Howard Pyle in February, 1955. The "office" remained small and informalized over the next 15 years, but the lack of an official presence in the West Wing did not make it inconsequential.³³ The administrative assistants and deputy secretaries who served in this capacity may not have benefited from this institutional ambiguity, but the role they served, and the capacity they developed to influence federal-state-local relations, grew over time. Under Lyndon Johnson, the office essentially split into two when Vice President Hubert Humphrey became the principal liaison with the nation's mayors; the Office of Emergency Planning (OEP) remained, as it did with President Kennedy, the *de facto* office for intergovernmental relations as it pertained to federal-state relations. Staffers were fixed to the

³² Ibid., pp. 34-35.

³³ The only scholarly account of the IGA simplifies the office's creation. While the administrative rank of the IGA director is, in 2019, what it was in 1955, there was not an official Office of IGA until President Nixon's action in 1970. See: Jason Hartke. 2006. "White House Office of Intergovernmental Affairs." In Joseph R. Marbach, Ellis Katz, and Troy Smith (eds.) *Federalism in America: An Encyclopedia*. Center for the Study of Federalism. Available On-Line at: <http://encyclopedia.federalism.org>.

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IGA inside the EOP, but were accountable to the vice president's office and the OEP until Nixon's tenure.

In 1974, Richard Nixon elevated the IGA to the status it enjoys today, as an official office within the revamped EOP, with direct lines of authority from the President's Chief of Staff. Nevertheless, as under Johnson, Nixon made Vice President Spiro Agnew its first director. The *pro forma* change signaled the president's commitment for improving intergovernmental relations, but it produced no functional change in the IGA. The office remained active under every successive president, taking on new responsibilities at the discretion of the chief executive.³⁴ As with most staff offices, the IGA rarely made headlines unless scandal or perceived ineptitude plagued one of its decision. In 1998, President Clinton issued a controversial addendum to Ronald Reagan's previous executive order on federalism and intergovernmental regulations; states were quickly able to secure a revision to that order after they publicly denounced the lack of White House communication, specifically from the IGA.³⁵ Then, during the transition into the George W. Bush administration, plans leaked that the administration was going to terminate the IGA as a separate office. State and local government interest groups successfully lobbied to maintain the IGA's presence inside the West Wing as a separate entity, arguing that it was the primary way subnational governments conveyed their interests to the presidency.³⁶

Lacking crisis, the IGA developed a tenacious capacity for intergovernmental consultation and communication. Under Ronald Reagan, the office grew -- a reflection of

³⁴ Bradley H. Patterson Jr. 2000. *The White House Staff: Inside the West Wing and Beyond*. Washington, DC: Brookings Institution Press.

³⁵ Sanford F. Schram and Carol S. Weissert. 1999. "The State of U.S. Federalism: 1998-1999." *Publius: The Journal of Federalism* 29 (2): 19.

³⁶ John Kincaid. 2001. "The State of U.S. Federalism, 2000-2001: Continuity in Crisis." *Publius: The Journal of Federalism* 31 (3): 49.

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Reagan's stated interest in reviving American federalism, but also the result of its Director's enthusiasm and skill, Mitch Daniels. Daniels' first White House position was inside the IGA, and during Reagan's tenure he transformed the office into the primary office for managing the president's response to issues brought by state and local governments. Daniels was especially attuned to using the IGA as a venue for helping state and local government navigate the flurry of Supreme Court decisions handed down in the 1980s on personnel management -- the development of a "mature federalism," aided by presidential outreach, as Daniels remarked.³⁷ The IGA also flourished under Democratic administrations, who lacked a specific agenda for intergovernmental reform. Under President Obama, the IGA ballooned into a substantial presence, with 18 full time advisors and assistants, none the more prominent than Valerie Jarrett, who directed the office. Under President Trump, the IGA consolidated much of its operations, but still exists within the White House Office. As of January 2019, Douglas Lynn Hoelscher oversaw the office at the level of a Deputy Assistant, still inside the EOP.

By giving the president the capacity to communicate with subnational governments, the new reformers of federalism believed that they had adequately addressed the threat administrative government posed to democratic choice and accountability. The Kestnbaum report, in particular, was concerned with the growing independence of administrators at the federal level and their disconnect from elected officials in the states and localities: "In the absence of such supervision and review, there is a tendency for groups of professional administrators in a single, specialized field, working at National, State, and local levels, to become a more or less independent government of their own, organized vertically and

³⁷ Martin Tolchin. 1985. "Telling Local Officials the Administration Cares," *New York Times*, July 3, p. A18.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

substantially independent of other State agencies."³⁸ Just as Wilson, Follett, and the other progressives sought to simultaneously enhance administrative government and democratic accountability through greater executive control, so too did this new form of federalism elevate the president's role, and often times the governors', in controlling administrative departments through more ritualized forms of intergovernmental communication.

The IGA, in whatever organizational structure it existed, acted as the primary access-point for subnational governments seeking White House assistance. It is, in effect, federalism's presidential "hot-line." The IGA is responsible directly to the president, but it serves a number of other constituencies. State and local government officials use assistants within the IGA to voice concerns, seek help managing the federal bureaucracy, and obtain information relevant to local-state-federal relations. The IGA also serves as a coordinating mechanism within the White House and the federal bureaucracy. The IGA-proper is an office within the EOP. But since Eisenhower's administration, cabinet departments have established their own offices for managing intergovernmental affairs. The IGA works with these departments, extending the political arm of the EOP deep within the intergovernmental bureaucracy.

Given its stature, the IGA has also elevated the status and influence of the intergovernmental lobby, or, as it is commonly referred to, the "Big Seven" interest groups that represent the interests of state and local governments in the federal halls of power: Council of State Governments, National Conference of State Legislatures, National Governors Association, National Association of Counties, U.S. Conference of Mayors, National League of Cities, International City/County Management Association. The IGA and the Big Seven have a

³⁸ The Commission on Intergovernmental Relations, *A Report to the President for Transmittal to Congress*, p. 44.

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mutually reciprocal relationship -- growth in size and stature of one has led to growth in the other. Once ensconced in the White House, their relationship contributed to further intergovernmental integration and expectations for presidential leadership over intergovernmental affairs.

In the final analysis, the IGA became the most overtly political of the president's tools for managing federalism. While the IGA does not serve the interests of a particular party, its role is, without a doubt, to serve the president's personal interests. Other offices inside the Executive Office of the Presidency, especially the budget bureau, held a dual character. Vested with an ideal of "neutral competence," such aspects of the institutional presidency were non-partisan in nature, existing to help "improve the capacity of elected leadership to get what it wants out of the government machine," as Hugh Heclo writes.³⁹ A cadre of career staff took directives from partisan appointees, but such offices were not expressly political. However, the IGA differed from its White House counterparts because its work is so clearly tied to the president's partisan goals. The IGA responded to crises affecting the president's electoral support and promoted the president's political agenda for transforming federalism by working directly with the Big Seven. Tasked with serving as a central focal point for elected officials in the states and localities, the IGA was envisioned as the counterweight to other administrative and statutory efforts to incentivize and coerce subnational governments into compliance with the president's program. The IGA, in other words, recognized the constitutional guarantees that prevented presidential command-and-control type action over the states. Rather, the office enhanced the presidency's ability to engage in a softer form of intergovernmental relations. If the overarching goal of the

³⁹ Hugh Heclo. 1975. "OMB and the Presidency -- The Problem of 'Neutral Competence'." *The Public Interest* (Winter): 82.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

budgetary and managerial reforms was to maximize programmatic efficiency, the overarching goal of the IGA was to build an independent constituency of support among elected leaders within the cities and states to support the president.

Institutionalizing Intergovernmental Communication

The IGA allowed President Eisenhower to further refine his position on transforming American federalism in his second term. Faced with an opposition Congress for six of his eight years, Eisenhower was a reluctant contributor to the development of a more powerful and expansive national government in the 1950s. The IGA, in part, served as an important political symbol to match the president's rhetoric against growing national responsibilities. It remained a testament to Eisenhower's belief that elected leaders within the states, and especially those at the state-level, had too hard a time getting their voices heard within the halls of Congress.

Howard Pyle, Eisenhower's Deputy Assistant for Intergovernmental Relations, proved to be an astute and vocal initiator on behalf of the president's new institutional capacities. Pyle lacked the staff support that allowed his successors to be an effective intergovernmental partner - support necessary to respond to state and municipal complaints or requests for service. Nevertheless, he was an energetic champion of Eisenhower's political agenda within the states, particularly in state party politics. Pyle was also not alone. Meyer Kestnbaum joined the administration also as a special assistant, and Robert Merriam worked with EOP staffers on coordinating their interdepartmental activities, primarily through the White House budget bureau.⁴⁰ Both these functions proved so essential that Kennedy and Johnson further

⁴⁰ Deil S. Wright. 1965. The ACIR: Unique Features and Policy Orientation. *Public Administration Review* 25 (5): 196-97.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

institutionalized these two roles inside the Budget of the Bureau during their tenure, setting an important precedent for decades of intergovernmental management.

Pyle's position reflected another dimension of the president's new federalism tool-kit -- one often overlooked by scholars of public administration. As important as the new managerial tools were to become, the IGA recognized that the line between politics and administration was blurry inside the White House. Presidents still had to campaign and win electoral support, and much of that took place in the states and localities. As such, it fell to Pyle to take the lead in surveying the intergovernmental partisan landscape in 1955 and 1956, as Eisenhower mulled over whether he would seek a second term in office. A vocal advocate for Eisenhower's candidacy, he worked in the open -- praising the president's conservative credentials in speeches across the country -- and behind the scenes in soliciting the support of Republican governors.⁴¹ Attending the 1956 meeting of the National Governor's Association just months before the party's convention, he successfully secured a petition, signed by every Republican governor, favoring the president's re-nomination. Eisenhower remained popular, so such a petition was largely ornamental, but Pyle used the opportunity to secure support for the more controversial re-nomination of Vice President Richard Nixon. Nixon, who used his own office and stature to help bolster the GOP's standing in state and local races, worked in tandem with Pyle's fledgling IGA to secure a unified front going into the 1956 general election.⁴²

The president also relied on Pyle in his efforts to expand the Republican Party's base, especially among young voters. Pyle's position as an administrative assistant for

⁴¹ Eileen Summers. 1955. "GOP Party is Stronger, Pyle Says," *The Washington Post*, 17 November, p. 63.

⁴² Stephen E. Ambrose. 1987. *Nixon: The Education of a Politician, 1913-1962*. New York, NY: Simon & Schuster; William Fulton. 1956. "21 Governors Tell Ike: Run Again! Surprise, They're Republicans." *Chicago Daily Tribune*, 27 June, p. 8.

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intergovernmental affairs always ensured that a strong anti-centralization rhetoric accompanied his outreach, even in his election-year appearance before the American Political Science Association's annual meeting.⁴³ Pyle's spotlight and knack for generating controversy made him a routine target on the campaign trail. Adlai Stevenson routinely excoriated the "White House assistant" who was responsible for the "deluge of reassurances and half truths" from the Oval Office.⁴⁴ Pyle, to be sure, was no household name, but few senior White House officials found themselves as embroiled in election year politics as he did. Following Eisenhower's landslide victory, Pyle's name routinely surfaced as a possible contender to the Republican National Committee, especially among those most aligned to President Eisenhower's vision for a big-tent GOP.⁴⁵ Despite not being chosen, he remained at the right-hand side of the president, fielding complaints from Republican governors and other state leaders as the GOP continued to suffer losses in off-year elections.⁴⁶ Pyle's White House correspondence is an expansive *Who's Who* of the Republican Party in the 1950s -- a testament to the still decentralized nature of the mass party system, but one that was becoming more presidency-centered each election.⁴⁷ Importantly,

⁴³ Bernard D. Nossiter. 1956. "Truman Accuses Ike Of 'Passing the Buck': Truman Accuses Ike Of 'Passing the Buck'." *New York Times*, September 8, p. 1; *New York Times*. 1956. "Party Briefing Sought: Young Republicans Going to Capital This Week-End," May 17, p. 20; *New York Times*. "Strong State Rule Advocated by Pyle," January 13, p. 19; *New York Times*. 1956. "Presidential Aide Gives View of G.O.P." September 8, p. 22.

⁴⁴ Harrison E. Salisbury. 1956. "Stevenson Scores President's Talk; Assails Arms Cut." *New York Times*, October 11, p. 1; *New York Times*. 1956. "Lehman Hits G.O.P. Over Rights Issue," October 8, p. 16.

⁴⁵ W.H. Lawrence. 1957. "Hall Warns G.O.P. on 1958 Elections." *New York Times*, January 20, p. 1; Robert C. Albright. 1957. "GOP Surveys Chairman Field." *The Washington Post*, January 20, p. A2; *New York Times*. 1958. "Eisenhower Plans a Wider Campaign." October 4, p. 22.

⁴⁶ Felix Belair. 1958. "Eisenhower Holds Campaign Session." *New York Times*, October 7, p. 1; Robert C. Albright. 1958. "Ike Sets Active Campaign Role." *The Washington Post*, October 4, p. A2.

⁴⁷ David B. Truman. 1984. "Party Reform, Party Atrophy, and Constitutional Change: Some Reflections." *Political Science Quarterly* 99 *(4): 637-655.

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offices like the IGA, staffed by politically savvy loyalists, helped to extend the president's arm deeper inside state and local party politics.⁴⁸

The politics of presidency-managed intergovernmental relations took on an entirely new dimension in the aftermath of the 1954 landmark case, *Brown v. Board of Education*. It is noteworthy that the Kestnbaum report made no mention of *Brown* and the foreseeable challenges presidents would face in implementing its decision.⁴⁹ Pyle served on the president's front-lines in defending the administration's respect for the court's decision, and in claiming that the president did not hold direct responsibility for ensuring compliance with the federal court's orders. Still controlled by the Democratic Party, the Southern States offered no immediate electoral benefit to Eisenhower. But Pyle remained at the forefront of the president's efforts to deliver a calculated message to Southern politicians in 1956 that they had much less to fear from a Republican presidency than a Democratic one on the issue.⁵⁰

In the summer of 1957, Eisenhower could no longer avoid the simmering tensions that engulfed the Southern states. In response to court orders mandating the desegregation of Little Rock Central High School, Arkansas Governor Orval Faubus ordered the state's National Guard to blockade the school and prevent any African American students from entering. After weeks of negotiation, Eisenhower reluctantly issued the orders to nationalize the entire Arkansas National Guard, and deployed the 101st Airborne to oversee operations.

⁴⁸ Dwight D. Eisenhower Library Abilene, Kansas; Pyle, Howard: Records, 1955-59

⁴⁹ In one of the few instances where the Kestnbaum Commission considers the relationship between state and nation as it pertains to civil rights, its conclusion is, nevertheless, unequivocal: The Commission believes that, in situations warranting action by some level of government, the following conditions justify National action within the National Government's delegated powers, when the lower levels of government cannot or will not act...When States fail to respect or to protect basic political and civil rights that apply throughout the United States." See: The Commission on Intergovernmental Relations, *A Report to the President for Transmittal to Congress*, pp. 63-64.

⁵⁰ *The Washington Post*. 1956. "Eisenhower and Byrd" October 31, p. A12; *New York Times*. 1956. "Text of Wagner-Javits Debate on Civil Rights." October 21, p. 74.

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Few of Faubus' fellow Southern governors supported their colleague's tactics; many openly objected to the Governor's grandstanding demagoguery and deployment of troops at a local high school. But with Eisenhower refusing to see Faubus after the Arkansas Governor had abjectly reneged on the plans they had brokered earlier that summer, the rest of the Southern Governors fretted over how the president's actions would manifest in their own states. Federal "occupation" of a Southern city was hard to spin, and the nationalization of state-run National Guard troops played into the hands of more ardent and inflammatory segregationists. Fortunately for Eisenhower, Pyle was at the ready, brokering a three-way conversation between the president, Faubus, and a delegation of Southern governors.

Pyle was center front at the negotiating table a week after the president's decision to send troops, when four Southern governors convened at the White House to negotiate a solution.⁵¹ Pyle represented the White House, and North Carolina Governor Luther Hodges spoke on behalf of Faubus, routinely leaving the table to relay advances to Faubus over the phone and seek his assurances. On October 1, all the parties had agreed to a solution that would have de-nationalized the National Guard.⁵² Faubus was instructed to give a public address written by the committee and Pyle that very same day. The speech made an undeniable assurance that the "orders of the Federal court will not be obstructed." But, when giving the address, Faubus added the words, "by me," at the very end. These two words, in clear defiance of their agreement, allowed Faubus to mischievously hint that he would permit others to do his bidding for him once federal troops left.

⁵¹ The Southern Governors Conference appointed Luther Hodges (D-NC), Leroy Collins (Chairman of the Conference, D-FL), Frank Clement (D-TN), Theodore McKeldin (D-MD), and Marvin Griffin (D-GA). Griffin, an arch "no compromise" segregationist refused to travel to the White House on the eve of meeting with the president. See: *Ike to Meet With 5 Dixie Governors Next Week on Little Rock Situation.*: Ike to Meet 5 Dixie Governor By Robert C. Albright Staff Reporter The Washington Post and Times Herald (1954-1959); Sep 26, 1957; ProQuest Historical Newspapers: The Washington Post pg. A1

⁵² On the significance of federalizing or nationalizing the National Guard, see: Martha Derthick. 1965. *The National Guard in Politics*. Cambridge, MA: Harvard University Press.

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As a result, the president refused to acknowledge Faubus' end of the bargain and rejected the compromise. What makes this a revealing moment of the new intergovernmental politics is what happened next. With Pyle and the Governors' delegation still present at the nearby Mayflower Hotel, they launched a full offensive in the press against Faubus' bad dealings, and the president's good faith. Unanimously, and with a deep sense of betrayal, the Governor's delegation placed full blame on their rogue compatriot. It is hard to imagine that Eisenhower could so deeply drive a wedge between the unified bloc of Southern Governors if not for the personalized politicking made available for his special advisor for intergovernmental affairs. Weeks earlier, President Eisenhower symbolized the South's deepest fears. Eisenhower was, without a doubt, no champion of rapid desegregation, but newly allied with leading politicians from the region, the federal government made a strong show of force on behalf of African American civil rights, without escalating violence in Arkansas or elsewhere in the South. Federal troops remained in Little Rock until the end of November, and the U.S. Army maintained control of the National Guard until the end of the school year. Yet, Faubus found himself isolated in a region replete with those sympathetic to his cause. In this case, having a venue for the states to speak mattered, especially if we consider how widespread and violent resistance to school segregation could have been throughout the South.

Civil rights enforcement was one dramatic area defining the new intergovernmental politics, but it remained a secondary, even tertiary, concern until the next decade. It was well understood that, in addition to handling the president's personal affairs with elected officials, Pyle would work hand-in-hand with Bryce Harlow, the President's special assistant for managing inter-departmental affairs within the federal government. Becoming a "true bureaucrat," as Eisenhower labeled him, Pyle and Harlow further reinforced the managerial conception of

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presidential-federalism, strengthening the institution's capacity to administer and sort out policy authority across various levels of government.⁵³ Over the course of his tenure, Pyle fielded complaints about the increasing compliance costs of federal grant programs. Increasingly, these complaints were loudest among the mayors of large cities, who lacked the comprehensive planning agencies that states acquired a decade earlier. Pyle used his White House position to coax federal agencies into dedicating their own resources to help localities. In doing so, the IGA was at the vanguard of compartmentalizing the federal government's role to one of providing "technical assistance" but not ready-made solutions for local problems.⁵⁴ After Eisenhower reduced the amount of money granted to cities for slum clearance and urban redevelopment loans (the principal federal-local grant program) by 30 percent in one year, Pyle brokered a highly-publicized White House meeting between the president and the nation's leading mayors, which extended federally-funded urban renewal programs for another year at the same rate (essentially doubling the amount of city redevelopment across the country in the late 1950s after Congress approved the plan).⁵⁵

The single largest testament to the growing importance of the IGA was Eisenhower's decision to expand Pyle's oversight of intergovernmental politics in the summer of 1957. By no account had Pyle succeeded in stemming the rising tide of federal government centralization, but enough had been growing right according to Eisenhower that he further extended the White House's involvement in managing intergovernmental politics. Speaking at the 1957 National Governor's Conference in Williamsburg, Virginia, the president laid out a new need to study the

⁵³ *New York Times*. 1959. "Pyle Takes Office as Eisenhower Aide," 2 February, p. 22.

⁵⁴ Leo Egan. 1956. "U.S. Role is Urged in Urban Affairs." *New York Times*, November 28, p. 53.

⁵⁵ Bureau of the Budget. *The Budget of the United States Government for the Fiscal Year ending June 30 1959*. Washington, D.C.: Government Printing Office, pp. 257-274; *New York Times*. 1957. "President Hears Mayors on Slums." April 9, p. 36.

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changing balance of power between the states and national government. Highly cognizant of the fact that he had just endorsed the Kestnbaum Commission's blue-ribbon study two years earlier, the president tried to extend their findings by drawing reference to his lengthened tenure inside the White House. "Theory and action are not always the same," the president admitted, as he noted all the new federal programs and initiatives he had endorsed, and often devised. Despite a sincere commitment to the contrary, at all levels of the federal system, Eisenhower confessed, he had so far proven unsuccessful in revitalizing American federalism. And casting blame on legislative meddling, he added, "I have gained little appreciation of legislative bodies, so I can understand why a Governor is tempted to wire Washington for help instead of asking the [state] Legislature to act."

The president's candor was followed by a penetrating insight. If state and federal actors had failed to achieve the right degree of balance between state and nation, even if both shared a similar vision, then what was missing? For Eisenhower, the solution lied in stronger lines of communication and institutions for cooperation. "By better cooperation between all echelons of government," the president declared, "the states can regain and preserve their traditional responsibilities and rights...I have a competent man and his assistants trying to identify those things where we believe the Federal Government has improperly invaded the rights and responsibility of states...[I] assure you that, if you see fit, as a body, to undertake explorations of the kind I have suggest in cooperation with the Federal Government, you will find a great deal of work done..."⁵⁶

⁵⁶ Dwight D. Eisenhower. 1957. "Text of Eisenhower's Address to Virginia Conference of State Governors." *New York Times*, June 25, p. 16.

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If lack of communication was the problem plaguing the federal system, it was clear who the voices of the new federalism would be: executives. Eisenhower used the Williamsburg address to announce another committee to study federalism, the Joint Federal-State Action Committee. Alongside 10 governors, chosen by the National Governors Association, Eisenhower appointed the remaining seven federal delegates, all with direct ties to the president: Robert Anderson, the new Treasury Secretary, served as chairman alongside the Secretary of Labor, James Mitchell, the Secretary of Health, Education, and Welfare, Marion Folsom, the Director of the Bureau of the Budget, Percival Brundage, and three special assistants, Meyer Kestnbaum, John Bragdon, and Pyle.

Tasked by the president with finding specific policies for sorting out state and federal responsibilities, they reached a compromise solution within three months of work. Fulfilling their role as a policy incubator, the action committee directed states to take a more active involvement in old age assistance, school lunch assistance, water pollution abatement, natural disaster relief, and aid to cities. Not only that, they identified a set of tax fields that would pay for the transition, if the federal government would surrender them: existing federal taxes on a range of activities, from local phone usage, to special permitting required for bowling alleys.⁵⁷ Those recommendations even made their way into concrete bills, drafted by the budget bureau and comprising a substantial component of Eisenhower's 1958 budget message to the Congress. And, while Congress never fully implemented the recommendations, it made moves in that direction on both the revenue and expenditure side of the equation. Communication worked. Even if the

⁵⁷ The committee estimated that existing programs to be turned over cost around 400 million per year, while releasing those tax fields would permit states to collect an additional \$540 million per year.

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gains from such exhaustive efforts were minor, the committee nevertheless demonstrated the virtues of executive-centered negotiation.

So successful were these efforts, in light of dramatic developments trending in the opposite direction, members of Congress sought to more fully institutionalize the process of intergovernmental communication. From these early efforts inside the IGA, another institution emerged, the U.S. Advisory Commission on Intergovernmental Relations.

The U.S. Advisory Commission on Intergovernmental Relations (1959 - 1996)

The creation of the ACIR represents the most significant challenge to this study's thesis regarding the development and power of presidential-federalism. In short, the ACIR was the child of Congress and it routinely hamstrung presidential efforts to reform federalism through administrative means alone. However, given its ideological origins, and the fact that presidents often proved successful in circumventing its authority, the development of the ACIR, in its own way, furthered the process of presidency-centered, intergovernmental integration. A Republican Congress eliminated the ACIR in 1996, but in its 37-year history, it helped to further solidify the developmental trajectories in place at the time of its creation.

It is, at first, very difficult to make sense of the fact that while the ACIR was created to protect subnational governments against presidential overreach, it was disbanded by a conservative Congress who feared that the ACIR was a driving cause of centralization and executive administration. The only possible way to reconcile this inconsistency is to make sense of its historical development. If the ACIR emerged as a countervailing power in the immediate aftermath of the New Deal, it would not have relied so heavily on the tools and mid-century frameworks of intergovernmental management as it did. However, because the ACIR began its work within a particular political context that prized executive management, delegated

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responsibility, and coordinated administrative structures, the ACIR helped to ritualize presidential control over the federal system. It was a conservative institution, but the very thing it was trying to conserve was decidedly modern and progressive.

The ACIR was the most significant source of data about intergovernmental relations in the federal government. Of all the institutions surveyed in this dissertation, none is more widely written about from an intergovernmental perspective than the ACIR. As a public commission, it largely set its own agenda in choosing what it wanted to study, taking its cues from the various policy agendas set by the president and Congressional leaders. There is hardly an intergovernmental program created between 1959 and 1996 that was not studied by the ACIR, and the research it conducted across the fields of public finance and tax reform remains a gold standard in the discipline. Many of the most prominent scholars of American federalism cut their teeth working as staffers in the ACIR, and the commission maintained close working relations with Congress and its relevant subcommittees, despite its independence.

However, the ACIR was a political creature, despite serving as a non-partisan representative of the federal system in the federal government. It was political in that elected officials served on the ACIR's governing board -- one heavily dominated by executives from all three levels of government. It was political in that presidents found ways to coopt its agenda, none more consequential than President Reagan's appointment of his Interior Secretary, James Watt, as chairman of the ACIR -- only the second time an executive branch member served as chair of the non-political advisory body. The ACIR was also political in that, by creating an entirely new venue for local, state, and federal officials to engage in federated politics, it further displaced traditional arenas for political contestation, namely, the legislative branch. Even though the ACIR was not an institution within the EOP, it had a clear bias in favor of executive

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management. As John Kincaid writes, "For most of its life, the ACIR's work reflected the generally liberal view of government that became so influential after the New Deal as to carry even the Eisenhower and Nixon administrations in the same direction...The data disseminated by the ACIR were reliable and respected, and the ACIR adopted many technical and managerial recommendations difficult to tag with party labels, but its analyses and interpretations were mostly congruent with the liberal paradigms..."⁵⁸

By further institutionalizing the information-gathering and reporting requirements that made presidential-federalism possible, the ACIR further closed off alternative ways of understanding federated governance among the politically empowered. In its advocacy for state and local governance, it prized the tools for executive management, strengthening the offices of the governors and mayors. As a result, presidents of both parties found opportunity to exploit the reforms the ACIR advanced, even though it was, by design, an institution that was supposed to help Congress get a better grip on the sprawling intergovernmental state.

Creating the ACIR

Eisenhower's Joint Federal-State Action Committee demonstrated the benefits of having a board that would act like a permanent Kestnbaum Commission. And, like the Kestnbaum Commission, the ACIR emerged from the set of recommendations promoted by the First Hoover Commission on executive management to develop "a continuing agency on Federal-State relations...with primary responsibility for study, information, and guidance."⁵⁹ Likewise, the administrative focus of the ACIR that dominated the Hoover and Kestnbaum studies was present

⁵⁸ John Kincaid. 2011. "The U.S. Advisory Commission on Intergovernmental Relations: Unique Artifact of a Bygone Era." *Public Administration Review* 71 (2): 186.

⁵⁹ The Commission on Organization of the Executive Branch of the Government. 1959. *Overseas Administration, Federal-State Relations, and Federal Research*. Washington, D.C.: Government Printing Office [first published 1955], p. 36.

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in the Congressional negotiations over forming the new permanent institution. "What is needed,"

former Minnesota Governor Orville Freeman told the committee

is the redirection of our energies away from the theoretical argument over a separation of State and Federal activity to a consideration of the deficiencies in the mechanism as it now operates. There are many deficiencies in Federal-State relations. We should seek to identify them and to develop sensible recommendations for their correction.⁶⁰

Importantly, the composition and function of the ACIR diverged from the Kestnbaum Commission's recommendations in several key ways. First, it was much larger. Comprised of 26 members, nine members served from the national government, fourteen were representatives of state and local governments, and three were from the general public. Second, it was more Congressionally-dominated than originally conceived under the First Hoover plan. Of the nine national representatives, three were from the Senate, and three were from the House; the Speaker appointed House members, while the Vice President appointed the Senate delegation. The President was responsible for selecting the remaining officials, but, by law, his ability was severely constrained. Various organizations representing the governors and mayors were responsible for nominating candidates when a vacancy opened. There was a bipartisan requirement that ensured rough parity for Congressional and state and local positions. "Rarely in our political history," Deil S. Wright argues, "has an official body been so diversely structured. Seldom if ever has an agency purposely represented a range of viewpoints drawn from as many official quarters of our decentralized political system."⁶¹

⁶⁰ Joint Hearings before Congress. 1959. *To Establish an Advisory Commission on Intergovernmental Relations*, p. 187.

⁶¹ Deil S. Wright. 1965. "The Advisory Commission on Intergovernmental Relations: Unique Features and Policy Orientation." *Public Administration Review* 25 (3): 195.

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Finally, it deserves noting that the ACIR, unlike many task forces, commissions, or boards, was a permanent creation. The authorizing legislation contained no termination date and no expectation that the job of the ACIR was ever to be "complete." It was to be a new, permanent feature of the federal system. As Wright summarizes, "The ACIR, therefore, was to be a fairly independent and neutral forum where prominent representatives of all the key policy makers in the intergovernmental system could identify important issues, deliberate, and recommend ways to improve intergovernmental coordination and efficiency."⁶² The commission's permanency pleased the leading organizations of the intergovernmental lobby, who were largely responsible for persuading members of Congress to adopt the enabling legislation -- thereby giving these organizations an enduring, high-profile seat at the intergovernmental negotiating table. The U.S. Conference of Mayors, the American Municipal Association, and 22 governors joined Meyer Kestnbaum -- then working in the White House -- to pressure members into passing, by overwhelming majorities, the necessary legislation.⁶³

Yet, even if the ACIR was a unique institution -- independent, permanent, and pluralistic -- its very creation legitimized the idea that it was the federal government's responsibility to ensure state and local government vitality. By statute, the ACIR had significant discretion in its "consideration of common problems," but among those problems defined by law were issues pertaining to intergovernmental "coordination," and "cooperation."⁶⁴ How remarkable it would have been if Congress designed an institution with the responsibility to ensure that states could remain insubordinate and uncooperative, if they so choose!

⁶² Ibid., p. 198.

⁶³ William G. Colman and Delphis C. Goldberg. 1990. "The Eisenhower Years and the Creation of the ACIR." *Intergovernmental Perspective* 16 (Summer): 19-23.

⁶⁴ P.L. 86-380.

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Preserving Presidential-Federalism inside the ACIR

The ACIR, therefore, is another case of a government agency designed by and to protect a particular constituency. In this case, the constituency was government itself, and a particular view of how that government was to operate. Over 37 years, the ACIR monopolized much of the conversation over what American federalism meant, and what American federalism could accomplish in an age marked by scientific progress and increasing public expectations for government service. The Commission and its staff issued 130 policy reports, with a heavy focus on tax duplication, generated 194 general information reports that provided information on current government activity, commissioned 23 polls of public attitudes about intergovernmental politics, and published 80 issues of its quarterly magazine, *Intergovernmental Perspective*.⁶⁵

The entrenched biases the ACIR promoted are evidenced over the course of its history in the public remarks of its commissioners, as well as in the reports themselves. They emerged in four distinct ways: the conflict ACIR posed to presidents bent on reforming intergovernmental relations, the ACIR's difficulty in handling new ideological issues on the left and right, namely civil rights and conservative statism, the expansion of direct lobbying by states and localities outside of the ACIR framework, and, finally, the ACIR's politicization in the 1980s and 1990s.

First, the ACIR was not designed to be a presidential institution. For this reason, presidents routinely gave the ACIR little thought, if not outright scorn. The ACIR was not supposed to be a political institution, but divided government could produce an ACIR chaired by a member opposing the president's political party. Such was the case when Frank Bane, the

⁶⁵ This tabulation is provided by Bruce McDowell. 1997. "Advisory Commission on Intergovernmental Relations in 1996: The End of an Era." *Publius: The Journal of Federalism* 27 (2): 112.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

former executive director of the Council of State Governments, was appointed to serve in 1959.

Bane's tenure also revealed that presidents were apt to loathe the independence of the ACIR chairman. Despite a shared political affiliation, Bane was a routine critic of President Johnson's Great Society. There were aspects of Bane's criticism that were ideological; conservative Democrats in Congress admired Bane's skepticism that federal government programs in areas such as education and vocational training could ever be managed well. But often the criticism channeled by the ACIR and its director was the consequence of the ACIR simply doing its job. Johnson - as most presidents try to do - went to great lengths to keep internal documentation of his administration's shortcomings secret. The ACIR, who had an independent capacity and statutory authority to collect information about intergovernmental program management, often reached conclusions about the Great Society's weaknesses similar to those discussed inside the Johnson White House, but the ACIR publicized their findings widely.

Johnson's advisors and Budget Director floated no less than three alternatives for the reorganization of the ACIR inside the White House during their five years in office. In each of those instances the goal was not to downplay the importance of intergovernmental relations, but to create an advisory body more beholden to the president's interests in the intergovernmental system.⁶⁶ Ultimately, such efforts failed when they could not convince Congress to provide the necessary authorization.⁶⁷ But the Johnson administration had, by early 1967, decided to strengthen the legacy of its creative federalism by further relying on administration task forces.⁶⁸

⁶⁶ Elmer B. Staats to Edmund S. Muskie. May 26, 1965, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 369; Charles Schultze to John Macy, "Memorandum: Future Role of the Commission on Intergovernmental Relations," November 22, 1965, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 364.

⁶⁷ Joseph Califano to Lyndon B. Johnson. January 17, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

⁶⁸ Lee C. White to Jack Valenti. November 14, 1964, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 370.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

To diminish the independence of the ACIR, Johnson tapped Farris Bryant to serve as the ACIR chair. As will be discussed, Bryant was one of the leading figures in Johnson's efforts to promote better state-federal relations inside the Office of Emergency Preparedness. When the BoB took over many of the intergovernmental liaison functions of Bryant's office, Johnson moved him into the primary leadership role at ACIR, reducing the amount and degree of criticism coming from ACIR staff reports. Richard Nixon and Ronald Reagan further politicized the ACIR and attempted to circumvent the institution's independence by appointing loyal chairman with direct lines of access to the EOP. Such moves sent strong signals about the presidents' respective commitments to intergovernmental relations, but also tempered the criticism the ACIR mounted against current government performance.

Likewise, presidents routinely chose to rely on their own institutional capacities for achieving intergovernmental reform in part because of the statutory independence of the ACIR. But the ACIR was predisposed for studying the "more or less practical problems" affecting government effectiveness, limiting the commission's work to studying issues that had "a strong probability of being accepted or at least of having a significant impact."⁶⁹ This had the effect of inflating the success rate, or actual influence of the ACIR on the political development of American federalism. More problematically, it meant that the ACIR was also ill equipped to handle the most pressing political issues of the 1960s and beyond, all while maintaining a claim that it was the preeminent venue for solving the problems implicating American federalism. The ACIR struggled to exert any considerable influence when intergovernmental administrative structures intersected with the politics of racial equality during the 1960s and 1970s. In the 1980s, when Ronald Reagan's social policies prescribed national regulatory standards over

⁶⁹ Wright, "ACIR," p. 200.

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abortion access, criminal justice, and drug policy, the ACIR was limited in what type of "intergovernmental perspective" it could bring to the ensuing culture wars.

In many ways these difficulties reflected the experience that earlier commissions had in trying to fix federalism and sort out state-federal functions. Evaluating the work of the ACIR's predecessor, the Joint Federal-State Action Committee, Morton Grodzins noted that the, "...committee initially devoted little attention to this problem [returning functions to the States]. Upon discovering the difficulty of making separatist recommendations, i.e., for turning over Federal functions and taxes to the States, it developed a series of proposals looking to greater effectiveness in intergovernmental collaboration."⁷⁰ By remaining ill-equipped to handle issues related to race and social equality, the ACIR became a stronger advocate of intergovernmental management, while failing to advocate on those issues that posed the most significant threat to maintaining constitutional federalism -- defined here simply as overlapping governments with overlapping jurisdiction.

It was only in 1995 that the ACIR took on the vexing problem of civil rights. The Unfunded Mandates Reform Act obligated the ACIR to explore the full range of intergovernmental regulations and evaluate their necessity to the American system. Since 1964, most federal civil rights requirements had been handed down through unfunded mandates or rules that would impose financial penalties for non-compliance. The reform law was clearly identified with the Republican Party's pledge in the 1994 midterm elections and its *Contract with America* to roll back federal regulations. The ACIR took its marching orders in stride, but also

⁷⁰ Morton Grodzins. 1960. "The Federal System. In U.S. President's Commission on National Goals." *The Report of the President's Commission on National Goals and Chapters Submitted for the Consideration of the Commission. Administered by The American Assembly, Columbia University*. Englewood Cliffs, NJ: Prentice-Hall, p. 267.

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had to work with a commission stacked by the new Republican majority. In reviewing over 200 possible regulations on state and local government, political leadership decided to focus on the 14 most controversial rules. Those 14 rules touched on the most foundational aspects of the American welfare state and their requirements for state and local governments: the American Disabilities Act (ADA), the Individuals with Education Disabilities Act (IDEA), OSHA regulations emerging from Fair Labor Standards Act. It even took aim at the most recent addition to the federal welfare state, the Family and Medical Leave Act, and its eligibility requirements for state and local government employees. The ACIR recommended that seven be done away with out right and the rest significantly reformed to ease the regulatory burden on state and local government.

At no point in the ACIR's history had public sentiment mobilized so ferociously against an institution tasked with government administration. Lobbyists and activists confronted members of the ACIR and organized letter-writing campaigns to their office. Members of federal agencies tasked with implementing the mandates under fire even waged a public counter-attack.⁷¹ The White House -- including its reelection committee -- organized Democratic opposition to the report in Congress. They flooded the hearing room when ACIR submitted its findings to Congress. Had the ACIR had any experience or history in negotiating this delicate terrain, the politics might have been different. To be sure, some members of the ACIR itself expressed their displeasure with the recommendations. Rep. Jim Moran (D-VA) pointed out that the meeting to make the final recommendations was held in the middle of the 1995 government

⁷¹ Richard Nathan - of Nixon's administration - was serving on the ACIR at the time of its termination and recounts the politics leading to its demise in: Richard P. Nathan. 2011. "Reflections of a Member of the U.S. Advisory Commission." *Public Administration Review* 71 (2): 177-180.

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shutdown, and suspected that a full quorum of members was not even present when the most drastic recommendations were introduced.⁷²

In an ironic twist of fate, the Republican Congress -- having engulfed the ACIR in partisan warfare -- subsequently terminated it after it failed to enact the changes it seems to have forced the ACIR to adopt.

The ACIR also fell victim to its own success. As a result of the ACIR's work, subnational governments became effective advocates on behalf of their own interests: namely, maintaining federal funding for state and local government activity. In the shadow of Johnson's Great Society, and still stacked with an advisory board motivated by the fiscal conservatism of the Eisenhower-era, much of the ACIR's initial work was oriented towards reforming state and local government -- administratively and electorally. This complemented many of the efforts the Johnson administration was exerting on behalf of similar objectives. It was only when the ACIR turned its attention towards criticizing the federal grants-in-aid program did Johnson lose enthusiasm for the work ACIR was accomplishing in bringing states, localities, and the federal government into closer administrative harmony.

Above all else, in helping to reform the strength of state governors' offices and legislatures -- done by writing model legislation, advocating for redistricting reform, studying intra-state fiscal equity -- the ACIR empowered subnational actors to advocate for state and local interests in lieu of ACIR support. Often, this produced contradictory pressures: the ACIR routinely advocated for federal restraint in a given policy domain, while state officials simultaneously lobbied for more financial assistance. Governors, in particular, took the lead in

⁷² Much of the information for the politics leading to the ACIR's demise is contained in the 1996 hearings on unfunded mandates reform: U.S. Congress. House. Committee on Government Reform and Oversight. *Hearings on the Unfunded Mandates Reform Act of 1995: One Year Later*. 104th Cong., 2nd Sess.

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developing new independent lobbying organizations that sidestepped the ACIR's advocacy for state-federal relations.⁷³

By reforming state and local governments, the ACIR provided an institutionalized venue for the "Big Seven" interest groups representing subnational governments, especially the National Governors Association and the U.S. Conference of Mayors. But when the ACIR recommended policy changes that pitted either of these two groups against one another (states versus locality, incorporated municipality versus county government), staffers proved unable to convince representatives -- with very specific geographic constituencies -- that the ACIR was a neutral arbiter in the federal political system. This was especially true in the 1980s, when the ACIR was dragged into an unsuccessful political fight between President Reagan and the organizations representing the nation's mayors and governors. While most of the ACIR's work was narrow and fits the description provided here, on two occasions -- 1969 and 1980 -- it released a comprehensive set of recommendations that were mammoth in scale. Beyond management and administrative tinkering, these reports called for the full-scale "sorting out" of government functions in a revenue neutral manner. In 1982, Reagan capitalized on the work of the ACIR to develop his on comprehensive federalism reform initiative. This package of proposals that would have made states entirely responsible for funding and administering the federal government's primary welfare program (AFDC), food stamps, and 43 other joint-funded programs in education, transportation, and community development. In return, the federal government would take sole responsibility for the state share of the Medicaid program, while

⁷³ Jennifer M. Jensen. 2016. *The Governors' Lobbyists: Federal-State Relations Office and Governors Associations in Washington*. Ann Arbor, MI: University of Michigan Press.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

removing federal excise taxes on various goods, from alcohol to telephones. In the end, the President estimated, states would come out on top by \$400 million.⁷⁴

Governors and mayors paid effective lip service to the rhetoric undergirding Reagan's New Federalism, but when negotiations started, they scuttled the plan and galvanized opposition in Congress. Local officials in particular grew increasingly outraged as the plans developed: by returning power to the states, the cities would lose the numerous grants that the federal government had provided just for them. State officials, too, recognized the political fallout that awaited them when, faced with new program responsibility and sources of revenue, they would not be able to avoid raising the necessary new taxes that Washington had collected for years.⁷⁵

Consequently, the ACIR suffered in the blowback from Reagan's failed efforts. The financial uncertainty surrounding major programmatic "swaps" and the political suicide many viewed as buried in the tax adjustment schemes, ended any desire to challenge the paradigm of integrated government. Even when the ACIR had promoted such efforts through its information and data collection efforts, it could not overcome the entrenched politics it helped to construct over decades of administrative reform and intergovernmental reorganization.

Finally, the ACIR benefited for a long period of time because it was the only institution that actually claimed to study -- or care -- about intergovernmental relations. However, in helping to nourish the academic study of intergovernmental politics, it planted the seeds for independent analysis outside of its organizational purview.

⁷⁴ "The President's Federalism Initiative: A Basic Framework," January 26, 1982. *The White House*.

⁷⁵ Timothy Conlan. 1998. *From New Federalism to Devolution: Twenty-Five Years of Intergovernmental Reform*. Washington, D.C.: Brookings Institution, pp. 170-190

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The ACIR deserves credit for encouraging decades worth of scholarship on intergovernmentalism. As Mavis Reeves writes, "The institutional memory lodged in its reports, records, and staff recollections serves those interested in past development...because of the wealth of information coming from its members and to its staff through field trips, conferences, visiting officials and scholars, and the continuing flow of materials across their desks, ACIR is able to identify and track trends better than the public interest groups."⁷⁶

The institutional presidency was the first to recognize as dangerous what Reeves and others celebrate as beneficial for the federal system. Other intergovernmental organizations were clearly oriented to follow the president's direction. Moreover, the state administrations established in the 1930s and 1940s under NRPB reforms were particularized, beholden to a narrow set of policy interests. As federal and state bureaucracies developed to mirror one another, intergovernmental relations thrived in these integrated networks -- what the ACIR later label "vertical functional autocracies" -- but no single institution claimed to study the federal system in its entirety.⁷⁷ The ACIR did, and when its recommendations conflicted with White House staff, the presidency sought to diminish its influence. Instead of relying on ACIR recommendations, Johnson relied on secretive, ad-hoc task force groups, comprised of EOP staff, outside experts, and loyal Johnson politicians. By centralizing the planning process inside the White House, the Johnson administration sought to bypass the primary voice for federalism inside the national government, the ACIR.⁷⁸ Just two years into his administration, senior aides

⁷⁶ Mavis Mann Reeves. 1983. "The ACIR: Its Mission and Operations." *Publius: The Journal of Federalism* 14 (3): 166.

⁷⁷ Advisory Commission on Intergovernmental Relations. 1969. *Tenth Annual Report*. Washington, D.C.: Government Printing Office; see also: David B. Walker. 1972. "Curbing the 'New Feudalists.'" *The Bureaucrat* 1 (1): 42-45.

⁷⁸ Joseph Califano to Lyndon B. Johnson. January 14, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 364.

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had grown tired of the ACIR's independence, and again contemplated establishing a Commission on Federal-State-Local Government relations in order to develop legislative and administrative priorities to complement White House initiatives. However, while White House officials recognized that something must be done to institutionally transform federalism – to make it work – they remained perplexed as to what to actually do. As Charles Schultze confessed to Joseph Califano that January, “Such a public commission is valuable when we know what we want and need a blue-ribbon group to bless it, but in this case, we don’t have the answers ourselves yet. The major problem is a very complicated Government organizational problem going deep into the roots of the Federal system.”⁷⁹

With the creation of the OMB in 1970 and the Congressional Budgeting Office in 1974, both the executive and legislature gained additional capacities to challenge ACIR recommendations -- especially those that contradicted rosy budget estimates elected officials often required. Increased capacity in these areas often meant that the ACIR was on the losing end of budget reductions that targeted the government's own operations expenses. Staff levels decreased from a high of about 50 researchers in the mid 1970s to about a dozen by the time ACIR closed its doors.⁸⁰ The discretionary account used to set ACIR priorities was gradually subsumed by a set of direct line appropriations for specific studies requested by Congress, further limiting the institution's flexibility to speak on issues affecting intergovernmental relations. In its last year of operation, the ACIR had no funding to enact studies of its own.

⁷⁹ Charles Schultze to Joseph Califano. January 7, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 51.

⁸⁰ Timothy Conlan. 2006. "From Cooperative to Opportunistic Federalism: Reflections on the Half-Century Anniversary of the Commission on Intergovernmental Relations." *Public Administration Review* 66(5): 666.

The Kestnbaum Commission, The Office of Intergovernmental Affairs (1955), and the U.S. Advisory Commission on Intergovernmental Affairs (1959)

The ACIR also had to contend with the rising number of public interest groups, which proliferated in the aftermath of the 1960s and early 1970s. The growth of think tanks and independent policy analysis groups further threatened the ACIR's monopoly on intergovernmental research. Many of those groups -- the American Enterprise Institute, CATO, the Heritage Foundation -- not only had more resources and clout than the ACIR, they defined federalism in the growing ideological valence of limited government and privatized service delivery. As a government entity in its own right, the ACIR even fell into the crosshairs of those organizations: In the shadow of the Unfunded Mandates Reform controversy, the Heritage Foundation added the ACIR to a list of useless government agencies, arguing that it "never played a serious role in the debate over pressing issues concerning the levels of government in the federal system."⁸¹

In the final analysis, no single issue on its own successfully changed the ACIR's ability to check presidential-federalism. In simplest terms, the pragmatic consensus that undergirded its creation simply cracked as the role of government itself was increasingly challenged in the 1980s and 1990s. To the extent that the ACIR had a defining mission to make "federalism work," and to the extent that in order to make federalism work, government must remain active, ACIR fell victim to the politics of a raw, disruptive conservative insurgency. While Newt Gingrich did not represent all voices on the conservative right, he, at the very least, led them. And his version of federalism did not square with the underlying ethos of ACIR problem solving. Republicans could still be in favor of devolution -- even non-centralized governance -- but as Gingrich wrote, "much as I sympathize with both state and local governments, what we really want to do is to

⁸¹ Ronald D. Utt. 1995. "Closing Unneeded and Obsolete Independent Government Agencies." *Backgrounder no. 1015*. Washington, D.C.: Heritage Foundation.

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devolve power all the way out of government and back to working American families. . .

Republicans envision a decentralized America in which responsibility is returned to the individual."⁸²

Speaking on the 25th Anniversary of the ACIR, Elinor Ostrom -- the first woman recipient of the Nobel Prize in Economics, and a former president of the American Political Science Association -- testified before Congress about all the ACIR's wonderful achievements. She admired the ACIR as unparalleled in its research efforts and its ability to generate data about complex governing problems. But, as Ostrom noted, the ACIR was built atop a simple assumption: "Phrases such as 'lopsided government,' 'suburban insularity,' 'the failure of States,' 'the maze of regional mechanisms,' 'the metropolitan mosaic,' 'the local government jungle,' 'obstacles to change,' 'discouraging proliferation,' 'unshackling local government,' et cetera, abound in ACIR publications...These are ideological terms. They are not ideological in the sense of relating to political parties. But they are journalistic, ideological terms..."⁸³ One might simply substitute the word "political" for ideological and make the same point. The ACIR was given the task of sorting out federalism, which was the very purpose of creating federated institutions in the first place.

In sum, the ACIR further advanced the doctrine and institutions of presidential-federalism, even though it was created as an institution to restore the traditional balance. Where it succeeded, it advanced the cause of presidentialism, and where its ambitions were cut short by

⁸² Newt Gingrich. 1995. *To Renew America*. New York, NY: Harper Collins, p. 105.

⁸³ U.S. Congress. Joint Hearings before the House Committee on Government Operations and Senate Committee on Governmental Affairs. 1984. *Twenty-Five Year Record of the Advisory Commission on Intergovernmental Relations*. 98th Cong., 2nd Sess., pp. 105-106.

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institutional jealousy or politicization, it further exposed the difficulties inherent in the intergovernmental system.

Conclusion

Students of the American presidency will recognize the IGA and ACIR as just another moment in the long political struggle to reorganize the executive branch. Both institutions were immediate outgrowths of the managerial presidency paradigm -- a perspective on governance that owes its theoretical origins to the Progressive Era, and pragmatic sensibilities to the 1937 Brownlow Commission. The Kestnbaum Commission and its institutional progeny are responses to the lessons learned by those early advocates federal planning and presidential management. Kestnbaum's ambitions, in many ways, were larger and more comprehensive because they sought to revamp the entire federal system even as they tried to color it as a return to traditional patterns of decentralized governance.

But decentralized governance presumes centralization.⁸⁴ To give back power to the states requires power in the first place, and the authority to redistribute it. And in establishing institutions that would ensure decentralized governance, the IGA and the ACIR legitimized the presidency's authority over those decisions, without establishing a clear incentive structure that would bias the institution towards decentralization. The ACIR was a compromise institution in that it did not reflect the full presidentialism of the Kestnbaum report. It nevertheless grew from the belief and extended the idea that the federal government had the obligation to actively restructure the incentives and capacities of governors, state bureaucracies, and municipalities in

⁸⁴ Daniel Elazar. 1976. "Federalism vs. Decentralization: The Drift from Authenticity." *Publius: The Journal of Federalism* 6 (1) 9-19.

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order to placate demands for policy outcomes – outcomes seen as something to be managed and solved, not politicized.

The IGA emerged because power brokers recognized that politics still counted for something. States and regions still had important political differences that national leaders had to consider. But the IGA also emerged because leading theorists of American government believed that the traditional structure for channeling those differences was outdated. Even Members of Congress joined in on the wide-scale attack against legislative representation. The new federal system, so it was believed, required more active, unified leadership within its constituent parts. The IGA would give the president -- the presumed leader of the nation -- direct access to the presumed leaders of the nation's various parts, the governors and mayors.

The ACIR no longer exists. The IGA remains within the Executive Office of the President, but rarely, if ever, does it make the stuff of headline news -- federalism reform rarely does. These developments are representations of specific ideas, yes. But they were also dramatically consequential during their respective tenure for what they accomplished. And, as with the reforms initiated by the National Resources Planning Board, their effects permeate throughout the entire federal polity. The IGA and ACIR galvanized a reciprocal response at the subnational level that elevated state and local executives into national politics. In the succeeding decade, Presidents Kennedy, Johnson, and Nixon would all have to contend with these powerful forces. The IGA and ACIR also ritualized new techniques for management and cooperation, ensuring that when these powerful voices collided, they nevertheless reinforced the trajectory of further intergovernmental integration.

The Bureau of the Budget (1960 - 1969)

Neither the White House Office of Intergovernmental Affairs, nor the Advisory Commission on Intergovernmental Relations succeeded in bringing about a fully integrated intergovernmental system. The problems of disjointed, uncoordinated governance persisted, but the gleam of presidency-centered, administrative federalism endured well into the 1960s. In fact, the energy and sustained attention paid to the issues of intergovernmental politics in the 1950s had the effect of pushing federalism further into the limelight of American politics. “Sometimes change occurs more swiftly,” Derthick writes, “and penetrates more deeply than others, and that was the case in the 1960s. One after another, constitutional thresholds were crossed. By the mid-1970s, American federalism had become something very different from what it had been fifteen years before.”¹

The Bureau of the Budget (BoB) provided the necessary information and capacity that allowed presidents to cross those constitutional thresholds. Measured in all sorts of ways, the federal government comprised a larger role in the day-to-day lives of Americans by the end of 1969 than it did ten years earlier. But federalism was not dead, despite proclamations to the contrary.² Such a simple dichotomy fails to capture the extent of the era's presidency-centered reform, and the degree to which those reforms depended on power and authority in the states and localities. By focusing on the politics of the president's budget bureau, this chapter helps us better understand how presidential politics in the 1960s allowed new governing patterns to crystallize -- patterns that continue to inform presidential power fifty years after their innovation.

¹ Martha Derthick. 2001. “Crossing Thresholds: Federalism in the 1960s” in *Keeping the Compound Republic*. Washington, D.C.: Brookings Institute Press.

² Michael D. Reagan and John G. Sanzone. 1981. *The New Federalism*, Second Edition. New York, NY: Oxford University Press.

The Bureau of the Budget (1960 - 1969)

Under Johnson the developmental process of intergovernmental integration accelerated to a dizzying pace. The driving catalyst of this era of reform was the BoB and then, in 1970, the Office of Management and Budget (OMB). The OMB remains the primary institution for channeling the politics of presidential-federalism, but its creation in 1970 was a response to the particular problems of the previous decade, but those issues remain recurrent in modern American politics.

Budgetary politics took center stage in the transformation of American federalism during the 1960s, primarily because of the unique administrative asymmetries between municipal governments and new federal agencies created during the decade. White flight, declining tax revenues, and heightened expectations for local services put significant stress on the administrative and fiscal capacities of local government at a time when the national government enjoyed budget surpluses and a wealth of political prestige, but lacked experience in the direct delivery of social services. These asymmetries provided ample opportunity for Johnson to leverage local administrative support in pursuit of his partisan goals. As those goals took on even greater spatial concentration, and as Congressional support for the administration waned, intergovernmental reform came to define the last two years of Johnson's presidency.

The developmental trajectory of the BoB is a complicated history -- one made all the more convoluted when considering its centrality to intergovernmental reform. For one, the BoB emerged as a center-piece of presidential power decades earlier after Congress passed the 1921 Budget and Accounting Act. Johnson was not the first to capitalize on the BoB's immense power. From its beginning, the BoB was front and center in presidential efforts to overcome problems of governmental coordination. Even when the federal government was much smaller, it was a challenge to know just exactly what was taking place in the institutionally compartmentalized

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federal bureaucracy. By collecting information, and by developing reform plans, the BoB enhanced the capacity of the president to both plan and carry out consequential directives.

As state, local, and federal governments became more fully integrated during and after the New Deal -- consequences of the NRPB, IGA, ACIR, and state planning boards -- coordination problems within the purview of the BoB took on a decidedly intergovernmental focus. Indeed, it is impossible to discuss the politics of the budget office without referring to the intergovernmental liaison functions of the IGA and the information-gathering capacities of the ACIR. Howard Pyle's only assistant as the first Deputy Assistant to the President for Intergovernmental Relations was Robert Merriam, a mid-level official in Eisenhower's BoB. And the BoB was charged with evaluating the costs and benefits of adopting the new ACIR, and specifying its relationship to the existing network of intergovernmental administrative procedures. The BoB, in fact, originally recommended that President Eisenhower veto the ACIR, because it did not give the president unlimited power to appoint certain individuals to represent the executive branch.³

Nevertheless, the heightened importance of the White House budget office is evidence of the changes to federated governance that intensified during the sixties.⁴ During the 1960s, and into the early 1970s, Presidents Johnson and Nixon sought to reform administrative and political structures within states and localities in order to expand presidential power. If the establishment of BoB in 1921 challenged the autonomy of federal agencies at the time of its creation, the OMB

³ See the letter from Budget Director Maurice H. Stans to the Chairman of the House Committee on Government Operations, William Dawson. U.S. Congress. Joint Hearings of the Intergovernmental Relations Subcommittee of the House Committee on Government Operations and the Senate Committee on Government Operations. 1959. *To Establish An Advisory Commission on Intergovernmental Relations*. 86th Cong., 1st Sess., pp. 205-206.

⁴ On the ideological and cultural foundations of this development, see: Hugh Hecl. 1996. "The Sixties False Dawn: Awakenings, Movements, and Postmodern Policy-Making." *Journal of Policy History* 8 (1): 34-63.

The Bureau of the Budget (1960 - 1969)

had a similar effect in challenging the autonomy of state and local governments when it was established in 1970. This was especially true as budgetary and administrative procedures displaced or competed with political processes that gave states and localities a role in Congressional deliberation and intra-party negotiations.

Over the entire course of the Johnson presidency (1963-1969), White House reformers devised new managerial concepts that would incentive cooperation between subnational governments and their national counterparts. Often, these efforts to encourage "voluntary cooperation" were welcomed by subnational governments. Reflecting a deep dissatisfaction with the system of federal grants-in-aid and bureaucratic procedures that emerged from the New Deal, state and city governments largely succeed in pressuring the federal government to alter the way it brought state and local officials into the planning, budgeting, and implementation of national policy; the vast expansion of the federal welfare state under the Kennedy and Johnson administrations provided many of the initial opportunities for states and localities to make these demands. The BoB was the best positioned office to prioritize these interests and construct innovative solutions. It was also during this period that the promise, or hope, of strong presidential leadership finally crested. The move to restructure American federalism not only emerged from the White House and exalted the presidency's role in fulfilling the conflicting ends of a federal polity, it also strengthened the position of the nation's mayors and governors to make similar, and sometimes competing claims on what the constitutional system demanded of its constituent parts.

Intergovernmental integration was a centerpiece of Lyndon Johnson presidency. There is little mistaking Johnson as the presidentialist he truly was, but he recognized that, barring major constitutional reform, the presidency would always face limits in the federal system. True,

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Johnson believed that a strengthened national executive could serve as the vanguard for bold, national programmatic action, and this perspective dominates almost any account of his time in office. As William Leuchtenburg describes, “Johnson’s desire to ‘out-Roosevelt Roosevelt’ not only did not succeed; it also led to his downfall.”⁵ To achieve his bold agenda, Johnson had to acknowledge and confront the intractable dilemma of multiple governments sharing power within a single polity. Like Roosevelt, Johnson sought to reform governing institutions at each level of government by drawing on a similar language of community building, local activism, and efficient provision of government services that placed the presidency at the center of reform. And, like Roosevelt, Johnson vowed that through the presidency, the federal government could reinvigorate the spirit of American localism that had made federalism a cornerstone of the country’s experiment in self-governance. Johnson pursued administrative reform underneath the banner of “creative federalism.” Compounding the developmental-adage that “new policies create new politics,” Johnson sought to retool the federal order and the place of subnational governments in that order so that new forms of politics guaranteed a particular set of domestic policies after his tenure. Creative federalism was legacy building.⁶

In this chapter, I look at the politics of the BoB and the political pressures related to intergovernmental integration, which helped to motivate their institutional transformation. These forces continue and give rise to the OMB. While the OMB responded a Richard Nixon's multi-faceted theory of governance -- and his overt hostility to federal bureaucracy -- intergovernmental politics was at the center of his decision to create a new, more powerful

⁵ William E. Leuchtenburg. 2005. “Lyndon Johnson in the Shadow of Franklin Roosevelt,” in Sidney M. Milkis and Jerome M. Mileur (eds.), *The Great Society and the High Tide of Liberalism*. Amherst, MA: University of Massachusetts Press.

⁶ E.E. Schattschneider. 1935. *Politics, Pressures and the Tariff*. New York, NY: Prentice-Hall.

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budget bureau inside the White House. Here, I consider the challenges emanating from a variety of sources in the governing system, particularly from states and localities, and how they intersected with actors within the Congress, the federal bureaucracy, and the public administration profession. In the BoB's demise, the problems of intergovernmental management flourished, giving rise to a new, more powerful administrative arm of presidential-federalism in the OMB.

Governmental reorganization, bureaucratic “modernization,” and the expansion of the executive office, were necessary complements to the programmatic achievements of the Great Society. By placing these political and policy reforms in historical context, this chapter suggests that far from erecting a barrier to enhanced national power, federalism provided multiple opportunities for presidents to enhance executive authority at all levels of governments and secure their domestic achievements.

The Bureau of the Budget and the Creation of Federal-Local Relations

Speaking at the University of Michigan in 1964 -- months after President Kennedy had been killed -- President Johnson sought to re-inspire a nation that had seemingly grown complacent with modern American governance. Far from recommitting his administration to the technocratic, centrist, and bureaucratic politics of the Eisenhower or even New Deal years, Johnson envisioned a new governing order -- one that depended on and nurtured America's traditional yearning for local government. “[I]n your time,” he told the graduating students, “we have the opportunity to move not only toward the rich society and the powerful society, but upward to the Great Society.” And yet, he cautioned, “the solution to these problems does not rest on a massive program in Washington, nor can it rely solely on the strained resources of local authority. They require us to create new concepts of cooperation, a creative federalism, between

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the National Capital and the leaders of local communities." Reporting on the president's bold proclamation, the *New York Times* did not give headline prominence to the moniker, "Great Society," but rather pasted on its front page: "President Urges New Federalism to 'Enrich' Life."⁷

Johnson's Great Society depended on federalism, but it was a re-imagined federalism. Central to his governing vision was the transformation of federal-local relations – the creation of new institutionalized linkages between the federal bureaucracy and the country's largest metropolitan governments. This new relationship was an extension of the integrationist politics his predecessors had championed. Previous reforms brought about a new perceived need for the federal government to help broker state-local disputes, extend the federal government's powers into urban politics, and serve communities of interest that were vital to the progressive agenda, especially urban, racial minorities. In many ways, Johnson was no different than Roosevelt or Eisenhower in sharing the presidency-centered conception of managerial federalism. His reformist ambitions, however, were more attune to the tradition of local participation and urban governance than his predecessors. And, as those ambitions extend into the city, he needed more precise tools for balancing presidential leadership and expertise with citizens' long-held desire to have a say in the direction of their communities.

Johnson also benefited from decades of intergovernmental reform and experimentation. His aides were trained by the innovators of intergovernmental relations, and understood its promise, as well as its pratfalls. In 1921, Congress established an independent budget office within the White House. By making the budget director directly responsible to the president, and by situating the office within a still small White House office, the BoB was a landmark act of Congressional delegation of power and responsibility to the president. The biggest loser,

⁷ Tom Wicker. 1964. "President Urges New Federalism to 'Enrich ' Life." *New York Times*, May 23, p. 1.

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however, was the bureaucracy in that it "denied federal agencies independent influence in the budget decisions of Congress."⁸ With direct responsibility to the president (the Director and Assistant Director were presidential appointments with no Senate confirmation), the BoB was tasked with collecting primary, almost exclusive, power to "assemble, correlate, revise, reduce, or increase the estimates of the several departments."⁹

Throughout the early 20th century, the BoB's power fluctuated. For the first two decades of its existence, it was widely regarded as a conservative, static institution. " Following the 1939 Executive Reorganization Act, the BoB moved into a revamped White House, serving alongside the National Resources Planning Board in close proximity to the president and his aides. Harold Smith, Roosevelt's new appointee, carved out a new role for policy innovation and presidency-led planning. It was Smith who earned the accolades of the seminal presidency scholar Richard Neustadt as a prime example of a well-organized White House: "Smith [was] the head in effect of the institutional staff-which was organized around that notable stream of actions-with-deadlines-attached, the budget process."¹⁰ After Roosevelt's death and Smith's departure, however, the budget bureau fell to the back of the presidential tool-kit.¹¹ The Bureau," staff members wrote in 1945, "came to operate increasing on the basis of settled routines...The indefinite postponement of administrative reorganization and the pride the Bureau took in its diminutive size combined to deprive it of opportunities for significant self-development."¹²

⁸ Larry Berman. 1979. *The Office of Management and Budget and the Presidency, 1921-1979*. Princeton, NJ: Princeton University Press, p. 4.

⁹ 42 Stat. 20 (1921)

¹⁰ Richard E. Neustadt. 1963. "Approaches to Staffing the Presidency: Notes on FDR and JFK." *The American Political Science Review* 57 (4): 857.

¹¹ Stephen Hess. 2002. *Organizing the Presidency*, Third Edition. Washington, D.C.: Brookings Institution Press.

¹² Bureau of the Budget. 1945. *Staff Orientation Manual*, pp. 16-17; cited in Berman, p. 8.

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Presidents Kennedy and Johnson once again elevated and reinvigorated the political role of the BoB during their respective tenures. During the presidential transition, Neustadt personally advised Kennedy on the importance of having a reinvigorated Budget Director - one who was "soaked in substance...a broad gauged policy advisor...not a cost accountant..."¹³ Both presidents promised an onslaught of new government programs and initiatives, and both faced a budget weary Congress that was combatting the first serious challenge to the post-war economic boom. Both Kennedy and Johnson placed trusted advisors in the BoB who transformed the bureau from a minor office of career accountants into a political office who used the tools of budgetary science to innovate policies, lobby politicians, and ensure compliance with presidential directives.

The BoB - while devised as an instrument for managing the old bureaucracies of a limited national government - was the only institution capable of transforming the American welfare state into a more service-oriented one, with overarching objectives to reform the institutions traditionally responsible for delivering assistance: state and local governments. Given the longstanding role of the president's budget bureau in helping the institution of the presidency, it is not surprising that it was central to the activist presidencies of Kennedy and Johnson. The specialized staff knowledge and oversight procedures gave BoB officials an unparalleled perspective into the workings and structure of federal welfare programs. Prior to the 1960s, the federal government had already experimented with a wide variety of initiatives to improve the human condition.¹⁴ Given the country's constitutional structure, that policy was fragmented,

¹³ Quoted in Berman, p. 67.

¹⁴ It is of little importance here to debate whether those initiatives first blossomed during the New Deal, or whether the "State" existed far back into the 19th Century. However, it is important to recognize that such a debate exists. See: Brian Balogh. 2009. *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America*. Cambridge, UK: Cambridge University Press; Stephen Skowronek.

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incremental, and took as the “unit-of-analysis,” the individual citizen, be it a veteran, widower, unemployed laborer, or destitute elder.¹⁵ Compared with the more rational and hierarchical welfare states of Western Europe, a new cadre of progressives lamented the New Deal's bureaucratic structure as haphazard, conflictual, and inefficient. In its special edition on government reform, *Harper's* in fact critiqued Roosevelt's famed experimental approach to recovery. “In the first fine careless rapture of the effort to achieve recovery,” it wrote,

new agencies proliferated on a dizzying scale...All these new agencies were at odds with existing departments...For doling out federal funds they employed a bewildering variety of devices – loans, grants, insurance programs, easy credit programs, purchases of goods and series – that bore no coherent relation to one another. There really was a ‘mess in Washington,” and none knew it better than the President himself. In 1936, commenting on the strategy that Alf Landon should best use against him in the campaign of that year, Roosevelt said, “I would cite chapter and verse on inefficiency.”¹⁶

The shift toward *community development* was therefore a distinct feature of post-World War II public administration – one that was motivated by a critique of New Deal policymaking and the rigid bureaucracies it established. The community development approach, by contrast, was institutional in focus. Previous attempts to solve the country's social and economic problems had failed because they relied on traditional structures that supplemented government action already in place (grants to states and localities), which primarily provided financial assistance directly to individuals with little control over how that money was to be substantively used.

Walter Heller, chairman of the Council of Economic Advisors (CEA) under Kennedy and Johnson, was a leading scholar of the new approach to community development and worked in

1982. *Building a New American State: The Expansion of National Administrative Capacities: 1877-1920*. Cambridge, UK: Cambridge University Press.

¹⁵ Karen Orren and Stephen Skowronek. 2017. *The Policy State: An American Predicament*, Cambridge, MA: Harvard University Press.

¹⁶ Joseph Kraft. 1965. “The Remarkable Mr. Gordon and His Quiet Power Center.” *Harper's Magazine*, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 55.

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tandem with BoB officials to decentralize Johnson's War on Poverty. The CEA was an off-shoot of the abandoned NRPB, and relied on staffers inside the BoB for analysis and data gathering support. An economist by training, Heller rose to prominence in a White House full of aspiring and prominent thinkers because of his first-hand experience in rebuilding the government of West Germany under the Marshall plan. A strong advocate of federal systems and decentralized policy implementation, Heller was committed to the new revisionist school of public administration and believed it could be made to fit squarely within America's constitutional structure.¹⁷

It was Heller who first brought the administration's plan to eradicate poverty to the newly sworn-in President Johnson on November 24, 1963. It was bold and revolutionary.¹⁸ It called for massive increases in federal spending, new proposals for job training and social-service delivery, and an audacious call to make sure that those receiving government benefits had a hand in influencing how those benefits would make their way to communities in need. It was also a work of political science – a plan that rested on unearthing institutional relationships and their pathologies. From day one, the Great Society was more than money and policy experimentation. It was about programmatic coordination of politically independent actors and the creation of national goals within a system that simultaneously maintained independence for problem identification. The programs were to be the creation of new solutions devised within local communities, which would depend on the participation of previously marginalized voices.

¹⁷ On Heller's influence inside the Kennedy and Johnson administrations, see: Nicholas F. Jacobs and James D. Savage. 2018. "Kennedy's Keynesian Budgetary Politics and the 1962 Public Works Acceleration Act." *Journal of Policy History* 30 (3): 522-551.

¹⁸ Transcript, Walter F. Heller Oral History Interview 1, 20 February 1970, by David McComb, Lyndon B. Johnson Library, pp. 20–21.

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Simultaneously, these new structures would champion the perspective of social scientist, urban planner, and expert-professional who knew best. It was "creative federalism."

Creative federalism was an attack on constitutional restraint and legal forms that limited governing power, but never did it completely threaten America's federal structure. The most problematic feature of the U.S. Constitution identified by liberals in the 1960s was not the restraint on *federal* power – that debate had ended during Roosevelt's third New Deal and the court's eventual acquiescence to national regulatory authority. Rather, the Constitution proved to be an inadequate document because it restrained *local* power. "Creative federalism is not concerned with the dialog of States rights or local rights versus centralized Federal power," Edmund Muskie (D-ME), the administration's Congressional champion of creative federalism argued. "This debate belongs to the past. Rather, it accepts the expanding role of State and local governments to take on greater political and administrative responsibilities as the Nation grows. At the same time, it relies on a strengthened Federal role to provide new ideas, incentives, and resources to the States and localities to meet common goals."¹⁹

Because the Constitution only articulated a set of institutions for mediating state and federal power relations, localities remained subjected to the vicissitudes of state control and in need of reform. States were to blame in permitting both the proliferation of local entities, but without delegating the governing powers necessary to solve problems in their jurisdiction. The 1962 Census of Governments reported that there were over 90,000 such units operating with the 50 States; the Advisory Commission on Intergovernmental Relations, in a 1961 report, labeled this "a bewildering pattern because of their extreme numbers and their frequent territorial

¹⁹ *Congressional Record*. 1966. Edmund Muskie, "The Challenge of Creative Federalism," 89th Cong., 2d sess., p. 6500.

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overlapping."²⁰ And yet, the prevalence of local government in the 1960s did not guarantee that these entities maintained any real power or authority for responding to local problems. States – largely dominated by rural interests in the state legislatures – set strict limits on municipal governments and their ability to raise revenue or finance debt to fund capital improvements.

Additionally, one other particular problem was evident to theorists of creative federalism: local communities spilled over and beyond the traditional boundaries of states. Major cities on the borders between one state and another challenged the relevance of boundaries imposed years prior to the development of massive metropolitan regions. It was little relevance to reformers whether states ever adequately captured distinct cultures or communities of people. It was apparent to them, however, that with the development of urban centers, those boundaries were insufficient devices for capturing and channeling local problems. Demographic and economic changes did not challenge the principal of de-centralized, or even non-centralized government on its face. It challenged the relevance of specific constitutional guarantees for specific loci of power. “The federal idea is as valid as it was 175 years ago,” Edmund Brown, Governor of California, advocated, “but... we must change the way we are using the idea. And the growth of our urban focus, the needs of the metropolis, the concentration of industrial activity demand that the improvement be made at once...”²¹ The movement of people from the country-side to the city did not incur a shift in political power from the state to the locality.

Creative federalism sought to construct a new place for local-federal coordination. As a part of that coordination drive, BoB would become a leading advocate of administrative cooperation at the local level, pursuing municipal reform, metropolitan consolidation, and

²⁰ U.S. Advisory Commission on Intergovernmental Relations. 1961. *Governmental Structure, Organization, and Planning in Metropolitan Areas*. Washington, D.C.: U.S. Government Printing Office.

²¹ “Draft of remarks by Governor Edmund Brown to Harvard University, Littauer Lecture,” January 9, 1964, in *White House Central Files: Executive File, Speeches*, Lyndon B. Johnson Library, Box 52.

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brokering state-local disputes. With the presidency squarely at its head, these new tools for intergovernmental management allowed the federal administration to transform American governance, centralizing political authority under the guise of delegation and decentralized decision-making.

Turning Creative Federalism into a Program for Change

Executive authority provided a ready-made solution to overcoming the constitutional problems of fragmented, asymmetric power between the federal government and locality. The nation's largest cities all had a chief executive, and to the extent that the White House could communicate directly with their offices, strengthened mayoral authority could at once insure the successful administration of national programs, while building localized support for their continuance. Or, as Charles Haar, the Assistant Secretary for Metropolitan Development in the Department of Housing and Urban Development, argued, "the problem of finding an institutional form into which the functional reality of the metropolitan community may be fitted is far more than simply an exercise in creative and disciplined imagination." It was a political problem, and the need to overcome inherited political power arrangements dictated the terms of Johnson's creative federalism.²²

In the first instance, Johnson and his aids developed a set of programs that represented a fundamental revision of New Deal bureaucracy -- as sensitive as it even was to problems of decentralized governance. While recognizing that the New Deal was the first effort -- in their minds -- to deal with the problems of urban growth, liberals' "pragmatic habits dictated a response that was essentially covert...for thirty years, the common characteristics of urban aid

²² Charles Haar. 1967. "A Framework for Planned Metropolitan Development," Address before the Urban Law Institute at Indiana University, February 17, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

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programs we two: they came piecemeal; they came partially disguised under the rubric of another national purpose.”²³ Whereas the New Deal attacked social problems by subsidizing pre-existing state and local programs or by building parallel administrative structures, the Great Society depended on bringing the full force of government, at all levels, to bear down on the problems of city life in a coordinated fashion.

In reinvigorating government, Johnson and his allies extended the New Deal vision of a presidency-centered democracy to incorporate executive authority at the local level.²⁴ Mayors shared with the president a reformist aspiration to break down traditional power relations to direct administrative energies and fiscal resources towards the problems of city life.²⁵ “Mayors do not have the time to question the philosophical issues raised by this new relation,” Detroit’s Mayor Jerome Cavanaugh argued. When the states only offer the “occasional Band-Aid to close up the septic wound in our cities,” while the federal government “has offered sutures and penicillin...we only grasp for the help offered by Washington.”²⁶ And, just as Johnson and his aides held true to the belief that the presidency occupied an unparalleled position within the federal government to identify problems and create new solutions, so too did they champion the mayoralty for its ability to energetically defend the prerogatives of liberal administration.²⁷

²³ Robert C. Wood to Joseph Califano. October 5, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

²⁴ Sidney M. Milkis. 1993. *The President and the Parties: The Transformation of the American Party System Since the New Deal*. Oxford, UK: Oxford University Press.

²⁵ As Hubert Humphrey, Johnson’s Vice President and bedizened liaison with the nation’s mayors, once remarked to the president, “wherever I go I find local government officials anxious to break down the old barriers, and exhibiting a deep desire to cooperate with us in accomplishing the objectives of your program.” Hubert H. Humphrey to Lyndon B. Johnson. December 20, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

²⁶ Jerome P. Cavanaugh. 1968. “The Urban Crisis and Federal-State-Local Relations,” *Bulletin of the New York Academy of Medicine* 44 (2): 159-165.

²⁷ Richard E. Neustadt. 1990. *Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan*. New York, NY: The Free Press.

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In much the same way that mayoral authority could counteract the power of a state governor – if tied to presidential ambitions – mayors could exercise the necessary leadership over a sprawling city government. The fastest growing governments were local, but few municipalities functioned under a “strong-mayor” form of rule. Echoing the logic of Woodrow Wilson, Richard Steiner argued that, “We have to find new ways of centralizing responsibility...In local government, generally speaking, we have good individual departments each going its own way. It’s an orchestra with each highly competent many playing his own instrument. But we need a conductor to lead the orchestra... [we need to] increase greatly the effectiveness of centralized administration in cities.”²⁸

Nevertheless, mayors had to remain electorally accountable, and these institutional reforms had to remain sensitive to the leftist critique that most New Deal programs were too removed from citizen control. Johnson’s Great Society was presidentialist, but echoing a long-line of Progressive thought, it was not insensitive to the ideal of civic virtue. Broad-based participation in politics was a means to ensuring that the vigor and confidence necessary for a full-fledged assault on poverty endured beyond any single presidential administration. In this way, Johnson’s creative federalism sought to nurture the illusive ideal of participatory democracy that Progressive-Era reformers early in the century also lauded. None other than John Dewey recognized that “Democracy must begin at home, and its home is the neighborly community... [and] Unless local communal life can be restored, the public cannot adequately resolve its most urgent problem: to find and identify itself.”²⁹ In heralding civic participation in local organizations as a programmatic instrument for service delivery, the Johnson White House

²⁸ Richard L. Steiner. 1967. “Reaction to: The Federal Role in Creative Federalism: The Next Step Forward,” in Donald E. Nicoll (ed.), *Creative Federalism: William A. Jump-I. Thomas McKillop Memorial Lectures in Public Administration, 1966*. Washington, D.C.: Graduate School Press, p. 53.

²⁹ John Dewey. 1927. *The Public and Its Problems*. Denver: Alan Swallow, p. 213, 216.

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furthered distinguished itself from its New Deal-era liberal counterparts. “A larger ‘dole’ is not the answer,” Johnson’s Budget Director Charles Schultze argued. “The poor must become producing members of the American society. The war against poverty can only be one at the local level, mobilizing and unifying the resources of the local community. The battle won’t be won solely by handouts and program direction from Washington.”³⁰

Creative federalism would be different because it would uncap the energies of local government and local communities, but in response to presidential directive and leadership – a bottom-up response to nationally-defined problems. Consequently, the programs comprising the War on Poverty were decentralized by design. Johnson could have created new agencies that operated directly on the citizenry, without involving state and local governments. The War on Poverty could also have continued the traditional grant-in-aid system of the past. Instead Johnson's plans were just as much about material inequality as the political processes that allowed poverty to fester in a land of abundance.

With the passage of the 1964 Economic Opportunity Act, Congress gave wide latitude to the Johnson administration for reinventing government at all levels of the federal order. Volumes of scholarly work uncover the rich history of these programs: the institution of a domestic Peace Corps, or VISTA, the Jobs Corps and Neighborhood Youth Corps, and dozens of loan programs to assist the needy in both urban and rural America. These programs, too, complemented other legislative initiatives: the Food Stamp Act of 1964, the 1965 Elementary and Secondary Education Act, and the creation of Medicare and Medicaid in July 1965. However, the War on Poverty and the outpouring of new federal monies was both policy-oriented and procedure-oriented. In its successful efforts to subsume political contestation and invigorate policy

³⁰ Charles Schultze to Lyndon B. Johnson. September 18, 1965, in *White House Central Files: Executive, WE9*, Lyndon B. Johnson Library, Box 26.

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experimentation, the BoB enacted a collection of new administrative processes with little, if any, Congressional input. Federalism could be made to “work” if political actors were cooperative and coordinated instead of competitive; if administrative entities were functional rather than territorial; and so long policies nurtured experimentation, administrators could redefine a federal system that was redundant, too slow to respond, and chaotic.³¹

There is not a single actor inside the Johnson White House that did not, at some point, speak the theology of this new “creative federalism,” but it was Joseph Califano who was dubbed its “prophet.”³² Califano, appointed as a special assistant to Johnson about a year into the administration's anti-poverty efforts, spearheaded the bureaucratic make-over of federal-local relations. As the president’s chief domestic policy advisor, Califano was the top advocate in weaving the rhetoric of creative federalism through some of Johnson’s most influential addresses, and in securing its realization inside the halls of federal and local bureaucracy. Califano’s most relentless allies were found inside the BoB and inside the Department of Housing and Urban Development (HUD). The BoB, led for most of Johnson’s tenure by Charles Schultze, seized on the pragmatic implications of more streamlined, cooperative administration for the purposes of planning and evaluation. Schultze was also keenly attune to the politics of aligning federal goals with community organization and local autonomy. Both Schultze and Califano recognized that their success in creating and managing new forms of presidential power over intergovernmental relations would also stave off any attempt by the Congress to preempt executive authority.

³¹ Charles Haar to Joseph Califano. May 16, 1966, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

³² Circulated copy of the Committee on Government Operations report, “Five-Year Record of the Advisory Commission on Intergovernmental Relations and Its Future Role,” in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 364.

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The Budget Bureau and the Techniques of “Voluntary Cooperation”

Califano and Schultze -- armed with the managerial and administrative power of a strengthened BoB -- sought to position creative federalism as a new middle ground. It was not wholly subservient to state and local authority -- an alternative hardly preached inside the halls of Congress. Nor was creative federalism the menacing Leviathan of State centralization.

The more radical opponents of the president's creative federalism offered up compelling alternatives to strengthen county governments, grant stronger annexation powers to central cities to consolidate localities, or create a new mediating institution between city and state – the metropolitan authority. Califano, Schultze, and the many other evangelists for Johnson’s creative federalism rejected that strict “doctrinaire thesis concerning this academic dispute.” Rather, theirs was a question on how to create a mechanism for sustainable, ordered, cooperative, development, given the tools the American constitution gave them. To capture the fiscal and administrative resources that states and localities possessed, they used federal administrative procedures to strengthen state and local executive authority and tie such authority more clearly to the president's agenda, without having to enact massive constitutional change at the state or federal levels.

By strengthening executive authority at the subnational level, the BoB sought to enhance the discretion governors and mayors had over federal grant programs. Discretion would help ensure "voluntary cooperation" with the president's agenda. Importantly, that discretion was not unbounded, but rather gave executives various opportunities to pick and choose the final beneficiaries of federal dollars. And, since most federal grant programs supplemented state and local funds, decisions made through federal procedures affected the distribution of resources initially gathered at the local level.

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By tying mayoral and gubernatorial authority more clearly to the president's agenda, BoB created a willing, cooperative partnership among executives. Often, this was achieved simply by making it easier to take advantage of federal programs. But, since those federal programs extended the reach of the president's administrative power, reforms in the name of programmatic efficiency had political implications as well. Mayors and governors grew more dependent on the president's leadership as an administrator and as a politician. The political momentum for certain programs solidified into political coalitions that relied on specific grants, regardless of their effectiveness or relation to other programs. States and localities did not disappear -- in fact, the power they exerted over the day-to-day lives of their citizens increased as a result of the Great Society's decentralized structure. However, the amount of autonomy they could exercise over that power dwindled in the name of cooperative governance.

Voluntary cooperation informed the BoB's efforts to develop routine relationships with the leading professional organizations representing mayors and governors.³³ Within the first year of the administration (in fact, prior to Califano's tenure), BoB officials developed a strong working relationship with the Council of State Governments and the U.S. Conference of Mayors on how to streamline internal White House policies to assist governors and mayors in the implementation of federal policy.³⁴ Such guidance was more than symbolic. It allowed executives to take credit for new programs and good-government reforms with little wasted political capital. Regardless of ideology or party, governors and mayors railed against the New Deal State's intergovernmental structure -- one dependent on states and localities seeking out and

³³ On this trend, see: Donald H. Haider. 1974. *When Governments Come to Washington: Governors, Mayors, and Intergovernmental Lobbying*. New York, NY: Macmillan. And, more recently, Thomas K. Ogorzalek. 2018. *The Cities on the Hill: How Urban Institutions Transform National Politics*. New York, NY: Oxford University Press.

³⁴ William K. Brussat to William Carey. August 5, 1964. in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 3.

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then applying for various grant programs. To be sure, the majority of those grants – 219 of the then 379 different programs available in 1966 – had been added since 1961. But complexity bred frustration, even among those that still held the faith in stronger, national government.³⁵ In reforming the system and allowing mayors and governors to eke out a variety of political wins, these executives served as credible cheerleaders for future government initiatives.

To be sure, the BoB's authority to realize Johnson's creative federalism was owed to the very form of federal-local relations that they helped establish decades earlier. Federal grants-in-aid had mushroomed throughout the post-New Deal era to become the defining administrative feature of American federalism. At the end of World War II, approximately \$770 (.33 percent of 1945 GDP) million dollars funneled from the federal government to state and localities in the form of programmatic grants (see figures 1 and 2). By 1963, when Johnson took over, the total amount of grants had ballooned to \$5.93 billion (.92 percent of GDP). By 1969, federal grants-in-aid comprised \$13.6 billion (1.27 percent of GDP), or almost one of every six dollars spent by states and localities.³⁶ Overlooked in this dramatic increase in revenue and proliferation of different programs (460 different grants by 1967) is the outward hostility by executive-branch officials. Grant-making was a congressional prerogative, one squarely at odds with creative federalism's emphasis on coordination and efficiency between executives.

While grants-in-aid remained the primary financial mechanism of creative federalism, the BoB actively sought to combat problems it had with their administration. As Califano would make clear to President Johnson during the summer of 1966, the problem was neither the lack of legislative authority or money (although they could always use more money), the problem was

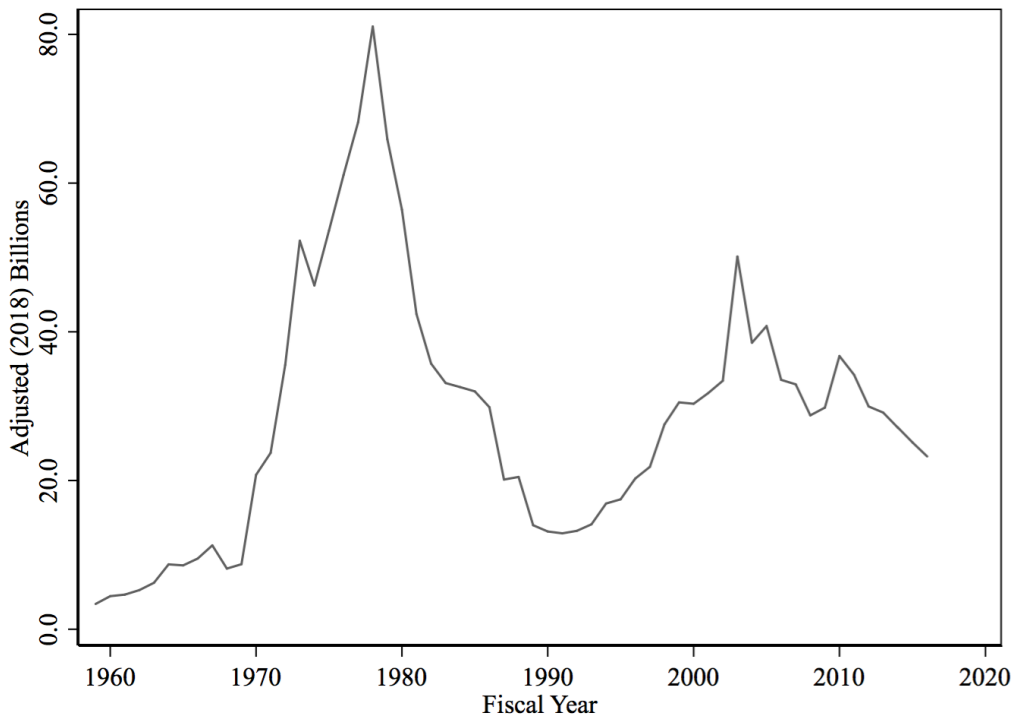
³⁵ Advisory Commission on Intergovernmental Relations. 1967. *Fiscal Balance in the American Federal System*. Washington, D.C.: U.S. Government Printing Office, pp. 140-144.

³⁶ St. Louis Fed. Federal government current transfer payments: Other current transfer payments: Grants-in-aid to state and local governments (AFGSL).

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management: “The management problem is equally obvious. The fact is that the Great Society programs are falling far short of the contributions they could make, and the Administration’s efforts on the domestic front are therefore not nearly as effective as they can be. This is a problem that can be solved only by the more direct exercise of Presidential authority, direction, and muscle.”³⁷

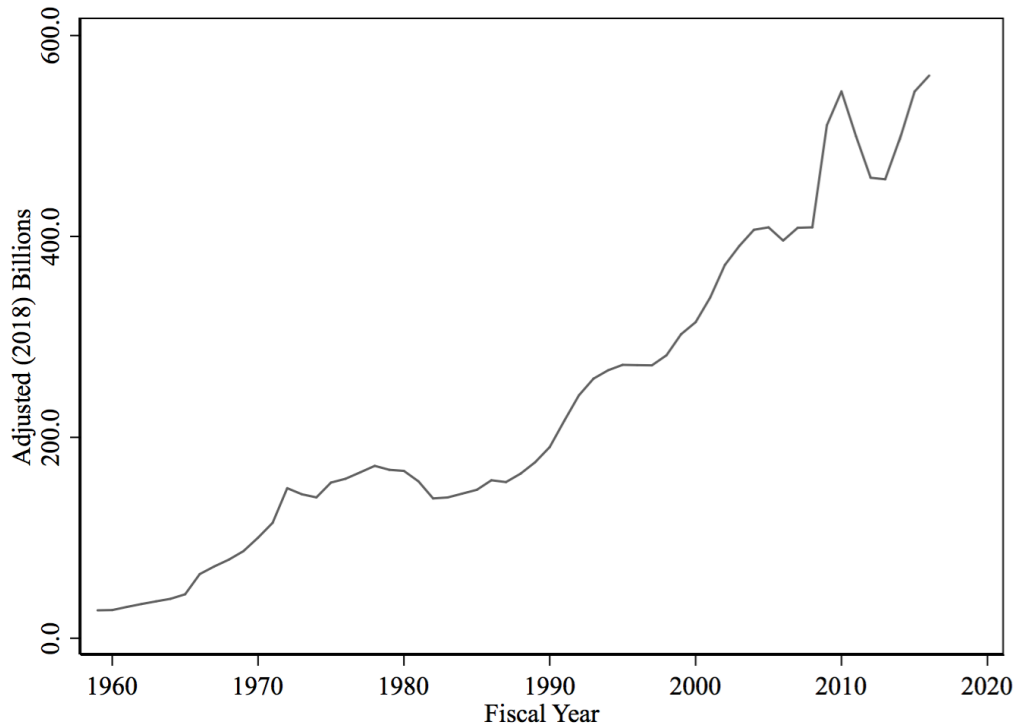
Figure 1: Local Government Receipts, Federal Grants-in-Aid



Source: Local receipt data are compiled by the U.S. Bureau of Economic Analysis, “Local government current receipts: Current transfer receipts: Federal grants-in-aid,” Series W846RC1A027NBEA. Data retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/>. All dollar amounts are adjusted to the 2018 calendar year, and are not seasonally adjusted. Last Accessed, April 11, 2017.

³⁷ Joseph Califano to Lyndon B. Johnson. August 10, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

Figure 2: State Government Receipts, Federal Grants-in-Aid



Source: Local receipt data are compiled by the U.S. Bureau of Economic Analysis, “State government current receipts: Current transfer receipts: Federal grants-in-aid,” Series W746RC1A027NBEA. Data retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/>. All dollar amounts are adjusted to the 2018 calendar year, and are not seasonally adjusted. Last Accessed, April 11, 2017.

Small administrative changes had large effects on how much time and energy federal officials could dedicate to conceptualizing and then implementing further changes to the grant-making process. Waivers from administrative requirements or a flexible reading of statutory authorizations responded allowed the BoB to navigate the sprawling maze of grants-in-aid programs had become too constricting. “Federal aids,” Walter Heller argued, “may weave a web of particularism, complexity, and federal direction which will significantly inhibit a state’s freedom of movement...”³⁸ As the common saying went, too often local programs were

³⁸ Walter Heller. 1967. *New Dimensions of Political Economy*. New York, NY: W.W. Norton, p. 142.

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implemented so as to meet grant requirements imposed by federal agencies, rather than to meet local problems. Even then, the problem of overbearingness was secondary to a problem of redundancy and fragmentation. For example, if a city or county sought federal assistance for sewer construction and wastewater treatment, they could apply to HUD, the Department of the Interior, the Department of Agriculture, or to the Economic Development Administration. All four of those agencies would have different procedures for planning and approval, different matching funds requirements, different schedules for disbursing money, and, most importantly, different goals. And, if those problems of program fragmentation existed at the federal level, they also existed in the state and local bureaucracies: multiple authorities, competing programs, jealousies that arose between entrenched programs versus new initiatives. More problematic, since the early 20th Century, a long-standing effort to modernize local government resulted in the proliferation of countless “special purpose” governments: specific authorities created for a single purpose, such as the health authority, water division, or housing agency. These governments competed with local, "general purpose" authorities and their elected members, further complicating the administration of federal programs.

As a true demonstration to how complicated the federal system of grants-in-aid had become – and just how important these administrative techniques were to the success of the Great Society – one of the most lauded BoB initiatives was simply the creation of a signal catalog of federal grants. If the goal of a new creative federalism was to build an unwavering constituency of mayors and city managers comfortable with federal intervention, an essential prerequisite is that those potential allies had to know just what assistance the federal government offered. And, in 1966, standard procedure (or lack thereof) was for all federal departments to list their own catalog of grants, often including programs from outside their departmental

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jurisdiction, with misleading or outdated information. By 1967, BoB had consolidated the process of grant advertising into a single booklet. Importantly, the list of federal grant programs was published by the Office of Economic Opportunity, an agency specifically designed to strengthen *local* bonds with the federal government.³⁹

The cutting of grant application and processing times was a priority goal within the BoB. White House officials set reduction targets upwards of 50 percent, and dedicated significant energies to creating standard application forms so that municipalities, when applying for one program, could simultaneously apply for other, related programs. The White House also took advantage of significant budgetary discretion it maintained in the 1960s for administering grants by using appropriated funds for establishing inter-agency coordinating committees. One major goal of these committees was to identify those areas of programmatic overlap that local governing officials disdained, but which the BoB could consolidate to make multi-departmental review more streamlined and efficient. So essential did the White House view these cross-department structures that when Congress – weary of escalating program costs – sought to legislatively prohibit use of funds for these purposes, President Johnson personally reached out to his support staff indicating – with three exclamation points – that “This is serious!!! We must do something about it.”⁴⁰

Working with the Congress, administration officials also actively sought independent appropriations for the training of local and state bureaucrats in order to strengthen the administrative capacity of subnational executive power. While waiting for Congressional action

³⁹ Charles Schultze, “Statement of the Director of the Bureau of the Budget before the Subcommittee on Executive Reorganization of the Senate,” June 28, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 53.

⁴⁰ Note on memorandum from Matt Nimetz to Joseph Califano. May 22, 1968, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 54.

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to arrive in 1970, BoB officials used discretionary authority to place federal officials inside state and local agencies, by swapping them for state and local officials. These executive training partnerships were essential lines of communication early in the Great Society, and further helped to solidify subnational political support for these experimental programs. Additionally, for almost four years, the administration's congressional liaisons sought to push Congress into passing legislation to consolidate different grant programs – what would later become the 1970 Joint Funding Simplification Act.⁴¹ When Congress failed to make changes to the overriding structure of grant programs, White House officials unilaterally simplified grant-making processes to make it easier for cities (and states) to apply for multiple programs at once.

The White House also benefited from local-state disagreement over various governing goals. Coordination problems emerged, in part, because politically independent entities were brought together to work towards one goal. It was hard enough when those entities shared a vision of that goal, as city managers and federal agencies often did. When state governments shared in the planning and administration of intergovernmental grants, those goals often diverged because state and local leaders represented different political constituencies. In what has become a hallmark of intergovernmental management in the 21st century, the BoB responded by unilaterally writing agency grant-making guidelines to insure multi-governmental compliance, or “coordinated planning.” The BoB’s 1966 Circular A-80 required each agency at the federal level to adopt procedures that would enhance the likelihood of such cooperation.⁴² At the very least, agencies could mandate that local and state governments use “common or consistent planning

⁴¹ Larry Levinson to Lyndon B. Johnson. September 2, 1967, in *White House Central Files: Federal Aid*, Lyndon B. Johnson Library, Box 2.

⁴² Bureau of the Budget, Executive Office of the President, “Circular No. A-80: Coordination of Development Planning for Programs Based on Multijurisdictional Areas,” in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

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bases” – similar population statistics or budgetary forecasts for long-range planning. BoB also encouraged agencies to go further to require procedures that would ensure that states and localities use common boundaries for planning and development districts. And, in the event of disagreement, both governments had to rely on Federal definition of such districts. In implementing programs to solve problems, these were necessary first steps in defining what the actual problem was.

As expenditures for the Vietnam War increased, and as inflationary pressures placed a limit over how much more domestic spending Johnson’s Budget Bureau would permit, the president increasingly adopted the position that the War on Poverty simply needed better management, not more funding. Yet, the concern over revamping intergovernmental relations – of creating new lines of communication and managerial techniques for coordinated planning – predated these fiscal contexts. Fiscal pressures may have encouraged a more pronounced administrative strategy in the last two years of Johnson's administration, but these were continuations of earlier efforts. As such, even though the problem of limited resources became more acute, budgetary woes were not the cause of the administration’s late-term drive for administrative reform.

Institutionalizing New Forms of Administrative Cooperation

Lacking the political capital and financial resources to further combat the War on Poverty, Johnson did not abandon the creative federalism ideal as the luster of his presidency waned in late 1966. Just as Roosevelt pursued a “Third New Deal,” that sought to cement the constitutional legacies of his presidency, Johnson also sought to reform government itself – to redeploy resources already at his disposal, but through a reorganized, reenergized executive branch. Johnson was not as successful as Roosevelt in bringing about this administrative

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revolution. By the time that administration officials deemed it necessary to pursue legislation for securing the in-roads already made through unilateral action, Congressional hostility overwhelmed the prospects, and the Vietnam war consumed Johnson's personal attention to the problems of creative federalism.

The failure to fully bring about the full effect of Johnson's creative federalism should be seen in light of what the administration was able to successfully bring about, and what reforms it passed down to subsequent administrations. The administration needed Congressional approval in four key areas of intergovernmental reform: enhanced executive authority for reorganizing the executive branch as it related to intergovernmental affairs; enhanced administrative authority for grant consolidation; legislative authorization for intergovernmental personnel management; and statutory requirements for consistent land acquisition and relocation procedures across state boundaries. By 1974, six years after Johnson would leave the White House, these essential features of intergovernmental politics that still define American federalism would finally emerge: the Intergovernmental Cooperation Act of 1968,⁴³ the Intergovernmental Personnel Act of 1970,⁴⁴ the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,⁴⁵ and the Joint Funding Simplification Act of 1974.⁴⁶ While President Johnson only signed one of these bills into office, they emerged, in large part, because the BoB wrote and pursued them in the 1960s. In a revealing instance of the power of the modern presidency, the White House routinely constructed novel arguments for budgetary and administrative authority to construct a new form of intergovernmental politics, and these arguments persisted even when a new party took over the White House.

⁴³ P.L. 90-577

⁴⁴ P.L. 91-648

⁴⁵ P.L. 91-646

⁴⁶ P.L. 93-510

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These four laws at once reveal how important the issue of intergovernmental relations was during this time period and how drastically American federalism changed with such a short burst of federal energy. While President Johnson only signed the Intergovernmental Cooperation Act (ICA) of 1968, it set the stage for the remaining three, as well as Congressionally-authorized revenue sharing in 1972. The final bill codified much of what the administration had sought to achieve unilaterally over four years. Across 11 titles, the ICA provided the executive branch with the following powers:

- 1) Greater discretion in expediting federal obligations to state and local agencies, without Congressional
- 2) the ability to provide specialized or technical assistance to state and local governments, without a line-item appropriation from Congress (fully credited, Sec. 303)
- 3) authorization to establish rules and regulations “governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development” (Sec. 401).

Section 401 listed seven basic objectives, which fully empowered federal agencies to propagate new procedures over state and local planning for “housing, commercial, industrial, government, institutional, and other purposes,” the “wise development and conservation of natural resources,” the construction of “balanced transportation systems,” the creation of “adequate outdoor recreation and open space,” the provision of “adequate outdoor recreation and open space,” and the planning of new public utilities – all with a “concern for high standards of design.” In other words, Congress vested ultimate coordinating authority – across nearly every area of domestic policymaking – inside the presidency. Title IV, as a whole, would permit the president to establish, in effect, a national urban policy, with the requisite authority to revise that policy for each state and locality.⁴⁷ Importantly, the act mandated that federal agencies must

⁴⁷ The true power of Title IV is, in part, revealed by the fact that it was the only part of Muskie’s draft bill that did not undergo any serious revisions at the request of the White House. In fact, Phillip Hughes, who

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include both state and local planning agencies in the development of area-specific reviews of federal assistance. The ICA also set out several substantive goals that comported with Johnson's vision of a creative federalism. Executive departments were thereafter required to notify the Governor of a state (or appropriate designee) of the purpose and amounts of various awards (Sec. 201). Additionally, Congress ratified internal White House policies for favoring general local governments for disbursement of funds over special-purpose units (Sec. 402). Both of these provisions, first established by the Johnson White House, were widely celebrated by the mayors and governors who testified in favor of the bill.⁴⁸

Beginning in 1965, the Senate's subcommittee on intergovernmental relations held weeks of hearings on the need to delegate greater authority to the executive branch in consolidating grants and establishing variegated implementation procedures for different states and localities. Much of the work followed from the legislation that the administration had already drafted and which emerged from Johnson's 1964 task force on Intergovernmental Fiscal Cooperation, even though it omitted the most revolutionary recommendation, general revenue sharing. From the first of Johnson's task forces, the BoB played a central role in advancing the expert recommendations. Upon complementation -- and often during the drafting phase -- task force reports were circulated throughout the BoB for staff appraisal.

served as the administration's liaison with Muskie, only asked for, and received, one change to Title IV's language -- the revision of some language that might be interpreted as a "local veto" over federal efforts to plan for regional projects, which would "hamper the development of Federal program interests." See: Phillip S. Hughes to Edmund Muskie. April 26, 1965.

⁴⁸ The eventual 1968 ICA differed in only one significant respect from the original 1965 proposal: the 1965 bill called for more stringent review procedures of pre-existing federal grants-in-aid. If anything, the eventual 1968 ICA placed even greater responsibility on the executive for making those determinations. See: U.S. Congress. Senate. Subcommittee on Intergovernmental Relations. 1965. *Intergovernmental Cooperation Act of 1965*. 89th Cong., 1st sess., March 29-April 1; U.S. Congress. Senate. Subcommittee on Intergovernmental Relations. 1967. *Intergovernmental Cooperation Act of 1967 and Relation Legislation*. 90th Cong., 2nd sess., May 9-29.

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Johnson's task forces have become a defining feature in the history of an administration that was remarkably innovative and painfully insulated.⁴⁹ Comprised of the nation's leading academic minds on problems of policy and political science, the original goal was to serve as a legislative incubator for the president's annual legislative agenda. In the field of intergovernmental relations, the various task forces served an additional purpose of acting as a de facto administrative unit. As task force members had primary responsibility for collecting the necessary background (policy and political) for any new program, those serving on task forces for urban affairs, state and local finance, and governmental organization were in frequent contact with political officials across the federal system. Far from just collecting the thoughts and opinions from those actors, however, task force members used the opportunity to proactively solve problems that they were familiar with because of their positions. The 1965 Task Force on Urban Problems held individual meetings with the mayors' offices of New York, Rochester, Boston, Philadelphia, Gary, Cleveland, Detroit, Oakland, Newark, and Los Angeles. "At those meetings," Humphrey wrote Johnson, "we attempted to point out to each mayor the heavy responsibility which the mayor and his administration bear in the effort to prevent riots this summer. At the meetings, work was started to increase, tailor, and accelerate packages of federal programs to meet the needs of the cities as the mayors saw them."⁵⁰

Task force committees were given access to staff members inside the budget bureau, and the BoB archives reveal the budget staffers were active participants in helping outside members reconcile their proposals to the president's overall fiscal agenda. Following completion, the Budget Director had the responsibility of summarizing task force recommendations, including

⁴⁹ Nancy Kegan Smith. 1985. "Presidential Task Force Operation during the Johnson Administration." *Presidential Studies Quarterly* 15(2): 320-329.

⁵⁰ Hubert H. Humphrey to Lyndon B. Johnson. June 10, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 26.

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candid assessments about their political and budgetary feasibility. Only after a complete vetting by the institutional and political staff of BoB would Califano see the report and pass it along to President Johnson. Thereafter, if deemed worthy, BoB would take the lead in transforming the recommendations into actual legislative proposals, working along White House staff, who acted as the primary liaison between Congress and the presidency. Lest one thinks that these were purely public-relations pieces, Johnson forbade the release of several task force reports (both outside and inter-agency) because he feared that the constructive criticism levied against his administration would benefit political opponents. In commenting on one task force report that celebrated BOB efforts to cut down on grant processing time in 108 different grant programs, Johnson told Califano not to take it to the papers, because “I don’t like to advertise some of these delays”⁵¹

When the Congressional subcommittee sent back the marked-up legislation to the White House, it won high praise from Budget officials, who lobbied the president’s advisors to more strenuously pursue its passage. It would, as the internal Budget memorandum argued, make “specific contributions towards expressed Presidential policy with respect to governmental economy, more uniform grant-in-aid administration and improved Federal-State-local relations.”⁵² Or, as Harold Seidman an Assistant Director in the BOB, characterized it in comments for the press, the bill would permanently secure the “close relationships” already nourished by Johnson’s internal White House directives. However, while the president’s legislative liaisons were eager to secure its passage as a part of its overarching legislative onslaught in 1965, the bill remained held-up in Rep. William Dawson’s subcommittee on

⁵¹ Joseph Califano to Lyndon B. Johnson. April 13, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 2.

⁵² Phillip S. Hughes to Harry McPherson. May 13, 1965, in *White House Central Files: Legislation, States*, Lyndon B. Johnson Library, Box 155.

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Executive and Legislative Reorganization. Dawson, the first black representative to chair a Congressional Committee (Committee on Government Operations, of which the subcommittee was a part), proved more skeptical about the legislation than White House officials had earlier thought.⁵³ Dawson never held hearings on the bill, nor did he participate in the concomitant hearings on the five-year anniversary of the ACIR, but his opposition followed from the increasing dissatisfaction over mayor-citizen relations in Johnson's community action programs (chapter six). The ICA would have made all federal initiatives subject to strict mayoral scrutiny, cutting against the president's claims that he valued civic participation. As time would soon tell, Dawson was soon vindicated -- the 1968 ICA provided the requisite authority for both the Johnson and Nixon White House's to override statutory limitations concerning participation and population threshold requirements across a range of federal programs.

Indicative of the fact that "good government" reforms are fundamentally political, the administration decided against emphasizing the ICA in its 1965 legislative agenda – fearful that it might further antagonize political disagreements between the nation's mayors and Governors.⁵⁴ But, by 1968, the political context had changed, and Muskie was able to secure passage of a bill that reflected in almost every respect the same version of the 1965 proposal. Even then, the administration struggled to showcase its political benefits and relations to the Great Society; White House officials lamented the fact that they could not even get Muskie on Meet the Press to tout the transformation changes, as it was not tied to "specific news events."⁵⁵ In the end, despite fanfare, legislative codification was an important achievement in Johnson's attempt to recreate

⁵³ Henry Wilson to Harry McPherson. June 18, 1965, in *White House Central Files: Legislation, States*, Lyndon B. Johnson Library, Box 155.

⁵⁴ Harry McPherson to Warren Cikins. July 7, 1965, in *White House Central Files: Legislation, States*, Lyndon B. Johnson Library, Box 155.

⁵⁵ Robert Kintner to Mike Manatos. February 10, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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government. The Intergovernmental Personnel Act, the Uniform Act, and the Joint Funding Simplification Act would further revise the initial 1968 bill, and institutionalize the new intergovernmental politics.

The influence that these bills still exert on American politics is furthered also by the fact that Johnson did not wait for Congressional authorization to implement many of the administrative changes Congress would eventually ratify.⁵⁶ Upon taking office, Johnson and his aides almost instantly recognized the fundamental problem of executive management and the need to reorganize a sprawling federal bureaucracy made up of an ever-increasing number of federal departments and independent agencies. Administration officials considered previous efforts of executive reform, none the more potent than the 1937 Brownlow Commission and the eventual 1939 Executive Reorganization Act. White House aides, in fact, circulated press reports concerning the Brownlow Commission and discussed the lessons it offered for staving off any political opposition towards Johnson's plans.⁵⁷ When they could, administration officials attempted to consolidate programmatic jurisdiction and advocate for unofficial coordinating committees to bring independent agencies into contact with departments they believed had a more rational basis for program oversight. White House officials – always including a member of the BoB – were key members of those working groups.⁵⁸ In time, Califano and Schultze's

⁵⁶ Lyndon B. Johnson, "Memorandum for the Director of the Bureau of the Budget," November 8, 1968, in *White House Central Files: Federal Aid*, Lyndon B. Johnson Library, Box 2; Charles Schultze to Lyndon B. Johnson. November 2, 1968, in *White House Central Files: Federal Aid*, Lyndon B. Johnson Library, Box 2.

⁵⁷ Sam Hughes to Lawrence Levinson. April 22, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 364; Joseph Califano to Lyndon B. Johnson. April 28, 1966, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1; Milton P. Semer to Joseph Califano. May 2, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 364.

⁵⁸ Joseph Califano to Lyndon B. Johnson. August 17, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

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satisfaction with those groups waned, and, lacking Congressional enthusiasm for any major reorganization plan, both men impressed on Johnson the need to issue presidential directives to more permanently secure the accomplishments made inside the executive office, and extend them throughout the federal bureaucracy.

On August 11, 1966, Johnson followed the recommendations of these work groups and signed Executive Order 11297, a directive to departments to better coordinate “federal urban programs.” In it he expanded the charter mission of HUD to oversee grant-making procedures in other federal departments and agencies. Many Johnson officials, including Califano, had complained that HUD’s mission was too limited when established by Congress. In contrast to their desired organization – a department of urban, or local, affairs – HUD remained largely subservient to the interests of various relators’ associations and champions of slum clearance. With the stroke of his pen though, Johnson delegated the Secretary unlimited authority to convene department and agency heads, and to trump their coordinating authority whenever it conflicted with existing law. HUD also received instruction to use discretionary funds to establish a clearinghouse for providing technical services to State and local governments, and to share those resources with any federal department or agency that oversaw programs affecting urban areas.

Only a few months later, on November 11, 1966, President Johnson sought to use the information gathered by HUD, and issued a memorandum to all department heads to enact new procedures to insure the “advice and consultation with state and local officials.” Tired of hearing complaints that the war on poverty struggled because of budgetary constraints, the president wrote that “more is needed than money alone. Effective organization, management, and administration are required at each level of government. These programs must be carried out

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jointly; therefore, they should be worked out and planned in a cooperative spirit with those chief officials of State, county, and local governments who are answerable to their citizens.”

Simultaneously acknowledging that programmatic efficacy and political support depended on subnational political power, Johnson commanded that each department report back to the BOB on the steps it would take to “afford representatives of the chief executive of State and local government the opportunity to advise and consult in the development and execution of programs which directly affect the conduct of State and local affairs.” Since the BOB classified almost every Great Society program as having an effect on State and local affairs, the memorandum’s reach was vast. Schultze soon clarified this interpretation the following January 1967 in guidelines sent to the heads of every Federal Agency establishing new procedures for coordinated review of all federal programs by elected officials. As Schultze would later testify, these new review procedures provided no single level of government a veto over program administration, per se. Slowing down implementation was not the goal; creating innovative solutions was. “The answers to our current organization dilemma are, therefore, not to be found in the reports of the two Hoover Commissions and the President’s Committee on Administrative Management [Brownlow],” he testified before the Senate.

The Hoover Commission solution of ‘placing related functions cheek-by-jowl’ so that ‘the overlaps can be eliminated and, of even greater importance coordinated policies can be developed’ is not workable when you must combine major-purpose programs such as health, education, manpower training, and housing in alleviating the social and economic ills of a specific metropolitan area, city, or neighborhood. Our basic task is twofold: to devise techniques and systems to make voluntary cooperation work smoothly among different agencies and levels of government; and to change attitudes so that each Federal Department is not a fiefdom to itself, surrounded by moats and ditches, but a part of one Government, in which responsibilities are shared, not divided up.⁵⁹

⁵⁹ Charles Schultze, “Statement of the Director of the Bureau of the Budget before the Subcommittee on Executive Reorganization of the Senate,” June 28, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 53.

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It is important to recognize how vast the president's authority over Congressional appropriations was during the 1960s, the decade before Congress would seek to reign in executive discretion with the passage of the 1974 Congressional Budget and Impoundment Control Act. Protected by a broad mandate to seek efficient administration, White House officials were seldom concerned with overstepping the bounds placed on discretionary spending for inter-agency planning and intergovernmental cooperation. In one revealing instance, Budget Director Schultze, in consultation with Califano, devised a scheme for concentrated services that would use appropriated OEO funds to more effectively deliver services under the authority of the HEW, HUD, and Labor Departments. Instead of giving OEO those funds in the spring of 1967, Califano and Schultze devised a "14 Neighborhood Centers" pilot program as an alternative to pre-existing local agencies. After a White House meeting of the effected Department Secretaries, Weaver called the mayors of the targeted cities, asking them to submit applications through OEO for a coordinated Neighborhood Center to sustain that funding; Weaver gave them an initial list of what "appropriate Federal, State and local programs should be considered for inclusion in the centers." An interagency committee headed by officials at HUD would then review the applications after OEO received them, and would circulate them among the relevant departments to determine whether other programs could be added. OEO funds would bear the overhead, or "core-landlord," costs for the centers. Significantly the centers were run by organizations appointed by the city's mayor, and the Budget Bureau would oversee their operations once funds were dispersed.⁶⁰ As will be explored in the next chapter, these centers openly competed with the

⁶⁰ Joseph Califano, "Memorandum on 14 Neighborhood Centers," April 4, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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politically toxic community action agencies that also decentralized policymaking, but outside the executive-dominated administrative structures BoB favored.⁶¹

The Quality of American Government

In April 1966 -- while the President was still riding a high-tide of political support -- Califano wrote the president on the need to give a speech of “far-reaching dimension and importance in which you can explain to the people your vision and your philosophy of a modern American government shaped to serve them and future generations...we should try to make it a modern federalist paper.”⁶² Administration officials, in their meetings and conferences with local officials had done much of the groundwork already in articulating the new institutional vision of a presidency-centered federalism. It is revealing that among the scholars Califano sought to enlist in helping write this “modern federalist paper”, Johnson chose Dick Neustadt, a renowned presidency scholar to help redefine the image of American federalism.

It took a year for the president to finally give his address on the “Quality of American Government.”⁶³ For one, many of the reforms championed throughout the address were only in the making when Califano first proposed the speech. But in addition to applauding the managerial and administrative reforms championed by the Great Society, the president signposted the impending problems of executive management that would continue to vex presidents throughout the 20th Century. Federalism was not the only issue raised in the address, but it was present in each of the major areas highlighted as needing reform: government

⁶¹ D. Richard Wenner to Joseph Califano. April 28, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

⁶² Joseph Califano to Lyndon B. Johnson. April 4, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

⁶³ Lyndon B. Johnson: "Special Message to the Congress: The Quality of American Government," March 17, 1967. Online by Gerhard Peters and John T. Woolley, The American Presidency Project. <http://www.presidency.ucsb.edu/ws/?pid=28141>.

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reorganization; government efficiency; public service; and, of course, state and local government.

In discussing America's "federal system," Johnson's address took on a new quality. Reaching back into history to commemorate the founders and the system they created, Johnson laid out a new vision of federalism was to become more flexible and responsive because it "rests on an interlocking network of new relationships and new partnerships among all levels of government." The success of that system, he foretold, depended on greater communication between executives at all levels, consolidation of federal grants by function instead of department, consistency in applying federal rules, and sustained coordination between administrators at the three levels of system.

Throughout the summer, White House officials sought to seek further input from the nation's mayors on those quality of government issues. The president's speech laid out a vision, and now the White House depended on the partnerships it had cultivated over the past few years to fulfil it. Their response was sure to be disappointing. While mayors and governors acknowledged the administration's efforts to consolidate grants and persuade Congress to adopt friendly-appropriations process, and while they appreciated the administration's near constant consultation with local counterparts, their evaluation was unequivocal: Johnson's efforts were failing, and they had little faith that he or the BoB could fix it.⁶⁴

The problems of federalism appeared just as insurmountable as they always had. Inside the White House, senior aids once again contemplated establishing another Commission on Federal-State-Local Government relations in order to develop legislative and administrative priorities to complement and extend the tools of voluntary cooperation. This would, as earlier

⁶⁴ Larry Levinson to Lyndon B. Johnson. September 2, 1967, in *White House Central Files: Federal Aid*, Lyndon B. Johnson Library, Box 2.

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efforts promised, supplant the independence of the ACIR, and create proposals more in line with the ethos of presidential management. However, a commission, as opposed to Johnson's preferred task force, would demonstrate the administration's resolve to maintain state and local vitality in a much more public manner – at the very least, it would suggest to state and local officials that the administration took seriously their concerns by airing them at the federal level, and at the president's urging. While White House officials recognized that something must be done to institutionally transform federalism – to make it work – they remained perplexed as to what to actually do. As Charles Schultze confessed to Joseph Califano that January, “Such a public commission is valuable when we know what we want and need a blue-ribbon group to bless it, but in this case, we don't have the answers ourselves yet. The major problem is a very complicated Government organizational problem going deep into the roots of the Federal system.”⁶⁵

Race, Creative-Federalism, and the Heineman Task Force of Government Organization

In light of that reaction, Johnson's White House made one final push to transform American federalism. It fizzled out almost as soon as it started. Shortly following Johnson's landmark speech on the quality of American governance, one of his last presidential task forces issued its final report. Chaired by Ben Heineman -- who turned down the chance to direct BoB -- the 1967 task force on Government Organization, or simply, the Heineman report, was the most comprehensive effort since the 1937 Brownlow Commission to study the problems of executive management in the federal government. But even more than Brownlow, or either of the two Hoover Commissions, the report established a new framework for managing relationships and programs that had become defined by their intergovernmental character. Johnson and his aides,

⁶⁵ Charles Schultze to Joseph Califano. January 7, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 51.

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especially Califano, eagerly anticipated the report's arrival. Management, reorganization, and institution building are not the stuff of grand headlines, but, as Heineman made clear, they are the prerequisite for legacy building.

It is all the more tragic then, that on the exact day the report arrived to the White House, Johnson's legacy took on a new face: over 700 National Guardsmen had marched through the streets of Cincinnati, Ohio to suppress rioters. One person had died, 63 had been injured, and hundreds of stores looted. The 1967 Cincinnati riots, centered in the predominantly black neighborhood of Avondale, was the first major riot of another long, hot summer -- one that saw 159 cities convulse under the simmering racial tension of the decade. However important government reorganization was, and remains, to modern presidential leadership, no amount of bureaucratic tinkering could confront the new politics of the 1960s.

No aspect of sixties-era politics more seriously antagonized the goals of Johnson's creative federalism than the politics of race. If federalism generally means that different groups of people in a country will be governed slightly differently, there is no greater distinction in how people were governed in the 1960s than that of black Americans living in the South. Consequently, creative federalism was intricately related to the gains of the civil rights movement, and the revolution in the social fabric of the United States. As the civil rights succeeded in securing political rights, consecrated in the 1964 Civil Rights Act and the 1965 Voting Rights Act, it turned to securing economic security and opportunity. Always a part of the overarching mission, this placed civil rights leaders squarely against the president on issues fundamentally related to program management, grant administration, and intergovernmental politics. The bulk of that conflict surrounded two programs in particular, the President's 1964

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Community Action Program (CAP) and the Model Cities initiative the White House designed to replace it.

Less understood are the politics of race and its intersection with the presidential budgeting power, including the establishment of new budgeting institutions. To be sure, race is a ubiquitous factor in presidential politics, and Lyndon Johnson's tenure is no exception.⁶⁶ Often overlooked however are the ways in which the Johnson administration sought to use the new administrative powers of the modern presidency to address racial unrest. Johnson's personal relationship with civil rights leaders, his soaring rhetoric on racial justice, and his legislative skill and will in brokering key legislation with Congress dominates the subject. More attentive scholars have paid attention to the ways in which the president used his power and authority to change traditional Democratic party politics, establishing a long-lasting institutional relationship between black Americans and a new, more open party organization.⁶⁷

Importantly, racial politics in the 1960s took on a character that made it ripe for intergovernmental integration. In the beginning of the decade it was predominantly a Southern problem, and both President Kennedy and Johnson recognized the peculiar geographic component to the issue. As the movement moved northward, it increasingly became urbanized, changing the geographic pressures informing presidential management. The problems of race became the problem of the city, and of large municipal government in particular. The tools for combatting racial and economic inequality were highly lopsided, a function of diminished fiscal capacity at the local level, and the move to more service-oriented welfare and jobs programs further advantaged federal control. And finally, racial politics deeply divided an already fractious

⁶⁶ Russell Riley. 1999. *The Presidency and the Politics of Racial Inequality: Nation-Keeping from 1831 to 1965*. New York, NY: Columbia University Press.

⁶⁷ Sidney M. Milkis and Daniel Tichenor. 2018. *Rivalry and Reform: Presidents, Social Movements and the Transformation of American Politics*. Chicago, IL: University of Chicago Press, Chapter 5.

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Congress, not in spite of large Democratic Party majorities, but as a result of it. Increasingly isolated from his own party, and coupled to the geographic specificity and administrative asymmetry of current federal policy, Johnson relied on an intergovernmental approach in the cause of civil rights.

At first, Johnson's intergovernmental approach worked out marvelously for his administration's approach to racial equality. Once the 1964 Civil Rights Act passed Congress, Johnson had the difficult task of administering it and insuring compliance. Using the tools of intergovernmental administration, the Department of Justice worked with White House budgeters to enforce desegregation. Title VI of the 1964 Civil Rights Act gave administrators the statutory authorization to prohibit federal monies to states and localities if they maintained discriminatory or segregationist policies in providing publicly-funded services. The first use of that provision came after the federal government (through OEO) announced a \$132,000 grant in mid-December 1964 as a special program for the Office of the Alabama Governor George Wallace. Representing just under 10-percent of all anti-poverty funds to the state, federal officials decided to withhold the grant after civil rights groups in the state protested the appointment of an avowed segregationist, Shelby Jackson, to the Governor's anti-poverty board. Pressures mounted when Wallace fought openly with the Mayor of Mobile over the composition of the local planning agency and his insistence of hiring black residents over white residents of the surrounding county. Wallace's brazen efforts to monopolize the structure of planning commissions – relying of counties and boards composed of multiples mayors rather than individual-city agencies – was politically rough terrain for the Johnson administration who at

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once pledged to enforce the new anti-segregation laws, but which also promised quick relief to the poor, many of whom black, recently galvanized by demonstrations in Selma.⁶⁸

Yet, while Title VI complaints were expected, other signs of trouble loomed. In 1965, just weeks after President Johnson signed the landmark Voting Rights Act, race riots broke out in the Watts neighborhood of Los Angeles. To be sure, mayors, governors, and other federal officials had been raising alarm over racial tensions in America's urban heart for years.⁶⁹ But Watts seemed to set off a wave of riots that eclipsed its predecessors in size and damage done. As the Vietnam war raged -- killing a disproportionate number of black soldiers -- the White House braced for the beginning of another "hot summer" at the start of each new year. Vice President Humphrey expanded his role and increased his contact with the U.S. Conference of Mayors -- sharing information between the White House and City Hall on how to plan for new confrontations and address the simmering legacies of racial discrimination. Johnson continued to struggle in exercising leadership over a maturing civil rights movement -- a task made all the more difficult by the internal disagreements that wracked its multi-organizational leadership and diverse set of strategies.

Without a doubt, the softer form of intergovernmental relations -- institutionalized by an enhanced EOP -- helped the White House deal with urban rioting. In such situations, communication was necessary for a coordinated government response, and a satisfactory political victory. And yet, Johnson and his intergovernmental partners increasingly recognized that it was insufficient. Remarkably, the task of fixing this problem also fell to the budget bureau.

⁶⁸ On the politics, see: Rowland Evans and Robert Novak. March 11, 1965, "Inside Report: George Wallace vs. the Poor." *Washington Post*, p. A25.

⁶⁹ See: *U.S. News & World Report* July 29, 1963

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The BoB was front and center in addressing racial inequality because federal efforts to combat this problem had grown so large and expensive. And because there was already action on the issue -- new programs, more money, greater attention -- the White House understood the lingering issues to be administrative in nature, not political. The political fight to combat inequality and enforce desegregation had been waged in 1964 and 1965, and Johnson had already won. If problems still existed -- and the riots confirmed that they did -- the White House believed it was because the resources committed were being improperly deployed. At its worst, critics blamed Johnson for trying to solve new problems (race) with old solutions (grants). Writing after the second large wave of “hot summers” in 1966 – this time engulfing Chicago, Cleveland, and San Francisco - Charles Abrams lamented:

If the Los Angeles rioting reveals the underlying weakness of the current federal approach to segregation, poverty and housing, and if it stimulates some fresh thinking on these problems, it may compensate at least in part for the terrible havoc it wreaked.⁷⁰

Outside the White House, critics wanted bold new plans; inside, aides wanted greater attention paid to the lingering issues of intergovernmental coordination and efficient multi-level governance. In either case, there was only one place the president could turn: the BoB.

The Heineman revealed how senior officials connected the issues of racial equality and Johnson's management strategy of urban programs inside the budget office. In many ways, the report vindicates those claims of civil rights leaders who criticized President Johnson's handling of the Great Society as being too slow and too deferential to bureaucratic administrators. To be sure, urban unrest was a multi-faceted problem -- a response to police brutality and a disproportionate share of black soldiers killed in Vietnam, as much as to heightened expectations for government assistance and broken promises. But the fact that the report was kept secret --

⁷⁰ Charles Abrams. 1966. “The Housing Problem and the Negro.” *Daedalus* (Winter): 75

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going to great lengths to even keep it from Richard Nixon during the transition -- and never publicly discussed demonstrates the degree of disparagement it contains. Other task force reports, while made up in secrecy, found their way into legislative proposals and the information they contained -- often drafted by BoB officials -- were incorporated into the public debate over the reform. This was not the case with the Heineman task force.

Heineman and his colleagues -- including BoB insiders Kermit Gordon, Herbert Kaufman, and Charles Schultze -- rejected the political attacks on Great Society programs. Rather, they shared Johnson's pragmatic sensibilities that their good intentions had gone awry because of bad organization and management strategy. Getting more money from Congress was as impractical as it was unnecessary, because enhanced executive capacity could make the system work. At each level of analysis, Heineman and his colleagues identified the particular problems of presidency-centered intergovernmental relations:

"The President lacks institutional staff and machinery...to reflect the Presidential perspective in program areas requiring cooperation between Federal agencies and between the Federal, State, and local governments."

"Channels for consultation and cooperation between the White House, Governors, and Mayors and their staffs are haphazard and insufficient, heavily dominated by crises and relatively inattentive to longer term program, organization, and political relationships and problems."

"Organizationally the goals of Great Society legislation demand collaboration and cooperation -- between Federal bureaus and departments AND between governments...Fragmentation in Washington, in turn, encourages piecemeal effort by State and local government agencies."

This organizational ethos had already informed much of President Johnson's program in previous years and efforts to retool the federal bureaucracy. However, as Fred Bohlen (staff assistant in BoB) summarized, "the intergovernmental character of Great Society has inevitably brought us into contact with the problems of states, Governors, and their aides." At Johnson's

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behest, the Heineman task force and the BoB were directed to address the two specific "'bitches' of Governors and state government partisans," which were distinct from the "obvious problems" raised by integration or racial unrest. If those could be addressed, civil rights leaders and social welfare advocates could plead sympathy for the president, and diminish the calls raised in the name of "law and order" on both the left and the right.⁷¹

Inside the BoB, Bohlen summarized the findings of Heineman and drew out its political implications. Bohlen's memorandum is revealing for its candor and insights in connecting management approaches and politics - particularly the president's approach to handling racial unrest. As he found, the loudest complaint raised by Governors was with grant management, particularly the ability of Governors to simply know what money was coming into their state. Executives not only wanted to take credit for political gain, but also spread word that government was actually attentive to the demands of those marching in the streets. "Traditionally," Bohlen wrote, "it has been assumed that a Governor made his contribution, if any, to the development of a federal social program through testimony at a congressional hearing...but in light of the vast legislative triumphs of the last three years, thoughtful observers at the state level urge the creation of more formal, regular, and systematic consultation between the president and his counterpart state executives." Bohlen elaborated that more institutionalized procedures would include expanded technical assistance to teach governors to "understand the leverage they could wield," further veto options, especially in programs that require state

⁷¹ Law and Order is traditionally associated with the success of Republican candidates, including Richard Nixon, in 1968. While true, Democrats, none other than Johnson ally Mayor Richard Daley, also touted the slogan. In the spring of 1967, the Democratic Party feted Daley as the "Best Democrat of 1967" precisely because of his commitment to law and order. See: Philip Warden. May 10, 1967. "Honors Daley as Democrat of the Year," *Chicago Tribune*, p. 1.

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matching funds, and federal monies for an expanded executive office to make it "comparable to the Executive Office of the President."

The second structural feature identified is unsurprising: "exhausted available revenue sources," or, the need for more money. However, in commenting on the widening "service gap" facing state and local officials, Bohen elaborated on why BoB did not think it advisable to pursue more funding for state and local services, including revenue sharing. The rationale was purely political, reflecting BoB's central role to helping the president navigate intergovernmental politics. "It is hard to say or do anything kind to Governors," Bohen wrote, "without annoying mayors and vice-versa." Strengthening executive capacity to plan and consult could construct mutually-advantageous policies in the new intergovernmental arena, but budgetary autonomy exacerbated political divisions within the state -- divisions that would pummel the president and his budgeters with unnecessary delays.⁷²

Bohen and his BoB colleagues used these narrower political calculations in helping design the final Heineman recommendations,⁷³ which addressed on two new administrative innovations: an independent "Office of Program Coordination" and an expanded field force in ten federal regions. Structured as such, the new coordinator's office would combine the variety of intergovernmental processes created by Johnson and his predecessors in a single agency. Field officers and a central staff would be uniquely sensitive to the issues faced by Governors and mayors, incentivizing them to routinely adjust and consolidate grant programs and streamline review processes. Cost savings at the federal and subnational level would be achieved by simpler

⁷² Fred Bohn to Jake Jacobsen. March 14, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 406, Folder 749.

⁷³ "The Organization and Management of Great Society Programs: A Final Report of the President's Task Force on Government Organization," June 15, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 406.

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management strategies, relieving financial pressure on state and local politicians.⁷⁴ In addition, the BoB would be strengthened as an institutional resource for designing and evaluating programs, not solving intergovernmental disputes and crises. Most insiders hoped that this would return the BoB to its traditional role inside the EOP and halt the trend of it becoming a more politicized institutional resource -- helpful to a particular president and his party as much as the presidency and the executive branch. A 1967 internal report by the BoB revealed the extent to which intergovernmental coordination had come to dominate the staff work of the office, to the staff's own chagrin. Intense and repeated contact with politicians at the subnational level (read Governors and Mayors) was not "in keeping with the traditions and professionalism of the Bureau." And, as one staffer warned, "a Bureau of the Budget that becomes heavily involved in supplying political intelligence to one President may not be trusted by his successor to provide intelligence on any subject."⁷⁵

The Heineman Task Force acknowledged both sides of the dilemma: de-politicizing the BoB would strengthen its management authority, but presidents would lose the valuable "political intelligence" at the state and local levels, which staffers had provided for decades. The Johnson White House followed up with some minor reorganizational changes to help restore the BoB's apolitical reputation, while enhancing the control the EOP had over more political intergovernmental negotiations. A new "Office of Executive Management" (OEM) emerged and was placed firmly under the control of a White House appointee. In lieu of a new regional field network, it was hoped that the OEM would be better positioned to leverage the field offices of

⁷⁴ "The Organization and Management of Great Society Programs: A Final Report of the President's Task Force on Government Organization," June 15, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 406.

⁷⁵ Cited in Berman, p. 94. "Working Paper and Related Analysis on Roles and Missions of the Bureau of the Budget -- I," March 30, 1967. *The Work of the Steering Committee*.

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federal agencies, as well as enhanced state-level planning offices. Within the remaining parts of BoB, policy divisions were reorganized and the most intergovernmentally complex programs -- those involving HEW, HUD, and Labor -- were consolidated into one office. These changes demonstrate a different side to the politics of the late 1960s -- a politics that is seemingly more benign, but nevertheless central to the massive ambitions of Johnson's presidency. The president's last year in office saw further tinkering to this massive project. But with Johnson's announcement on March 31, 1968 that he would not seek his party's nomination, the motivation for reinventing American federalism collapsed.

Conclusion

The task of making "creative federalism" a defining element of American governance fell to Johnson's successor, and once partisan rival, Richard Nixon. The Great Society exacerbated the partisan divisions between Democrats and Republicans, but Nixon shared Johnson's managerial impulses and desire to use state and local administrative authority. Whereas Johnson's creative federalism sought to leverage new administrative processes for certain partisan ends, Nixon recognized that those same mechanisms could be used to reward his own supporters. Despite the partisan acrimony, many inside the Johnson administration had hoped that the president would, after the 1968 Election, share with the president-elect the plans, task force reports, and legislative legwork for redefining the federal system.⁷⁶ Johnson was adamant in his refusal, fearing that the studies -- including Heineman -- cast the administration in a bad light.⁷⁷ But Nixon was eventually able to gain access to them. And, while waiting for them, he

⁷⁶ Price Daniel to Lyndon B. Johnson. November 9, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 3.

⁷⁷ Charles S. Murphy to Lyndon B. Johnson. November 22, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 406.

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commissioned his own reorganization committees during the transition period. They found the same problems and recommended the same solutions as before, if now only more necessary because Johnson had not managed to fix them in his last year of office.

Prior to leaving office, Johnson convened a meeting of the nation's governors to describe more fully his theory of American federalism – what would soon become known publicly, and inside the White House, as the “New Federalism.” Johnson was not the first to bring the nation’s governors to Washington for high-profile summits – that precedent goes to Theodore Roosevelt in 1908⁷⁸ - but the 1967 meeting sought to cement the legacy of Johnson’s administration for federal-state governance – a demonstration to the American federalism need to be conflict-ridden or in opposition to effective governance. With all the nation’s governors present, the conference served more to celebrate the administration’s already established policies, as opposed to problem-solving any new ones. Of particular note, and referenced throughout the administration’s speeches, was what Governor William Guy (D-ND) would label the “turning point in federal-state relations” – the president’s November 1966 memorandum requiring federal executive agencies and departments to consult with the states in grant administration.⁷⁹

Speaking before the 1967 White House Conference of Governors, the president himself sought to root his innovations in the broader history of constitutional development. “What we are living through together,” he told the governors,

are the birth pangs of a fundamentally new process in American Government – a new kind of Federalism – Federal-State interaction that was never contemplated by our Founding Fathers. In their desire to limit central power, they sought to define and separate as sharply as they could the respective roles of the Federal and State governments. Traditionally, we have not been concerned with the systematic exchange of communication, advice and consultation between the President and State executives. And

⁷⁸ *Proceedings of a Conference of Governors in the White House*, Washington, D.C., May 13-15, 1908, edited by W. J. McGee. New York, NY: Arno Press.

⁷⁹ Marvin Watson to Lyndon B. Johnson. August 31, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 4.

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in the past, the views of the States frequently were not solicited in the formulation of programs that affected the State or affected the local interests vitally in that state.

The evening – and the glistening commemoration booklet that Johnson personally had a hand in designing – was perhaps more reflective of creative federalism’s deepest desires than its accomplishments.⁸⁰ As is widely commented, the Vietnam War produced an inescapable set of pressures – political, fiscal, moral – that sacked the reformist ambitions of the Great Society. And, as has been emphasized throughout, creative federalism suffered from the war’s domestic externalities, but less so than any single federal program or presidential innovation. As the president’s aide, Mike Manatos would soon tell the president, “Without question of a doubt you have seized the initiative with the Governors of the 50 States, and have successfully cut away standing room on which a podium could be erected to enunciate the cries of states [sic] rights.”⁸¹ Insofar as Johnson’s creative federalism – now bedizened as the “new federalism” – was a political project to legitimate new relationships, the president was remarkably successful. The BoB gave the presidency the requisite authority and power to establish those lines of communication, and respond to the demands of mayors and governors. But in succeeding, the BoB was also responsible for its own unraveling. The OMB and Nixon's reorganization plans were straight from Heineman's final report. Absent the political baggage that Johnson carried as an innovator turned reformer, Nixon was able to set about fully reconstructing the administrative apparatus of the modern presidency. Inside the OMB, the various tools of presidential-federalism -- in embryonic state until the 1960s -- flourished into their present-day variant.

⁸⁰ James R. Jones to Farris Bryant. March 20, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

⁸¹ Mike Manatos to Lyndon B. Johnson. March 28, 1967, in *White House Central Files: Federal Aid*, Lyndon B. Johnson Library, Box 2.

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Intergovernmental integration is a powerful force. Institutions that develop an impulse for rationalizing and sorting out policy functions come into conflict with other political motivations to abdicate power, decentralize decision-making, or let local communities govern themselves. From the 1930s forward, the White House gained new capacities for influencing state and local power. What difference did it make?

Exceptional as it was, the Johnson administration deeply desired to return a degree of power and authority to the states and localities during his administration. The Community Action Program (CAP) was the president's effort to establish yet another intergovernmental institution for managing modern American federalism. But unlike the Office of Intergovernmental Affairs or the budget bureau, CAP's locus of power sat outside the White House. Under CAP, true decision-making power was to exist within local communities in determining priorities for government action and federal support. Moreover, CAP was intended to empower marginalized communities that state and local government were often able to ignore. CAP was a single program within a larger ambition to reform local, state, and federal government institutions, and like most of Johnson's goals, it was not intended to be hostile to the tradition of subnational governance. White House officials saw CAP as an experimental structure in bringing about a new era in intergovernmental politics – a quasi-political, administrative entity that would coordinate the actions of local, state, and federal governments, and encourage cooperation among those three levels. CAP furthered the trajectory of intergovernmental integration, but it was also a consequence of previous reforms, decades in the making. Arguably, there has never been an effort so bold and sustained as Johnson's to devolve power out of Washington as CAP.

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And yet, CAP failed. In the end, CAP did not serve its purpose of devolving power. Instead, it provided an opportunity for further intergovernmental integration through the presidency-centered institutions of the new federalism.

The reasons for its failure have more to do with the tensions embedded in intergovernmental administration and presidency-centered federalism than with any other explanation usually offered. Officials in the West Wing, the Bureau of the Budget, and the variety of intergovernmental liaison offices at the state, federal, and local levels all used CAP and its political troubles to further the project of enhancing executive power, particularly the presidency. They discredited CAP, and, in doing so, legitimized the paradigm of White House management in intergovernmental administration. In their pragmatic response to the program's implementation difficulties, they built atop and refined an intergovernmental apparatus that is still largely in place today. They ritualized the process of federated politicking through the institutions created years earlier, and expanded their capacity for intergovernmental management in the process. Moreover, this took place across two administrations, one Democrat and one Republican -- two presidencies that shared a very different idea of what the country should look like, but who nevertheless believed that a strong presidency was necessary for achieving their goals. As a result, the White House took the lead in terminating CAP and transforming it into a new program, Model Cities -- a model not just for urban design and service delivery, but a model of integrated administrative governance with the president at the top.

The revision of CAP into Model Cities took place over ten years, largely during President Johnson's tenure. Yet, these institutions were so central to the projection of presidential power that President Nixon likewise embraced the revised program from his first days of office. Model Cities was an attempt to create new coordinating mechanisms that tied a diverse array of

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Congressionally-appropriated funds to White House review and approval processes -- to do what CAP had failed to do. By the end of the Johnson administration, these policymaking processes and direct lines of coordination were fully entrenched in the White House. Once reformed, CAP and the local agencies it established gave the presidency even more power over subnational politics than it had earlier in the decade. CAP was a deliberate attempt to create a cohesive federal-local policy – to bring order to a haphazard, complicated, and often contradictory local programs the president inherited. Instead, political officials at every level of governing authority pressured the White House to take further responsibility for the sprawling intergovernmental order. Model Cities, which grew out of CAP's failures, became a priority program in the Nixon White House largely because of the power and flexibility its engineers had built into the law. As with Johnson, Nixon relied on his budget office to negotiate the complex intergovernmental relationship. And, over time, intergovernmental reform became so central to the success of Nixon's presidency that he refashioned the entire executive office into a more powerful and centralized tool for enacting the "New Federalism."

In the final analysis, CAP and Model Cities sowed more confusion into the federal system as opposed to cooperation. But this was not because the administration disagreed over their understanding of the program or because it was secretly hostile to community action, as generations of scholars and activists have surmised. Rather, the conflict undergirding both programs was endemic to the very nature of the federal system it was seeking to reform. Martin Grodzins, the seminal scholar of American federalism once celebrated the fact that, in America, “a little chaos” is a good thing.¹ Chaos is inevitable when communities meet to determine local

¹ This interpretation comes from Daniel Elazar in his introduction to: Martin Grodzins. 1982. *The American System: A New View of Government in the United States*. New York, NY: Transaction Publishers.

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priorities, corral disparate resources, and communicate with multiple levels of government. CAP and Model Cities channeled that conflict and elevated it to the highest reaches of power. As a result, Johnson and Nixon struggled to balance coordination with local control, and both determined that the pendulum had swung too far in the direction of decentralization. In reforming community action and local governance, both administrations had to confront the legacies of earlier attempts to empower state and local officials in the 1940s and 1950s, which ultimately lead to further governmental integration when the White House desired to decentralize decision-making authority. The full pathologies of presidential-federalism were on display: mutability in program administration created an onslaught of challenges and sowed institutional distrust, state and local government became increasingly dependent on a federal budget susceptible to greater fiscal pressures, and the problems of local communities metastasized into national crisis, placing even greater demands on the American presidency.

Traditional Explanations: The Puzzle of Federalism

There is no more controversial or widely studied aspect of Lyndon Johnson's War on Poverty than the institution of CAP within the Office of Economic Opportunity (OEO). However, scholars have failed to place community action within the broader framework of creative federalism, presidential managerialism, and the development of the administrative state. Scholars usually divide into three disparate camps when trying to explain Johnson and Nixon's relationship with community action. First, there are those who see CAP in the tradition of Daniel Patrick Moynihan and his groundbreaking study of the program, *Maximum Feasible Misunderstanding*.² The critique levied by Moynihan is two-fold. Moynihan first suggests that

² Daniel P. Moynihan. 1969. *Maximum Feasible Misunderstanding: Community Action in the War on Poverty*. New York, NY: Free Press.

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CAP failed because the Johnson administration had very little idea what it was getting itself into when it first presented the plan for community action to the Congress in early 1964. Tracing the program's origins back to the Ford Foundation's efforts in Harlem, New York, Moynihan paints CAP as a covert, radical scheme for fixing social problems that government could not simply fix. Once enacted, Moynihan argues that the administration was never able to overcome the vast internal disagreement between those who shared CAP's more revolutionary goals inside the Office of Economic Opportunity, and those closest to the president who needed to balance CAP with other political considerations and budgetary pressures. Bureaucratic infighting and government overreach explain the reason for CAP's demise, but Moynihan never explains how the program later informed the Model Cities initiative -- a program Moynihan himself would later promote inside the Nixon White House.

Largely in response to Moynihan, there are others who view CAP as a success story against all odds. It is a partial success, to be sure, but in pointing to the victories local community activists eked out, the history of CAP reveals the deeply embedded history of racism in 1960s America. As Frances Fox Piven, has observed: "Some deference to 'citizen participation' has always been important in legitimizing governmental action in America. But the Great Society programs went beyond token representation. They gave money to ghetto organizations that then used that money to harass city agencies. Community workers were hired to badger housing inspectors and to try to pry loose federal welfare payments. Later the new community agencies began to organize power to picket the welfare department or to boycott the school system."³ CAP was the school for future resistance and liberal activism -- political achievements that mattered

³ Cited in Michael B Katz, "The New African American Equality," *Journal of American History*, vol. 92 (2005), 78: 75-108; see also Francis Fox Piven and Richard A. Cloward, "The Politics of the Great Society, in Milkis and Mileur, *The Great Society and the High Tide of Liberalism*, 259: 253-269.

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beyond the particular policy outcomes of the particular program. This revisionist school includes a plethora of individual, city-specific studies of local community programs, and adds a much needed perspective on the cultural, economic, and social dynamics that intersected with national politics. And, to be sure, most of these individuals who sought to reform the CAP would not have objected to its largest victory: the development of a welfare rights movement. Local activists not only brought more individuals into contact with welfare programs – including some that predated the war on poverty – they fought on behalf of those rejected; the proportion of applicants approved, according to Michael Katz, “skyrocketed from about 33% in the early 1960s to 90% in 1971.”⁴ However, these successes - while important - neglect the effect that CAP had on large-scale institutional reform, especially within the White House.

Finally, among political scientists, the history of CAP is important precisely because of those institutional effects - particularly for what they reveal about the tendencies embedded within large establishment institutions. James Morone, for example, recognizes that this made for some unusual political alliances in the 1960s -- partnerships that betray efforts to categorize the decade as one that pitted champions of racial equality against the South. In his work, Morone documents how the urban, liberal establishment found an ally in Southern segregationist politics to end black empowerment through local community action programs.⁵ Additionally, as Morone argues, the agency histories of OEO and Model Cities are best understood as cases of bureaucratic life and death:

All administrative agencies are thought to experience a bureaucratic life cycle – from crusading young idealism to cautious rule-bound maturity. The poverty agencies appear

⁴ Michael Katz. 2005. “The New African American Inequality,” *Journal of American History* 92 (1): 106; see also, John D. Skrentny. 2002. *The Minority Rights Revolution*. Cambridge, MA: Harvard University Press.

⁵ See also: Robert Self. 2000. " 'To Plan Our Liberation': Black Power and the Politics of Place in Oakland, California, 1965-1977," *Journal of Urban History* 26 (September): 759-792.

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to have run their cycle at a manic pace: three years after the start of the program, they had already begun to enter 'bureaucratic middle age.'⁶

All of these perspectives are compatible with one another, and demonstrate why CAP has remained such a long-studied and controversial component of the Great Society. Yet, each of these perspectives neglects the role that federalism played in structuring the possibilities for political and institutional reform, as well as the incentives presidents Johnson and Nixon possessed for decentralizing administrative control in these new administrative structures. Model cities is almost never discussed in conjunction with CAP, and scholarship on Nixon's relationship with CAP is monopolized by the fact he unilaterally tried to terminate OEO in 1973 by impounding its appropriations. That narrative, however, often neglects Nixon's efforts to continue Johnson's reform of CAP into Model Cities, further solidifying the process of intergovernmental integration and enhancing presidential management over local politics.

It is necessary to discuss both these disparate programs in tandem because the explicit goal of both CAP and Model Cities was to transform the very nature of federated bureaucracy in the first place. The "success" of either two programs is relative to the initial goals set forth by political stakeholders. And, while it is certainly true that a major element of Johnson's creative federalism was to expand the political process to an even greater number of those stakeholders, the White House was often ambivalent over who would emerge victorious from the invigorated system of decentralized administration. Johnson's goal was coordination, with strong doses of local innovation – an inherently conflictual goal that demanded constant negotiation and revision, regardless of what was taking place in the minds of community activists. Nixon's goal was also

⁶ James Morone. 1998. *The Democratic Wish: Popular Participation and the Limits of American Government, Revised Edition*. New Haven, CT: Yale University Press, p. 242.

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coordination, with more power returned to local and state-level establishment figures -- a goal that was also inherently conflictual because devolved power creates coordination problems.

Perhaps unfairly, scholars have critiqued these “decentralizing” tendencies of these programs as hostile to community activists. The decentralized nature of community action meant that marginalized groups – mainly black Americans – would be forced to advocate for new programs in a pre-existing power structure. Absent significant national resolve, decentralization had the potential to exacerbate existing inequalities. Such was the conclusion of J. David Greenstone and Paul Peterson in the landmark study of black social movements and community action. “The Black Power demand for decentralization,” they conclude, “was to some extent, within the pluralist tradition, since decentralization has regularly been the primary technique for establishing interests in the system of group bargaining... Moreover, American local governments were sufficiently autonomous so that local control did mean control over important institutions...By controlling these institutions, blacks could then bargain effectively for incremental changes in other areas.”⁷ However, and to the point of their entire work,

If participation and rationalization turn out to pose some obstacles to black demands for equality, the principle of pluralist bargaining has been used even more obviously to defend racial inequality in America. Even while racial integration and equality became explicit federal policy, pluralist bargaining meant that the government worked only slowly and inefficiently to implement its new goals. And...the vesting of black interests, when it occurs in local politics, is likely to proceed slowly, only gradually spreading from one field to another.⁸

Greenstone and Peterson are right to point out the tensions between the dueling logics of participatory government and administrative management, but they do not push on this dilemma far enough. This tension is pervasive and permeates throughout the entire logic of presidential-

⁷ J. David Greenstone and Paul E. Peterson. 1973. *Race and Authority in Urban Politics: Community Participation and the War on Poverty*. Chicago, IL: The University of Chicago Press, p. 95.

⁸ *Ibid.*, p. 314.

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federalism. It is significant that both these programs are dominated by executive, as opposed to legislative, policymaking. As the evidence below reflects, the very nature of community action – its structure, its goals, its administration – was deliberately underdetermined. Congress did not even set a requirement as to what programs specific, local community action agencies (CAAs) were to coordinate. Some of this was because the menu of options changed depending on what each state or local government offered, but Congress also left open what federal programs CAAs could apply for. Importantly, as Theodore Lowi argues, this type of ambiguous discretion written into the law was indicative of the entire Great Society:

This was to be a war ending in the total elimination of poverty... Yet, strangely enough, it was a war in which neither the enemy nor the methods were positively determined... Worse, and more directly to the point here, the absence of central direction and guidance simply deprived the disappointed of something to shoot against. This is a paternalism that deprives and demoralizes.⁹

This under-determinacy was recognized by early studies of CAP and Model cities, none more influential than James Sundquist's monumental recounting of 1960s intergovernmental relations. But even then, Sundquist's study is rooted in a particular time when the pretenses of presidential management and party control went unchallenged. His recommendations to make CAP work are rooted in the promise of greater presidential control. "In a democratic, pluralistic society," Sundquist writes, "no system of intergovernmental relations can be established through a single action, or even a series of actions; it evolves. But the evolution, if the result is to be a *system* of relationships rather than a jumble, must be guided according to a consistent set of principles and governing doctrine... The guidance, however, can come from but a single source of authority -- the President. It is he who must apply the principles and the doctrine in proposing

⁹ Theodore Lowi. 1979. *The End of Liberalism: The Second Republic of the United States*. New York, NY: W.W. Norton, p. 213.

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legislation to the Congress and in directing the execution of the laws...The 1960s have been a decade of spectacular innovation in policy. What is needed now is a decade of innovation in administration that, while it perhaps can never be as spectacular, will be equally historic."¹⁰

With the enactment of the 1966 Model Cities Program on November 3, the White House received the requisite administrative authority to finally develop the thick lines of local and federal cooperation it had sought from the earliest days of conceptualizing the War on Poverty. CAP was too constraining, even if it was, in Lowi's comparison, an exemplar of Congressional delegation (or abdication). Model Cities extended the project of making government officials more accessible and accountable to the nation's poorest residents, but it gave administrators inside the White House even greater say over what accessibility and accountability looked like. Early in Nixon's presidency, despite sincere efforts to reform Model Cities, scholars and administrators concluded that the program had just papered over the contradictions inherent in administrative decentralization that were present in CAP. Model Cities' demise was not "anti-statist" or "conservative backlash," but a moment of reckoning in the new project of presidential-federalism that finally morphed into general and special revenue sharing. In tying together the policy history of community action and the Model Cities program, the remainder of this chapter reveals how the process of intergovernmental integration creates a type of governance that is more mutable, less financially stable, and more dependent on the political aims of presidential leadership.

¹⁰ James L. Sundquist. 1969. *Making Federalism Work: A Study of Program Coordination at the Community Level*. Washington, D.C.: Brookings Institution, p. 278.

Community Action Programs: Empowering Executive Authority

Community action was a small element of the mammoth 1964 Economic Opportunity Act - the enabling legislation that launched the War on Poverty. CAP grew out of an early 1960s initiative underwritten by the Ford Foundation, with the deliberate goal of creating a new arena for democratic life within American cities. Just as the settlement house tradition in Progressive-Era America had challenged the legitimacy of urban governance and the political machine, so too did community action hold out the promise of disentangling large bureaucracies at the local, state, and federal levels. The Ford Foundation's "gray areas" program envisioned a new style of urban politics – one that placed external resources in the hands of those who needed them the most, and knew how to use them the best.¹¹ The grants, as the head of the program Paul Ylvisaker, argued, "are intended to help correct the basic conditions which have led to protest, and to develop the latent potential of the human beings now crowded and often crushed at the bottom of the community's totem pole."¹²

Around the same time, similar efforts at community development through collective organization emerged. The Mobilization for Youth (MFY) project, underwritten by the National Institute for Mental Health, targeted an area of New York City approximately 100,000 persons in size. The program – and the flurry of social science reports it produced – eventually attracted the attention of the United States' Attorney General Robert F. Kennedy, brother to the then president. Convinced that these types of micro-targeted, community organizing programs would have a major effect on simmering racial tensions, the MFY project helped to spawn President Kennedy's "Committee on Juvenile Delinquency and Youth Crime." The Committee was tasked

¹¹ Peter Marris and Martin Rein. 1973. *Dilemmas of Social Reform*. Chicago, IL: Aldine Publishing Co.

¹² Paul N. Ylvisaker. 1963. "A Foundation Approach to City Problems," in *American Community Development*. New York, NY: Ford Foundation, pp. 6-7.

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to study other MFY-like programs in other cities, but beyond a few small interventions, the Committee enacted few pragmatic changes. Rather, it had the effect of building consensus among scholars, politicians, and activists who came to agree that the problem afflicting communities was not one of resources or a lack of programs, but one of coordination. So, they concluded, those who participated in anti-poverty programs did not take advantage of the full set of resources, and multiple agencies were often working at cross-purposes with one another. If the poor themselves could have a say, government officials could respond to their specific needs and demands.¹³

From these origins, it is clear that the coordinating mission that the authorizing statute placed on CAP was not a secondary consideration. As Lyndon Johnson's 1964 budget message read, six months prior to CAP's creation, any new program would have "establish a means of bringing together these separate programs – Federal, State, and local – in an effort to achieve a unified and intensified approach...comprehensive community action programs would be developed, to focus the various available resources on the roots of poverty in urban and rural areas."¹⁴ In developing CAP as a vehicle for delivering government services and relaying the concerns of different communities back to elected officials, the Johnson administration, in particular, sought to empower localities, all the way down to the neighborhood, with a say in how government monies were to be spent. The Great Society would at one level, reimagine what effective governance could look like – to amend for the sprawling machinery of federal bureaucracy that had, “developed indifference to human affairs,” as the radical *Students for a*

¹³ Daniel P. Moynihan, *Maximum Feasible Misunderstanding*, p. 70.

¹⁴ Lyndon B. Johnson: "Annual Budget Message to the Congress, Fiscal Year 1965.," January 21, 1964. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=26013>.

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Democratic Society critiqued.¹⁵ At another level, by creating new avenues of political participation and neighborhood advocacy, CAP sought to reinvigorate the mediating institutions between the people and their government – to ameliorate the declining sense of civic responsibility and governmental efficacy that plagued impoverished communities. CAP was therefore to be an important intervention in address the “quest for community,” as the renowned conservative scholar, Robert A. Nisbet phrased it.¹⁶

To be sure, citizens had previously participated in a number of federal programs that acted directly on them, even if not implemented in conjunction with other governments. But the participation requirements were even more ad hoc and experimental than the social welfare programs the Great Society was trying concentrate. Barlow Burke, then commenting on the participation requirements in Model Cities, summarized the history of participation requirements as such,

Until the 1960s, citizen participation had been justified primarily in administrative terms as an instrument of cooptation of local government (TVA), building a (New Deal) bureaucracy’s client group and adjusting a program to the client’s needs (Farm Security Administration), providing low operating costs (Selective Service System), or publicizing the program. The list of administrative justifications could be extended in each case were the nuances of these programs to be discussed, but the point is essentially the same: when bureaucracy had some previously formulated program to implement, marginal citizen involvement could serve administrative ends.

Citizen participation through CAP would be political, instead of instrumental. Still, CAP was not intended to compete with pre-existing political structures, but rather with already empowered political factions within the city – middle-class homeowners, the chamber of commerce, small business: those who already had the ear of City Hall. The real thrust of the Economic Opportunity Act was to reinvent *how* the government at all levels, including states and localities,

¹⁵ Students for a Democratic Society. 1962. *The Port Huron Statement*. Chicago, IL: C.H. Kerr, 1990.

¹⁶ Robert A. Nisbet. 1953. *Quest for Community*. New York, NY: Oxford University Press.

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spent money targeted for the poor. As The House Committee on Education and Labor summarized:

This is based on the belief that local citizens know and understand their communities best and that they will be the ones to seize the initiative and provide sustained, vigorous leadership...Clearly the programs must come to grips with the fundamental aspects of the problems they seek to deal with in a way that will not merely tend to make them more enduring, but offer real promise of their elimination.¹⁷

OEO's new director, Sargent Shriver, was not only a capable administrator who had already overseen the development of the nation's Peace Corps, he was also an astute politician, sensitive to the power dynamics of bureaucratic governance -- the very type CAP was seeking to corral. Throughout Congressional hearings on the bill, Shriver routinely emphasized the coordination role he would serve, overseeing programs that Congress, the states, and the localities had already passed. Championing the nation's diversity and his respect for it, he argued that

We hope to bring to bear in the rehabilitation of the people in the community all the resources of the community and State and city and county, as the case may be. This requires that the community itself come forward with a program. In some cases, it might be a single-purpose program, but in most cases, we think it will be a multifaceted program to combat, poverty as it exists in that community. A program useful in a rural part of a State would be different compared to what might be done in cities of that State. A program that might be appropriate for Savannah, Ga., would be different from one appropriate for Detroit. We are not forcing these communities, therefore, to accept, or fit themselves into some pattern that we create here in Washington, or someone creates for them.¹⁸

But Shriver was not coy about the political effects, and there is no mistaking his statement before the Congress:

the objective of the community action program is to get action initiated against poverty at the point closest to where the poor people live...so, rather than putting the individual communities of the United States in a planning straitjacket originated here, or in a State

¹⁷ Report to Accompany H.R. 11377, Economic Opportunity Act of 1964, U.S. House of Representatives, Committee on Education and Labor. 88th Congress, 2nd Session, Report No. 1458, p. 10.

¹⁸ U.S. Congress. House. Committee on Appropriations. 1964. *House Supplemental Appropriations Bill, 1965*. 88th Cong., 2d sess., Doc. 1891, 17 September, p. 356.

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capitol, we are trying to take this responsibility as close to the local governmental level as we can.¹⁹

The Imperative for White House Coordination

CAP's legislative mandate required the “maximum feasible participation” of community members in designing anti-poverty plans, and implementing their decisions. By federal law, community action programs had to be organized by a public or private nonprofit agency, *not* a political party.²⁰ But within those broad confines, OEO staff, many of whom served in the Ford Foundation and earlier pilot programs, often emphasized participation of the poor over coordination with local government. “They possessed deep suspicion of municipal government and other parts of local ‘establishments,” Howard Hallman argues, “They were talking about power for the powerless.” Or, as OEO’s *Community Action Workbook* recommended, a “promising method was to assist the poor in developing autonomous and self-managed organization which are competent to exert political influence on behalf of their own self-interest.”²¹

The ambiguity of that phrase, maximum feasible participation, no doubt authored greater conflict between administrators and activists. But even with a clearer statutory provision, CAP was still victim to the two contradictory goals of decentralized administration: coordination and local control. By coordination, the Johnson White House, and Congress in its debate over OEO, sought to construct new administrative methods to connect the procedures of other programs. By local control, OEO was to focus on establishing robust planning procedures, which involved considerable input from members of the effected communities. Planning might include

¹⁹ Ibid., p. 357

²⁰ Economic Opportunity Act of 1964, Title 2, Part A, Section 202 (a).

²¹ Office of Economic Opportunity. 1965. *Community Action Workbook*, vol. 3, A7. Washington, D.C.: U.S. Government Printing Office.

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developing new programs, or applying for pre-existing ones. Local control also entailed, if it comported with a local CAA plan, operation of programs by the poor themselves. In sum, given these two goals, it was possible for a CAA to plan and implement, but not to coordinate. Any degree of participation made the task of coordination more difficult - a fact quickly realized by the White House itself.

The inherent tensions embedded in the program began to reveal themselves in the winter of 1964-65, just as the first monies made their way to local communities. In order to show quick progress, Shriver decided to employ a “building blocks” approach for pressing OEO initiatives. Whereas Johnson’s original budget message and legislative proposals had emphasized coordinated *planning*, to be followed up with grants for specific community action agencies, the pressing desire to get money into the hands of the poor as fast as possible encouraged a new approach. Instead of emphasizing the bringing together of federal, state, and local resources, OEO prioritized ready-made grants and programs. Ironically, as John Wofford noticed, this had the effect of encouraging almost mirror initiatives from community to community as OEO emphasized its own “national emphasis programs”: Head Start, legal services; comprehensive health services; Up-ward Bound.²² Whereas coordination required planning and delay, presidential politics required that money get spent fast and efficiently.

The building blocks approach was also in direct response to the nation’s mayors who had been enlisted in defending the OEO proposals before the Congress. Both the U.S. Conference of Mayors and the American Municipal Association passed resolutions in favor of the Economic Opportunity Act – a fact Shriver was quick to point out when accused of centralizing power in

²² John G. Wofford. 1969. “The Politics of Local Responsibility: Administration of the Community Action Program,” in James L. Sundquist (ed.), *On Fighting Poverty: Perspectives from Experience*. New York, NY: Basic Books, pp. 90-93.

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Washington. Less than a week after passage, Los Angeles Mayor Samuel Yorty released his own five-point plan to capitalize on the \$947 million federal law; from a 2,000 person public works training program to 1,000 person park rehabilitation project, the Mayor promised that “thousands” in the city would be lifted out of poverty within the upcoming year.²³ By November, Baltimore Mayor Theodore McKeldin had set up his own office of “Community Action for Neighborhood Development Organization” to oversee multiple CAAs planned under a \$4 million grant from OEO.²⁴ And, far short of the \$140 million requested, Mayor Daley was nevertheless enthusiastic by the “pre-Christmas package” of \$4 million that OEO had awarded to the city for basic adult education programs to be set up.²⁵

The Bureau of the Budget worked tirelessly to ensure that these early grants would not sacrifice planning and coordination for a quick political payoff. At the start of the new year, Califano requested a series of lengthy administration re-organization proposals from agencies tasked with running anti-poverty programs. As to be expected OEO – because it was new, and because it sat outside the formal Cabinet structure – was a primary concern. The OEO’s own review identified several areas in need of reform, but celebrated the enactment of a new advisory council that would bring state, county, and city government officials together. “As you know,” Shriver wrote, “the problem of coordinating Federal Government programs cannot be completely solved in Washington. It requires the direct advice and cooperation of every layer of Government. I hope that this Council will help us to learn how to focus Federal Government

²³ Erwin Baker. 1964. “Yorty Proposes Sweeping Anti-Poverty Plan for LA.” *Los Angeles Times*, 20 August, p. 1.

²⁴ *New York Times*. November 26, 1964. “Baltimore to Get Antipoverty Funds,” p. 30.

²⁵ *Chicago Tribune*. December 17, 1964. “City Awarded Poverty Funds,” p. 1.

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programs more sharply at the local level and how to mesh them together so that they complement and reinforce each other.”²⁶

These reorganization proposals set off the first round of controversy that would subsume CAP at the national and local level. Activists saw change at the national level as threatening to the goals of participation within each locality. In early March, 1965, just five months into CAP, a prominent civil rights attorney in Washington, D.C., Julius Hobson received an injunction against the city's United Planning Organization. Alleging that the board was in violation of a statutory provision in the Economic Development Act calling for the “maximum feasible participation” of the poor and of members of the affected communities, this was the first direct challenge to city officials over the meaning of the participation standard.²⁷

Hobson's injunction emboldened those who were quickly realizing the effect that White House efforts had already achieved in composing local CAAs. To be sure, the first community organizations that formed had strong mayoral support. And, by March, most cities that had received initial appropriations for planning and community organization had succeeded in developing their coordinating CAA. Shriver, as to be expected, was always quick to point this out to the president, whose aides were now starting to rumble over delays inside the OEO for processing delays.²⁸ Shriver claimed that, despite news to the contrary, he had received complaints from only two Mayors over OEO administration and the requirements that CAAs reserve space for the poor. In Philadelphia, Mayor Tate had demanded that his Director of public welfare oversee, simultaneously, the city's “umbrella” agency – a structure OEO deemed

²⁶ Sargent Shriver to Joseph Califano, January 24, 1965, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 49.

²⁷ Eve Edstrom. March 6, 1965. “Poverty-War Conflict Erupts Over Control.” *Washington Post*, A1.

²⁸ Sargent Shriver to Bill Moyers, February 2, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 5.

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inefficient or undesirable. And in Cleveland, the stalwart New York representative Adam Clayton Powell had written to OEO demanding that funds be withheld from Mayor Locher's CAP board until it was enlarged to incorporate "dissenting elements." However, Shriver was concerned that the charges against his agency were "an excessive overstatement based almost exclusively on unhappiness in Cleveland and Philadelphia."

If anything, Shriver had demonstrated his resolute attentiveness to the concerns raised by the mayors of cities with functioning CAAs over those of local poverty activists. Chief among the mayors' concerns was the excessive delays incurred by state welfare agencies. Under the statutory authorization for OEO, Congress permitted each governors' office to exercise a "veto" over any poverty program proposed by a municipality or local CAA. State welfare departments were to review all proposals prior to OEO review in order to see if any other state resources or federal-state programs could be brought to bear in a coordinated effort to attack poverty. But, most of the initial OEO grants funded specific programs, instead of planning or "technical assistance". In fact, only eight states received funding for some form of technical assistance or review planning in the initial grant phase: Connecticut (\$45k); Illinois (\$229k); Indiana (\$74k); Massachusetts (\$116); Nebraska (\$26); Oregon (\$34k); Pennsylvania (\$251); Texas (\$70).

In addition to delays brought about by state agencies, Mayors routinely criticized the administration's own delays in releasing funds outside of OEO's jurisdiction. So long as the goal of most CAAs was to innovate in bringing disparate sets of federal monies together, reduce overlap, and maximize project efficiencies, they had to work with multiple federal agencies and Cabinet departments. Early architects of the anti-poverty legislation recognized as much, which is why OEO remained partially independent. But Shriver had largely failed to placate mayoral demand for both quick action and coordinated action. Faced with growing criticism, Shriver's

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declaration that this was endemic to the decentralized nature of community action, fell on deaf ears. “We knew there would be conflicts,” Shriver would say, but “that is the price one has to pay for local control. And we intended that these community-action programs be run locally, just as Congress insisted...Nobody would be yelling if nothing was happening. This is like going back to the old New England town meeting concept of getting things done.”²⁹ Shriver understood the tensions of presidential-federalism better than anyone. Still, the delays produced, as Baltimore Mayor Theodore McKeldin wrote, an “almost unanimous feeling” that federal and state officials “do not understand the problems and operations of local governments.” As such, the mayor warned, the president’s war on poverty “might well obtain an unfavorable image which could hurt it immensely.”³⁰

Where Shriver saw democratic disagreement and debate, the Mayors saw red-tape, and the mayors’ opponents – none the more prominent than Representative Powell – saw the resurgence of old-school political strong-arming against the poor, and against civil rights activists in the city. While Shriver and the White House mobilized to improve federal responsiveness to mayoral-backed CAAs, activists set their sights on restructuring the local organizations that the White House was empowering.

Under OEO guidance, the nation's mayors began to develop oversight boards to help govern the multiple CAAs within each city. Having already lost out on the composition of many of those initial CAAs, disputes over the composition of general oversight boards at the city level erupted in Chicago, New York, Los Angeles and San Francisco, and Syracuse. National civil rights leaders were furious about the composition of Chicago’s Committee on Urban Opportunity

²⁹ Marjorie Hunter. April 18, 1965. “Shriver Defends Antipoverty Aid,” *New York Times*, p. 46; see also, Tom Littlewood. April 19, 1965, “War on Poverty Brings Political Skirmishing,” p. A4.

³⁰ Memorandum and letters attached to: Sargent Shriver to Bill Moyers, February 2, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 5.

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and its formal connection to the office of Mayor Daley. And no city had a more protracted debate than New York and its establishment of an anti-poverty council, which would oversee the disparate collection of neighborhood CAAs (New York ultimately constructed a 100-member council, with a balanced number of city officials and representatives of 16 neighborhood CAAs).³¹ As these organizational fights broke out, money continued to pour, and while mayors had to contend with community leaders in the city, they leveraged their partnership with the White House to solidify their own control over local community programs.

Mayor William Walsh of Syracuse played the new intergovernmental game perfectly in his fight with local activists and OEO officials. The fight over regional, metropolitan, and city-wide poverty councils did not slow down the flow of monies to local CAAs, private organizations, and university's that could (and were expected to) apply for OEO funds. In February 1965, Syracuse University applied directly to OEO for a grant for research and training in the area of community action – a pilot study on ways to personally involve the poor in anti-poverty efforts. Upon receiving the \$314,000 to establish the Community Action Training Center at Syracuse University, university staff went to work establishing training programs modeled after the teachings and specific techniques of Saul Alinsky. Brochures advertised the need for applicants to have “a controlled but intense anger about continued injustice,” and who were “committed to hard work for people who are grappling with apparently overwhelming problems. As Warren Haggstrom, an Assistant Professor and Director of the program later told reporters, “Ours is a philosophy of self-help. We want to help the neighborhoods develop strong

³¹ *New York Times*. May 24, 1965. “New York’s Antipoverty War,” p. 30’ Fred Powledge. May 28, 1965. “Poverty Council Increased to 100,” *New York Times*, p. 1.

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democratic organizations with as wide a base as possible that will achieve an additional level of power – enough power to enable those individuals excluded from the community to enter it”³²

After receiving their training, organizers traveled throughout the city running meetings in the neighborhood churches, instructing residents on how to press city officials on their grievances: inadequate garbage collection, dilapidated parks; inaccurate gas and utility bills; and unfair treatment by landlords. Of course, at the center of the “Alinsky-Style” was a basic recognition that there was power in the vote.

Mayor Walsh quickly learned that federal monies were being channeled towards voter registration drives. And where OEO and university professors saw the extension of voting rights, Walsh, a Republican in a longtime Republican city, viewed it as a direct challenge to the political status quo: “These people go into a housing project and talk about setting up a 'democratic' organization—small 'd' —but it sounds just the same as Democratic—big 'd'. In a close election, it could be decisive.”³³

OEO had thus far weathered the complaints that rushed in from Walsh’s office. One OEO official even joked that it was evidence of local government’s limited perspective on what was needed to enact true social change: “If the mayors of this country knew what they were letting themselves in for, they never would have signed on.”³⁴ That anonymous OEO official was correct in identifying what Walsh labeled a “horrible example of how not to handle federal-local relations,” but was perhaps too short-sighted in recognizing the tight bonds of inter-dependency between Johnson and the mayors that would ensure programmatic change.

³² Erwin Knoll and Jules Witcover. June 3, 1965. “Fighting Poverty – And City Hall.” *The Reporter*, p. 21.

³³ *Ibid.*, p. 20.

³⁴ *Ibid.*, p. 22.

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At the June meeting of the U.S. Conference of Mayors in St. Louis, Walsh joined with Mayor John Shelley of San Francisco and Mayor Yorty of Los Angeles in circulating a petition denouncing the OEO for “undermining the integrity of local government.” Before the conference, Shelley opened up the OEO’s recently published “Community Action Work Book” and turned to the pages on organizing low-income residents for political effectiveness. “Another method considered by some to have merit,” the section read, “is facilitating the opportunities for the poor to participate in protest actions, mounted by communitywide and national organizations...The experience exposes them to the possibilities of effective social action and enhances their confidence that through collective effort they can effect and improve their circumstances.”³⁵

The animus towards this “diabolical social work,” as Walsh phrased it, was no doubt sincere. But it was also a highly effective political tool in the mayors’ collective efforts in their longer-standing fight to create strong umbrella-organizations to oversee CAAs in their cities. The Syracuse University grant came from just 15 percent of monies that OEO had reserved for non-governmental organizations, in this case Syracuse’s “Crusade for Opportunity.” In animating the public relations game over Alinsky-type protest tactics the mayors leveraged that rather small change into securing greater control – and therefore greater political credit – over the remaining 85 percent of funds.

The White House further placated the demands of the mayors in reforming federal oversight procedures. Among the administrative changes spearheaded by the White House, none dealt with the requirement for city agencies to include large numbers of the poor on their umbrella-organizations. Rather, mayors were most critical of the fact that, in those places that

³⁵ Ben A. Franklin. June 2, 1965. “Mayors Shelve Dispute on Poor.” *New York Times*, p. 20.

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had already *succeeded* in establishing city-wide agencies, OEO was failing to following through on the “preference provisions for projects that have been approved by the local CAA.” As Humphrey relayed to Johnson near the end of August, the “compromise position” reached between OEO and the mayors had nothing to do with community participation standards and approval of CAAs; it did have to do with the amount and timings of federal grants to already approved CAPs agencies.³⁶ OEO would, as a result, prioritize local program requests over their national priorities and funnel less money to non-governmental entities (like Syracuse University) that applied directly to OEO.³⁷ Three of the six other administrative changes dealt directly with improving technical assistance offices at the state, local, and federal level, and the remaining change echoed the familiar concern – present since the early weeks of OEO’s existence – that Shriver had failed to effectively coordinate agencies and departments at the federal level.³⁸ Arguing that coordination concerns had fallen wayside to OEO’s success in forming representative CAAs within city neighborhoods, the Conference report issued one final recommendation to be further studied: The “coordinating focus might be appropriately lodged in the office of the local chief executive. A city office of federally financed program coordination would parallel the newly provided federal Office of Urban Program Coordination under the new Housing and Urban Development Department. The pair of offices might serve to improve the flow of information and the mutual understanding both within the respective levels of government, federal and local, and between the levels...”³⁹

³⁶ Hubert H. Humphrey to Lyndon B. Johnson. August 26, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

³⁷ Examination of the War on Poverty – vol. 4, p. 913.

³⁸ U.S. Conference of Mayors. 1965. *Special Report: The Office of Economic Opportunity and Local Community Action Agencies*, in *White House Central Files: Executive, WE9*, Lyndon B. Johnson Library, Box 26.

³⁹ *Ibid.*, p. 5.

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At one level, the victories won by mayors in the summer of 1965 might reveal some limits to presidential power -- an early example of process-federalism at work.⁴⁰ But in this case, the mayors' agenda complemented the president's emphasis on planning and coordination.

During the later parts of the summer, as Humphrey and the mayor's representatives sketched out a plan for reforming the administrative structure of the war on poverty, Schultze and Budget bureau staff conducted their own internal review of OEO administration for the president. Schultze was clear in his motivation – local discord and the power mayors had gained in the aftermath of the Syracuse debacle had jeopardized the effectiveness of the war on poverty. In an unusually lengthy memorandum, Schultze revealed with remarkable candor the conflicting goals and tensions sowed into OEO's authorizing legislation. Motivated by the sincere belief that “a larger dole is not the answer” and that “the battle won't be won solely by handouts and program direction from Washington,” Schultze pointed to the three goals of CAP: 1) get comprehensive community anti-poverty plans to eliminate “wasteful competition and duplication among social welfare agencies; 2) emphasizing an approach to turn “tax-eaters into taxpayers,” by defunding activities that “destroy self-reliance among the poor and perpetuate the dole;” 3) to involve the poor in the program “rather than simply having well-intentioned middle class liberals working on them.”

For Schultze, the third point was wrongly emphasized from the start, and OEO had neglected its operative goals in planning and evaluating programs that worked. “We ought not to be in the business of organizing the poor politically,” Schultze wrote. “We ought to involve them at the actual working level in poverty program [sic]. Mayors can stand having the CAP often at odds with the professional social welfare bureaucrats of the city government...but they won't

⁴⁰ Ernest A. Young. 2001. "Two Cheers for Process Federalism." *Villanova Law Review* 46: 1386.

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stand for what appears, to them at least, as the Federal creation of competing political groups in their own cities.”

Schultze’s own recommendations complemented and extended the compromises already broached by Humphrey and OEO, but contained a more explicit directive to stop sponsoring elections to poverty planning boards (a particularly noxious way, according to the mayors, of raising community tensions), and to “soft-pedal its conflicts with local officials” even if it caused some “friction with civil rights groups.” Finally, Schultze, in offering to “take it from here,” suggested that BoB establish procedures that would require OEO negotiation and consultation with local officials before taking any action. Scribbled across the bottom of the memo was a frank acknowledgment from the president: “O.K. I agree.”⁴¹

Inside the BoB, Schultze was ever sensitive to the interplay between politics and administration. In taking the lead in reforming OEO’s relationship to the cities, he deployed a two-front assault in defense of the federal-local partnership he believed necessary. In the first instance, Schultze immediately sought to end the torrent of negative press that not only damaged Johnson’s personal reputation as an effective manager, but had implications for the president’s party since most big-city mayors hurling complaints were Democratic. Over the next month, the Budget Bureau drafted a policy that deeply restricted the amount of money and types of programs that local groups could apply for without going through city-controlled community action agencies. Schultze leaked this memo, and his earlier recommendations sent to Johnson to the *New York Times*. And, in front page news on November 5, 1965, the *Times* illustrated the in-fighting taking place in the White House over the extent to which the poor were to be involved in the planning process. But, in highlighting the tension between the Bureau of the Budget and the

⁴¹ Charles Schultze to Lyndon B. Johnson. September 18, 1965, in *White House Central Files: Executive, WE9*, Lyndon B. Johnson Library, Box 26.

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OEO, Schultze seemingly appeased the mayors, by throwing much unwanted attention on OEO and Director Shriver. Schultze, in consultation with Califano, argued that if the press's inquiry into OEO infighting had gone too far he would deliver a statement that downplayed the role of Budget Bureau in crafting administration policy. But, Schultze remained silent confirming that the White House was cracking down on OEO in order to improve its "image with mayors."⁴²

While nevertheless taking Schultze's approach to placating the mayors, the strategy also took the president off-guard. Forever sensitive to his own political position, Schultze wrote to Johnson three days after the *Times*' story first broke. Reminding the president of the general strategy for reforming OEO that they had agreed to in early September, Schultze added a little more muscle to his position. "A number of Senators and Congressmen," he wrote the president, "and editorial writers from Maine to California have been saying that the real test of the Great Society Programs will revolve around whether they will be administered in an efficient and orderly manner."⁴³ While never admonishing the goals and spirit of community action, it was a clear admonishment of the idea that it could be the Great Society's first priority. If Johnson wanted to have a legacy of lifting the poor out of poverty, his administration would have to take more seriously the original motivating goals of coordination and cooperation with City Hall.

Schultze followed up on the public relations game and small changes inside OEO by extending and enforcing even greater changes to CAPs. Limitation of the OEO, as perceived by White House officials, mayors, and city managers, was that, in its attempt to "get the show on the

⁴² Charles Schultze to Lyndon B. Johnson. November 6, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 26; Sargent Shriver to Lyndon B. Johnson. November 6, 1965 in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 26.

⁴³ Charles L. Schultze to Lyndon B. Johnson. November 8, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 26.

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road,” it avoided the necessary challenge to adopt sophisticated planning processes and administrative structures for coordinating designs and implementation. In early 1966, a year after the first reports of mayoral dissatisfaction trickled into his office, Schultze pressed down hard on Shriver and OEO staff to demonstrate the extent of planning efforts inside CAPs. OEO confessed that, even though obligated to promulgate procedures under the original 1964 Act, it had no planning requirements for CAAs, but that it would impose them on all existing agencies at the start of the new year, 1967.⁴⁴

Shriver, ever the politician as manager, was quick to take credit for the warming relations between OEO and the mayors’ office. “The U.S. Conference of Mayors has officially endorsed OEO’s legislative stance,” Shriver wrote Johnson in May 1966, “And I don’t think Dick Daley has uttered one word, or even a hint of complaint, in more than a year.”⁴⁵ But Shriver too had joined the bandwagon of budgetary coordination and cooperation that Schultze led, if only in the effort to stave off further attempts of Budget Bureau interventions. On his own accord, he claimed, he asked the president to advertise the new “checkpoint procedure” his office had instituted for making sure that any concerns a local city agency had with a particular application, made its way in the documentation sent to Washington.⁴⁶ Alas, this token acknowledgement of Schultze’s plans likely had little effect on federal-local relations, coming into effect months after the Humphrey-negotiated compromise position, and Schultze’s budget directives.

⁴⁴ Office of Economic Opportunity, “Survey of Federal Planning Requirements: Report to the Bureau of the Budget, July 16, 1966, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 29.

⁴⁵ Sargent Shriver to Lyndon B. Johnson. May 1, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 50.

⁴⁶ Sargent Shriver to Lyndon B. Johnson. June 8, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 5.

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The previous December, 1965, just a few weeks after Schultze exposed the rift between the White House and OEO, the Community Action Training Center at Syracuse University reapplied to OEO for a continuation of funds to organize the poor. When the proposal came to Washington, Bernard Boutin, OEO's new deputy director (and former Mayor of Laconia, New Hampshire), rejected the proposal outright. Shriver personally intervened, if only to demonstrate the remaining independence the Directors' office had in funneling discretionary monies. OEO telephoned the previously denied applicants informing them that they could reapply, but that they would need to first get approval from Syracuse's CAP, the Crusade for Opportunity. If the city CAP denied their application, they could follow the standard appeals process and once again seek funds directly from OEO. Outraged by the decision, Edward McGuire, the director of the applying program, condemned Shriver and maintained that the new policy "raises a very serious national question – whether OEO is going to fund any independent programs anywhere.... This is the only demonstration of its kind, and if it's abandoned here, it means this approach is being abandoned for the whole war on poverty." When McGuire and the rest of the agency refused to work through Syracuse's CAP, Alinsky himself interjected with choicer words. Criticizing the group for refusing to go through new OEO-procedures, he argued, "is like saying a Jew doesn't want to go to a Nazi Court."⁴⁷ Two years later, Mayor Walsh had a slightly different take. While he regretted that the grant had ever been issued, it nevertheless "gave him great satisfaction to report that the federal government in this case responded to our protest and the grant was not again funded in Syracuse."⁴⁸

⁴⁷ Jules Witcover and Erwin Knoll. December 30, 1965. "Politics and the Poor: Shriver's Second Thoughts," *The Reporter*, pp. 23-25.

⁴⁸ U.S. Congress. Senate. Committee on Government Operations. *Improving Intergovernmental Cooperation in the Management of Federal Assistance Programs: Creative Federalism Part 2-B, The State-Local-Regional Level*. 90th Cong., 1st Sess.

Using the IGA to Extend Presidential-Federalism

The White House would not have gained the authority it did over CAP if not for the institutional capacities built up inside the White House for managing intergovernmental affairs. Schultze is a testament to the power built up inside the BoB. In addition to the Budget Bureau's initiatives, Johnson reorganized and extended the capacities of the White House's intergovernmental affairs office.

Just weeks after taking office, at the urging of then-Senator Hubert Humphrey, Johnson held a widely publicized meeting with the nation's mayors in December to begin building support for his soon-to-come war on poverty.⁴⁹ When Humphrey joined the administration as Vice President, Johnson soon delegated him the task of being the "President's coordinator with Mayors" – a task he seem to relish given his early insistence that such relationships were essential to the would-be president.⁵⁰ Humphrey's position elevated the Office of Intergovernmental Affairs and fused it to the institutional vice presidency.

As the president's coordinator, Humphrey engaged in both outreach and damage control for the remainder of Johnson's tenure. In promoting the Great Society, Humphrey crisscrossed the country holding meetings with the nation's mayors to build support for new federal efforts.

⁴⁹ Hubert H. Humphrey to Walter Jenkins. December 13, 1963, in *White House Central Files: Executive File, Local Government*, Lyndon B. Johnson Library, Box 5; Ken O'Donnell to Warren Cikins. January 15, 1964, in *White House Central Files: Executive File, Local Government*, Lyndon B. Johnson Library, Box 5.

⁵⁰ Humphrey, too, had been a key advocate for the mayors even prior to officially joining the administration. As the landmark 1964 Civil Rights law worked its way through the Congress, Humphrey was adamant in his belief that simply signing the bill would not solve the problems it attempted to combat – what will matter is "how we implement this law on the state and local and federal level and how we back it up by community action and community support."⁵⁰ To earn that support, Humphrey called on the administration to convene meetings with the U.S. Conference of Mayors, and with that each state also bring together local officials, alongside federal administrators, to discuss the legal framework for desegregation. Jack Valenti to George Reedy, March 5, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1; *New Journal and Guide*, June 20, 1964, "Humphrey Urges Aid When Bill Passes," p. 2.

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Even when problems arose, Humphrey reminded them that no solutions (or additional monies) would be forthcoming unless they lobbied their Congressman. Humphrey took particular pride in traveling to small cities as well – those places “without large legal departments” to inform them of all the new programs available.⁵¹ As the administration’s traveling salesman for the Great Society, Humphrey and the Office of the Vice Presidency proved indispensable to advertising the ballooning number of grants (and old ones with expanded eligibility requirements), while BOB officials worked out the administrative kinks. Often times, Humphrey’s conversations, none the more prominent than his 1965 meeting with the U.S. Conference of Mayors, set the terms of Schultze’s agenda. For example, just over a year into the war on poverty, the vice president relayed the concern that, “Many mayors have told me that they would like to have a handbook they could keep on their desk which gives a simple explanation of the many programs available to their cities from the federal government.”⁵² Schultze immediately set to work, drafting what would become OEO’s catalog of federal grants.

The Johnson White House likely had a willing ally with the nation’s mayors without Humphrey’s assistance. Yet, with the vice president serving as a liaison the White House could more effectively channel that support into real political capital – both in dealing with a budget-weary Congress, and in stabilizing public opinion. “This is, as I have said before, one of my most interesting assignments,” Humphrey wrote the president. “Wherever I go I find local government officials anxious to break down the old barriers, and exhibiting a deep desire to cooperate with us in accomplishing the objectives of your program.”⁵³

⁵¹ Hubert H. Humphrey to Lyndon B. Johnson. August 26, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

⁵² Hubert H. Humphrey to Lyndon B. Johnson. August 26, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

⁵³ Hubert H. Humphrey to Lyndon B. Johnson. December 20, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

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Humphrey and other Johnson aids engaged with mayors in the more traditional aspects of party politics and electoral management, but these new, White House-centered relationships fundamentally transformed the president's relationship with Democratic Party. Indeed, these were highly unusual, complicated, and laborious interventions into the local politics that no president had enjoyed up to this point.⁵⁴ Humphrey was never alone when he traveled, but brought along a series of department secretaries and EOP officials with him as he toured specific cities and arranged regional conferences for cities with small populations. Far from being just an intermittent part of the Vice President's agenda, local-federal relations demanded his near constant attention. In 1967, for example, the vice president attended the annual meetings of both the National League of Cities and the National Association of County Officers in July; held special meetings with both those organizations in August to discuss the politics of an impending tax bill; inaugurated the first meeting of the Urban Coalition and National Conference of School Board Officials in August; attended nine separate meetings of regional city manager organizations; held a special meeting with the U.S. Conference of Mayors to discuss the administration's policies in Vietnam; and represented the administration at the Conference's annual meeting, where the largest organization of mayor's passed a resolution that commended "the President for giving the Vice President this liaison assignment and commends the Vice President for the tireless and constructive manner in which he is undertaking the assignment."⁵⁵

⁵⁴ James Jones to Marvin Watson. January 29, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 10; Marvin Watson to Lyndon B. Johnson. November 30, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3; Hubert H. Humphrey to Lyndon B. Johnson. December 20, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

⁵⁵ Hubert H. Humphrey to Lyndon B. Johnson. December 20, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

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Early in 1966, Humphrey, with the White House's urging, also spearheaded a project to "collect information on important individuals in the 45 largest cities...[those] in a position to be helpful to the Administration – for example, by taking an action, or a position on an issue."⁵⁶ By March the following year, the vice president shared the results of his research with the administration in a remarkable demonstration of the administration's understanding that – in what Tip O'Neil would later describe – "all politics is local." Covering 45 metropolitan regions in 24 states which housed an estimated 40 percent of the nation's population, staffers had bound together 62 "bulky volumes" of information pertaining to all these local. When the administration needed someone *within* the government to demonstrate its commitment to a particular neighborhood or a part of a city, officials could turn to collected information on political appointees, and their "birth, education, prior residence or employment" to find connections. When a city official challenged the value of a certain program, administration officials could turn to collected and disaggregated data on "how the state or city compares with other states or cities in allocation of federal funds, in terms of per capita share, and in terms of taxes contributed vs. benefits received." And, when officials, traveling to a city, needed to convene business leaders or other key city leaders – notably civil rights leaders – on short notice, a lengthy list of pro-administration individuals was at their ready.⁵⁷

The emphasis placed thus far on federal-local relations should not obscure the very evident fact that Johnson just as readily sought to nurture a more cooperative, and administratively coherent, form of state-federal relations -- the traditional constituency of the IGA. Governors were an important resource for Johnson as soon as he took office. Just two days

⁵⁶ Hubert H. Humphrey to Lyndon B. Johnson. December 21, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

⁵⁷ Hubert H. Humphrey to Lyndon B. Johnson. December 21, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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after being sworn in, Johnson met with 35 of the nation's governors, representing every region of the country. Convened in Washington to honor Kennedy the day of his burial, there, Johnson would personally meet with the individuals who would help craft – either through resistance or cooperation – many elements of the Great Society: George Wallace, Nelson Rockefeller, William Scranton, Edmund Brown. Telling them that, “I think continuity without confusion has got to be our password and has got to be the key to our system,” Johnson openly told the group – two days before he would tell Congress – that he would pursue passage of Kennedy's civil rights bill and tax cut legislation.⁵⁸ Several weeks later, while Humphrey was urging greater coordination with the cities, Jack Valenti counselled Johnson to bring all 50 governors to the White House in order to “impress on them the fact that the entire Government is ready to help them – if they ask for help – with their problems.”⁵⁹ These meetings no doubt served as an important catalyst for rethinking the role of the nation's governors in crafting public policy, and in developing the administrative structures of federal-state cooperation that would come to define the Great Society.

Just as President Johnson selected Vice President Humphrey to serve as the chief liaison between the nation's mayors and the administration, Johnson delegated parallel responsibilities to the Office of Emergency Planning (OEP). Over three separate directors, the OEP provided, with similar gusto, technical and administrative assistance to states in applying for federal grants, and in handling complaints with new and pre-existing federal programs. Buford Ellington, the former and soon-to-be once more Governor of Tennessee, led the office beginning

⁵⁸ “Memorandum on Governors Meeting with the President,” November 25, 1963, in *White House Central Files: Executive File, State Government*, Lyndon B. Johnson Library, Box 1; E.W. Kenworthy. 1963. “President Speaks: Tells Governors He'll Press Civil Rights and Tax Bills.” *New York Times*, 26 November.

⁵⁹ Jack Valenti to Lyndon B. Johnson. January 4, 1964, in *White House Central Files: Executive File, State Government*, Lyndon B. Johnson Library, Box 1.

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in March, 1965. The former Governor of Florida, Farris Bryant, took over for Ellington one year later and served until October 1967. Price Daniel, a former Governor and Senator from Texas, served out the remainder of Johnson's term. As might be expected, each of these individuals had previously, and recently, served as a Governor, bringing a first-hand knowledge of state-federal relations with them to the administration. Each had also developed an independent reputation for progressive, state governance – progressive here indicating efficient, less-wasteful governance; all three were Southerners and harbored segregationist beliefs. As the de facto liaison office between the federal government and the states, the OEP engaged with every federal department and senior official inside the Executive Office of the President. While the clear objective of OEP and its director was to hammer out any kinks in the implementation of federal programs, good informal relations with the nation's governors proved advantageous to the president's political fortunes.

When the mayors began to sour on OEO and its project of community action, the governors offered an important, prestigious voice of moderation in defense of the president's plan. Few governors believed that OEO had achieved its goal of coordinating federal efforts in the city – fewer still found its relationships with the state bureaucracy anything special – but at a July 1965 conference of the nation's governors, every single governor offered a defense of the president's war on poverty.⁶⁰ When the White House soon provided drafts of speeches that the governors – Democratic and Republican - could make support of the President's program, most not only delivered it, but sent their own versions back to the White House to send to other governors.⁶¹ Whereas the mayors of the nation's largest cities could find common disagreement

⁶⁰ Buford Ellington to Lyndon B. Johnson. August 2, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 3.

⁶¹ Marvin Watson to Lyndon B. Johnson. July 25, 1967, in *White House Central Files: Speeches*, Lyndon B. Johnson Library, Box 52.

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over OEO and the CAP, the governors of the nation's states held more disparate views, often bordering on downright apathy to the political tumult engulfing the cities. City residents were not their only constituency and, at least early on in the Johnson administration, state leaders did not see federal spending in the city as detrimental for other state-wide programs. When the president asked for support he got it, and the governors saw more benefit in projecting the image of effective governance, even if experimental, than criticizing new federal efforts⁶² Perhaps it was because Connally enjoyed such a close relationship to President Johnson that he felt he could risk alienating the White House. However, Connally's veto of a Neighborhood Youth Corps program because he thought the directors' salaries too high prompted an unexpected reaction – not from the president, but from OEO's Congressional supporters. Weeks later the House Education and Labor Committee began a series of mark-up sessions to repeal the Governor's veto authority and to weaken state oversight of federal programs. Connally sent an urgent telegram to the president claiming to speak on behalf of all the nation's governors. "...such arbitrary action could very well endanger the overall program," he wrote. "The administration can take pride in the fact that despite its scope, this program has enjoyed remarkable public understanding and support throughout the nation. This is due in large part, in my judgment, to the fact that there has been a sensible partnership between the federal government and the states. If this cooperation is to be destroyed by impulsive action and thereby endanger the program. The needy and the unemployed youth of our nation would be the unfortunate losers."⁶³

Battling the mayors on one side and now risking a political uprising from the governors, Johnson personally intervened in the Congressional negotiations to broker a compromise

⁶² Sargent Shriver to Lyndon B. Johnson. May 4, 1965, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 15.

⁶³ John Connally to Lyndon B. Johnson. May 18, 1965, in *White House Central Files: Executive WE9*, Lyndon B. Johnson Library, Box 26.

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position. Governors were to maintain their veto authority – “a method,” he later told Connally, “by which all of the knowledge, competence, and prestige a governor may have can be effectively brought to bear.” However, vetoes were to be reviewed by the Director of OEO and could be overridden, undeniably with some input from the president himself.⁶⁴

The compromise proved enduring, as it supplemented the ongoing changes the White House had brokered over mayoral control of the CAP. Importantly, Johnson’s reliance on the governors for information and rhetorical support had very different consequences for the president’s relationship to his party. Republicans, to be sure, were still largely successful in many urban areas; Mayor Walsh of Syracuse, it is to be remembered, was an important voice inside the U.S. Conference of Mayors and was a Republican. But the war on poverty had clearer implications for a traditionally Democratic constituency, forged by FDR during the New Deal – poor blacks, ethnic minorities, and members of labor unions. Given that federal initiatives in the cities were largely brought about because of a perceived failure of the states to adequately empower its localities, Republican and Democratic mayors generally offered a more unified line – be it in support of the president or in defense of greater local control. The Governors, in contrast, began to echo their predictable partisan considerations more forcefully as concerns over the war on poverty grew in response to urban rioting, and as the next presidential election approached.⁶⁵ Importantly, even when using OEO and the War on Poverty in their political gamesmanship, most governors, in private, continued to lobby Congress for more money to fully

⁶⁴ Lyndon B. Johnson to John Connally. June 10, 1965, in *White House Central Files: Executive WEO*, Lyndon B. Johnson Library, Box 26.

⁶⁵ This is not to suggest that Republican governors did not routinely lobby for more funds. Shriver, in his relentless efforts to convince the White House of OEO’s widespread popularity, was always quick to write the president when a Republican governor had made favorable remarks in defense of the war on poverty. See, for example: Sargent Shriver to Lyndon B. Johnson. October 13, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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fund programs initiated by federal, local, and state agencies – a commitment that Johnson valued more than benign partisan politicking.⁶⁶ In return, the White House often made it a priority point to include representatives of state agencies in its negotiations with local planning officials. HUD even convened a special conference in February 1967 with the express purpose of ““launching a continuing dialogue between HUD and the States that is so vitally necessary to both parties.”⁶⁷ And, administrative changes affecting local-federal relations often served the purpose of incorporating state officials – elected and civil servants – into the conversation.

One of the key functions of the OEP and its director was to smooth out the partisan consequences of the president’s comity with governors from the Republican Party. Party regulars routinely scorned Johnson’s friendliness with those who were, by definition, the party’s target in the next election.⁶⁸ And even among the president’s predicted opponents in the 1968 election – Governor Nelson Rockefeller (R-NY) and Governor George Romney (R-MI) – the administration wagered that effective, close governance that shared credit would prove more politically beneficial than not. Push back came not only from senior party officials and state party delegates, but from members of Congress. As more of the war on poverty took on a greater executive-centered dimension, Democratic MCs openly expressed their displeasure with Bryant

⁶⁶ For example, Nelson Rockefeller – the presumed front runner for the Republican presidential nomination – could be critical of Johnson’s efforts, even as the White House sought to use him in pressuring the New York Congressional delegation to vote for more funding. See: Joseph Califano to Lyndon B. Johnson. October 24, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 30.

⁶⁷ Department of Housing and Urban Development, “News Release: HUD and Governors’ Representatives Discuss Pressing Urban Problems,” in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

⁶⁸ In one revealing instance, a photograph captured a note that Johnson had written to Ohio Governor James Rhodes, calling him *the* ““Nation’s top executive and one of her best governors and one of my best friends.” Several members of the Ohio Democratic Party wrote directly to the White House questioning the decision. See: Clipping, May 2, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 2.

⁶⁸ Farris Bryant to Kenneth Curtis. May 2, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 2.

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in their sharing credit with their states' Republican governors.⁶⁹ Johnson would candidly remark to the governors at a White House conference that they had "caused me some difficulty with various Congressmen." "Now, Congress is important," Johnson joked. "I have to live with them. I need your help in getting them to let me work with you. This requires mutual forbearance...Let Congress take the credit for announcing new project and public works programs but urge them to let you be free to work with us on these administrative problems which can't be fixed in Washington and require State and local cooperation."⁷⁰

Bryant and Daniel proved to be particularly close to the president, and they as the 1968 Presidential election approached, they proved essential voices in reading the political signs that would soon inform Johnson to drop out of the race. OEP conducted numerous polls on George Wallace and his popularity – inside and outside of Louisiana.⁷¹ OEP advised White House officials on statements endorsing candidates for local or state-wide races.⁷²

Price, serving during the transition period to the Nixon administration, proved to be an important figure in relaying much of the administrative apparatus of the creative federalism to the incoming president. The creation of an assistant to the president for Federal-State relations was, in the assessment of DeVier Pierson, special counsel to the president, "the most significant

⁶⁹ As Bryant would write President Johnson, "There is a basic conflict between Congressmen and Governors which I see no way to resolve. It is just a question of reaching the right balance, and, of course, only you can determine that." See: Farris Bryant to Lyndon B. Johnson. April 28, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

⁷⁰ James R. Jones to Nell Yates. May 2, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 2.

⁷¹ Marvin Watson to Lyndon B. Johnson. September 18, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 11.

⁷² Bryant, in particular, was lauded for his skill in projecting a powerful image of cooperation -- literally image: when governors threatened to steal the spotlight from one of the president's programs. When Governor Rockefeller, upon returning from the annual governors' conference aboard the S.S. Independence requested that a helicopter remove him by a sling, Bryant and the White House feared that such an image would benefit the prospective candidate's image. Drawing the president's personal attention, Johnson told Bryant to use his "own good judgement," after the OEP proposed a solution to the image problem.

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innovation of the Johnson administration and should be formalized in the future. ...”⁷³ Beginning in August 1968 the White House began a series of coordinated efforts to do just that, and reorganized the office inside the EOP to streamline its internal operations and reduce the amount of time it spent on emergency relief efforts.⁷⁴ While Johnson had ceased to hold any more high-profile meetings with Governors, fearful that Vietnam would dominate the agenda, Price pressed on the president to make clear to his predecessor how important cordial federal-state relations were to the project of modern government.⁷⁵ “When the President-elect confers with you,” Price wrote to Johnson days after Nixon’s election, “there will be many important things to discuss, but I sincerely hope you will not neglect to mention this program and urge him to pick as my successor a Republican Governor or former Governor who will run this program on a nonpartisan basis like your appointees have done.”⁷⁶

Community Action Reformed

Historians can continue to debate just how aggressively OEO field officers and CAA administrators sought to mobilize the poor. A single grant given out to Syracuse University was enough to tarnish the reputation of a dozen effective CAAs operating in the framework of cool, calm, and coordinated planning. And, when riots engulfed the nation’s cities, OEO and CAPs suffered unrelenting criticism along with the rest of Johnson’s poverty program. If the power of an individual CAA was dependent on its ability to wrangle rival institutions within a city and

⁷³ DeVier Pierson to Lyndon B. Johnson. August 1, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 3.

⁷⁴ Hubert H. Humphrey to Lyndon B. Johnson. September 16, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 3.

⁷⁵ Price Daniel to Lyndon B. Johnson. January 8, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 2.

⁷⁶ Price Daniel to Lyndon B. Johnson. November 9, 1968, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 3.

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between the different levels of governing authority, its reputation is what mattered. But the administrative decisions made – as well as the larger political context of civil rights mobilization and the Vietnam War – had the effect of keeping CAAs on the margins of national politics. Ironically, community action had the opposite effect of elevating mayors to a position of prestige and influence in their relations with local stakeholders, while making local decision-making further dependent on the goals and decisions of presidential appointees.

In its review of CAP, the staff of the Senate Committee on Labor and Public Welfare found little evidence that CAAs ever fulfilled their coordinating role: just three – Jacksonville, New Orleans, and Detroit – could lay any claim to accomplishing “significant coordination.” In an interesting twist the report also noted that, “In contrast, the three CAA's with the strongest commitment to resident participation outside the governing coalition-San Francisco, Syracuse, and Newark-are precluded from a coordinating role.”⁷⁷ In the trade-off between participation and coordination, the marginalized status of *most* CAAs diminished their long-term viability in reorienting the power structures of the local communities.

In its effort to recover some semblance of that coordinating role, Schultze had sought to streamline the grant review and oversight procedures of OEO by tying them more closely to the pre-existing political control of the nation's mayors. It is not the case that in doing so OEO lost its innovative spirit, or was completely hamstrung by mayoral control. The White House archives are proof to the fact that every so often OEO delivered a grant that a particular mayor would find objectionable. Even Daley – who arguably exerted greater control over Federal-local relations in his city than anyone – was roiled by the fact that none other than Martin Luther King, Jr.

⁷⁷ Howard W. Hallman. 1967. “Community Action Program: An Interpretative Analysis of 35 Communities,” *Senate Committee on Labor and Public Welfare*. Washington, D.C.: U.S. Government Printing Office.

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received a \$109,300 grant for adult education services in the Lawndale neighborhood of Chicago. The administration just so happened to respond to this particular award by instituting a new procedure to prohibit grants, when desired, to groups from outside the jurisdiction by giving the HEW Secretary “clearance” so as to “be responsive to local circumstance.”⁷⁸

The White House's response to CAP's failings took on greater significance as time passed and critics had the opportunity to digest just what was taking place inside the nation's cities. No critique drew greater attention from the White House than the first set of essays penned by the former administration official Daniel Patrick Moynihan, in the fall of 1966 (prior to his groundbreaking study). According to his inside account, administration officials never knew what they actually wanted to accomplish with community action – “they just papered over their differences and wrote a charter broad enough to cover the cracks.” Budget viewed CAP as a “management tool,” radicals inside the OEO saw it as a way to “bust open city hall,” and Moynihan recognized that it was a way to get money does to the poor fast as the 1964 election approached. As Moynihan argued, nobody had yet to define it. When Harry McPherson got word, and saw that Irving Kristol had also begun to pick up on this line of critique, he brought it to the attention of the president. Acknowledging that the mayors had largely figured out how to use CAP – often by “putting undesirables on CAP payrolls as a way of keeping them out of trouble - he nevertheless argued for further restructuring of the program. By restructuring,

⁷⁸ Wilbur Cohen to Lyndon B. Johnson. August 24, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 58; *Chicago Daily Defender*, July 18, 1967, “Adult Education Program To Begin In Lawndale Area”

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McPherson wanted to figure out what was “worth saving” and folding it into the administration’s larger reorganization plans for the executive branch.⁷⁹

In many ways, McPherson was late to the game, and appeared to be as oblivious to the changes Schultze had imposed on OEO, as was Moynihan. By mid-1967, CAP remained political fodder for the administration’s opponents, but by that point that White House had tied its fortunes to a new form of Federal-local relations in order to achieve the elusive goals of coordination, efficiency, and local experimentation. Even though the White House had imposed significant order over the program’s operation, CAP remained too politically toxic in most places to achieve their coordinating purpose. And while the program had its intended effect of building a strong, cooperative ally inside the nation’s city halls, CAP was also proving to be unsustainable from a budgetary standpoint - no less brought on by the escalation of the Vietnam War, as was the rising concern over inflation. “A number of Mayors have expressed concern lest the shortage of funds for public programs seriously undermine efforts to alleviate poverty,” Jerome Cavanagh wrote the president. “The Mayors want to help you and your administration in guiding public expenditures to meet the most pressing needs of our people with the minimum inflationary impact.”⁸⁰ And Johnson, too, wanted to help the mayors and continue to fight the war on poverty. But Schultze, Califano, and the rest of his White House sought to do so in a way that would recover the initial goals of coordinated governance. Too much emphasis had been placed on “subsidizing” the war on poverty and not “incentivizing” local responses to local problems. What they needed to figure out, Gardner Ackley suggested, were “new ways to spend money, provide

⁷⁹ Harry McPherson to Lyndon B. Johnson. August 10, 1967, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 30.

⁸⁰ Jerome Cavanagh to Lyndon B. Johnson. September 28, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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credit, give tax benefits, or issue guarantees.”⁸¹ The administrations "Demonstration Cities" act, signed on November 3, 1966, was their answer.

Model Cities: Decentralized Administration and Presidential Control

Model Cities was an effort to extend the vision of the CAP, and expand the dominion of governmental coordination to services and interventions that CAP had failed to incorporate into the new decentralized administrative apparatus. New social service programs – job training, community organizing, adult education – were essential for creating the Great Society, but they were insufficient. Leaders realized that the physical, “bricks and mortar” approaches, which had dominated public policy in the cities prior to CAP, were still needed. However, unlike before, these programs could not remain independent of other government efforts. Another coordinating device, one that took lessons from CAP's failings, was needed. This was the genesis of Model Cities.

CAP emerged to help organize the vast set of new government programs that did not exist prior to 1964. However, part of CAP's administrative difficulties rested on the fact that local efforts competed with, if not outright contradicted, the set of housing and redevelopment policies that had existed since the New Deal. Urban renewal planning was a political legacy of the National Resources Planning Board and the subnational planning processes it encouraged. CAP attempted to coordinate its service delivery efforts with those planning institutions and had some early successes. Indeed, the New Haven community action program funded by Ford was lauded for its contributions in federal urban renewal planning, and a principal recommendation of the president's first task force on the cities was to revamp the renewal programs that had

⁸¹ Gardner Ackley to Bill Moyers, January 30, 1966. in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

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previously comprised the entire set of federal-local cooperative enterprises. In addition, Congress had repeatedly revised urban renewal programs since their institutionalization in 1937 – first in 1949 and then again in 1954. The establishment of the Department of Housing and Urban Development (HUD) on September 9, 1965, was also considered to be a reform of existing policy. In creating a new cabinet agency – and in actively fighting against alternative proposals to raise pre-existing agencies like the HHFA (predecessor to the FHA) to cabinet status – HUD was an effort to modernize and coordinate urban renewal programs similar to how CAP was to modernize and coordinate social welfare. As was to be the case with most of Johnson's urban programs, HUD was a direct response to the nation's mayors and their municipal organizations on the need for a central executive department to coordinate policymaking affecting local – soon just urban – areas.⁸²

The problems of urban renewal had grown more acute, however, as HUD slowly took on institutional shape. Concerns continued to grow about the plight of the urban poor and the inadequacy of centralized government policy-making. The solutions deemed necessary were more urgent and foundational than the creation of a cabinet department (although, it should be noted, the resulting HUD department was hardly a reflection of the Kennedy's first proposal to create a Department of *Urban Affairs*). By the end of 1965, over 1,100 urban renewal projects had been completed at the cost of \$6.1 billion. But the initial promise to redevelop neighborhoods by replacing dilapidated low-income housing with new homes failed to materialize. Riots continued, including in areas supposedly "renewed." As Martin Anderson documented in his widely read analysis, *The Federal Bulldozer*, urban renewal authorities often

⁸² See, for example, the testimony of both administration witnesses and mayors in: U.S. Congress. House. Committee on Government Operations. 1965. *Report: Establishing a Department of Housing and Urban Development, and for Other Purposes*. 89th Cong., 1st sess., Report No. 337.

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made decisions in spite of local community interests.⁸³ Rehabilitation was sacrificed to the desires of the local business elite to eradicate blight and displace it to other parts of the city, or the suburbs. Low income housing never returned, and therefore had the vicious effect of raising rents and home prices for those not forced to leave. “In fact,” Charles Haar writes, “it should be recalled that the program’s first name had been urban *redevelopment*, and the change to “renewal” was deliberate. Shifts in terminology are often more than incidental passing events in the evolution of a program.”⁸⁴ The political structures governing the federal government’s largest grant-in-aid program were made all the clearer in Raymond Vernon’s seminal study: rather than improving the lives of impoverished residents, monies flowed into semi-public (no elections) urban development agencies. “Refugees from civic progress” were left with even fewer options and higher rents.⁸⁵ City planners had failed to design cities that worked for their residents because they had not emphasized the social alongside the economic. In identifying planning processes as the point of failure, reformers emphasized the lack of public control that citizens, and even the establishment, could exert on urban renewal funds. As has been mentioned, by the mid-1960s, additional levels of governing authority sat alongside the general local government. Urban renewal planning boards – most often established under state enabling law – exerted their authority independent of mayoral control.

⁸³ Martin Anderson. 1964. *The Federal Bulldozer: A Critical Analysis of Urban Renewal, 1949-1962*. Cambridge, MA: MIT-Harvard University Press; see also: Martin Anderson. 1965. “Fiasco of Urban Renewal,” *Harvard Business Review* 43 (1): 6-21; Robert P. Groberg. 1965. “Urban Renewal Realistically Reappraised.” *Law and Contemporary Problems* 30; Herbert J. Gans. 1965. “The Failure of Urban Renewal.” *Commentary* 39.

⁸⁴ Charles Haar. 1975. *Between the Idea and the Reality: A Study in the Origin, Fate and Legacy of the Model Cities Program*. Boston, MA: Little, Brown, and Company, p. 17.

⁸⁵ Raymond Vernon. 1962. *The Myth and Reality of our Urban Problems*. Cambridge, MA: Harvard University Press, p. 48.

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The prevailing critique of urban renewal programs rightly specified that they were brought about by political *processes*, not just bad design. As such, any policy changes also had to account for and seek to revise the social and political structure at the point of planning and implementation – city government. A similar perspective undergirded the design of community action in 1964, and continued to guide the White House as they designed Model City agencies. Internal White House documents reveal that the new approach "must have as its basic policy the metamorphosis of the ghetto into something else. That "something else" must radiate all of the connotations of the good community. It would offer an organizing concept for all of the related education, health, manpower, economic development, and housing programs. They would need to be integrated at the Federal and local levels to right the ancient wrong of the ghetto to achieve a new sense of community in the inner-city rings around the central cores."⁸⁶

Finally, the initiative to transform community action – or to recover the planning and coordinating functions it once aspired to – also stemmed from a frank acknowledgement within the White House over the limits of centralized control. As with CAP, officials inside the Johnson administration - none more influential than BoB Director Schultze - encouraged the creation of local administrative agencies in order to reduce the administrative and political demands on the institutional presidency.

In one revealing instance leading up to the development of Model Cities, internal White House records reveal the vast extent of this frank introspection. As the summer months of 1965 approached and as the administration grew wearier of civil unrest, Vice President Humphrey traveled to the nation's large cities to devise creative solutions with the mayors and CAAs on how to prevent future rioting. Joining Humphrey was Governor LeRoy Collins (D-FL), members

⁸⁶ Herman Niebuhr, "A Memorandum on an Approach to the Demonstration Cities Program," September 26, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 4.

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of the president's task force on urban problems, and several members of the White House staff. They visited New York City, Rochester, Boston, Philadelphia, Gary, Cleveland, Detroit, Oakland, Newark, and Los Angeles – 10 of the 11 cities deemed by the White House in need of additional help (only Chicago declined). “At those meetings,” Humphrey reported to the president, “we attempted to point out to each mayor the heavy responsibility which the mayor and his administration bear in the effort to prevent riots this summer. At the meetings, work was started to increase, tailor, and accelerate packages of federal programs to meet the needs of the cities as the mayors saw them.”⁸⁷

As they discovered, most of the individuals who showed up to community action offices and the pilot neighborhood centers needed one thing: jobs. This was clearly one area, too, where the coordinating function of CAAs could help as there already existed programs in at least four federal agencies to help residents find employment (HEW, Labor, Interior, and HUD). All fifty-states also had state manpower programs and employment offices, as did most large cities. Mayors took on an important role in some cities for establishing their own City-Hall coordinating committees, which brought together disparate State agencies (including CAAs), and the local chamber of commerce.⁸⁸

Humphrey and the mayors devised a plan to accelerate funds using the pre-existing CAAs to fund up to 50,000 new jobs for the summer months. Schultze and his BoB staff balked. It fell to the BoB to remind these political officials about the limits of direct government employment using pre-existing CAAs. Schultze might have agreed with the desired end, but he was curt in pointing out the naïveté of the mayors and governors over their understanding of the

⁸⁷ Hubert H. Humphrey to Lyndon B. Johnson. June 10, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 26.

⁸⁸ Sundquist, *Making Federalism Work*, pp. 52-53.

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administrative mechanics of CAP. Money was a potential problem, but less so than the sheer practicality of hiring all those people given the decentralized nature of the CAAs. In the first instance, Schultze challenged the very idea that the jobs would go to “those youths who are most likely to be a cause of trouble during the ‘long hot summer’.” Rather, Budget Bureau figures suggested quite the opposite: “There is some question as to whether the truly hard-core youths can be reached,” Schultze questioned. But more problematic, Schultze was aghast by the idea that the CAP could ratchet up employment to 50,000 so quickly, when such an increase would amount to a near 18-percent in *all* federal employment – an effort that would prove “extremely difficult, if not flatly impossible.”⁸⁹ At most, Schultze contended, OEO could get 5,000 to 10,000 youths employed - a far cry from the 50,000 desired.

In short, the cultural, administrative, and political dynamics all fused to create another opportunity for reforming the nascent federal-local relationship. Although Model Cities came in the package of single bill and reflected the standard programmatic approach of Great Society problem-solving, its scope (as both theorized and then actualized) was much grander. Intergovernmental integration made Model Cities a defining feature of modern American governance. In responding to a political problem, the amount of financial resources directed from Model City funds are of little importance. The value of specific model city plans has not been overlooked, but in focusing on the individual instances of model city plans and the individual histories of neighborhoods – some redeveloped, some decimated – scholars have deemphasized the long-term political implications of this program. Importantly, much of this program and its requisite effects has very little to do with the actual “law” or program goals, as interpreted by the Congress in 1966. Rather, in setting up a vast administrative structure with the reform of

⁸⁹ Charles L. Schultze to Bill Moyers. June 14, 1965, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 50.

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federalism as its end, Model Cities granted Johnson the legal authority and managerial capacity to permanently alter the way states, localities, and the federal government interact with one another.

This was, of course, to be the point. Far from just throwing additional monies at the city, Model Cities was to forever transform the city and its place in the republic – to outlive a single appropriations bill or specific community redevelopment plan. As Schultze would tell the president soon after the Senate passed its version of the Model Cities bill (which cut in half the amount requested), the amount of money was a secondary concern:

The Demonstration Cities legislation offers the most effective and comprehensive strategy for integrating Federal aids in attacking urban problems... We are embarked on a very exciting – but very complex – venture. There are no easy answers. Getting coordination and co-operation among the many Federal, State, and local agencies involved in necessarily a tough, slow process. But this simply reflects the fact that we are dealing with an extremely complicated set of problems. The Bureau is giving this coordination problem top priority. It is the single most important management problem in government” [emphasis in original].⁹⁰

The Political and Administrative Conflict between CAP and Model Cities

In the spring of 1965, as criticism from the Mayors and their city CAAs rolled into the White House and spilled out into the papers, Walter P. Reuther wrote the president a letter. Reuther, as president of the United Automobile Workers, was immersed in the decade’s civil rights movement and was a close confidant of President Johnson, meeting weekly with him as the administration designed the War on Poverty. The success of Reuther’s union and the city of Detroit were bound together, and legitimated his advocacy. Echoing Johnson’s Great Society speech and even the words of Herbert Croly,⁹¹ Reuther passionately pled that America’s cities

⁹⁰ Charles Schultze to Lyndon B. Johnson. August 10, 1966, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 52.

⁹¹ From Croly’s *Promise of American Life*: “the importance of experiment as a test of meaning and truth.”

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were in “need of a singular dramatic and immediate demonstration to themselves and the world...to carry out the strong concept of the President in creating the American city in the image of the qualitative and quantitative capability of our environment...”⁹²

Reuther’s idea was to develop “prototypes of American large-scale central city rebuilding” in up to seven large urban areas. With an emphasis on “visible examples” the small, but intense, efforts to rebuild the physical structure of the city would complement the administration’s other policies for social and community development: “it is obvious that new forces in the American community need to be awakened and a comprehensive strategy is required.” At the center of this new energy, Reuther hoped, would be the mayor’s office, coupled together with his advisors and representatives of industry and federal government. Together they would “stop the erosion of life in urban centers.”

President Johnson must have been intrigued, because the next month, in June 1965, he assembled another new task force to further refine the Reuther proposal and draft legislation for the 1966 Congressional session. Cloaked in secrecy, and intended solely for internal White House deliberations, the task force report on model cities reflects the administration’s sincerest hopes for the new program; the report also defines the problem as Johnson and his aides understood it. Composed of government officials, industry leaders, and experts on public administration, the task force members were clearly concerned with governmental efficiency and techniques of presidential management. Joining Reuther was Ben Heinemann, who would later go on to chair Johnson’s 1967 task force specifically dedicated to governmental reorganization. Whitney Young, leader of the National Urban League, William Rafsky, director of Philadelphia’s urban renewal administration, Edgar Kaiser, chair of Kaiser Industries,

⁹² Reuther’s memorandum of May 15, 1965 is reprinted in the appendix of: Charles Haar. 1975. *Between the Idea and the Reality*

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represented affected interest outside the federal government. Charles Haar, a devotee of Johnson's creative federalism at HUD, and Kermit Gordon, the former Budget director, represented the interests of the administration. And Robert C. Wood, an expert on public administration from MIT, chaired the task force.

Wood, who had previously chaired Johnson's 1964 task force on metropolitan problems, was a staunch critic of on-going federal efforts. Much like the report on Model Cities, his first report for Johnson lamented federal interventions that "continue to operate too frequently within narrowly defined agency boundaries that fragment logically related services," or that fomented "uncertainty, confusion, and despair among many of the disadvantaged as to how to improve their situation."⁹³ In calling for a complete revamping of federal efforts, buttressed by an extensive system of block grants to central cities, Wood and the first 1964 committee acknowledged that local "diversity and initiative should be the hallmarks of this national effort." The only way to achieve those goals, however, would be to unleash new forms of executive governance. "A viable policy strategy requires political leadership," the report concluded. "We recommend that the unifying potential of the offices of the President, Governors, and Mayors, and other local chief executives be developed and encouraged. For it is in these offices that the future of our urban communities will be charted; by these offices that public understanding will be sought and public support will be mobilized; through these offices that plans for action will be proposed for approval; and through these offices that public programs will be administered and private efforts received."⁹⁴

Wood and his new collaborators had a chance to revisit these same ideas when Johnson appointed them to a new task force dedicated to drafting legislation for a demonstration program.

⁹³ Task Force on Metropolitan Problems. 1964. P. 6.

⁹⁴ Ibid., p. 32.

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As with the innovators of community action, the impetus for reform was to distinguish the demonstration idea from all previous governmental efforts, which is to say, to make the program more than just additional funds for the urban core of American society. For Wood and others on the task force, this meant that model cities was an inherently political endeavor; previous efforts were failing because they were too fragmented, too bureaucratic, too centralized, and too isolated from the stakeholders of urban reform. While never directly referencing the political and administrative travails of CAP, the final report maintained many of the same goals – concentration of resources, coordination of programs, mobilization of community members – but significantly diverged from the procedures of the administration’s first urban efforts. Instead of “maximum feasible participation,” the authors called for the “appropriate mechanisms to foster development of local leadership and widespread citizen participation.” Rather than mandating that the new community development agency had to take a certain form, the members devised a purposefully ambivalent recommendation that cities should establish “an appropriate development authority and administrative mechanism, not necessarily a formal unit of government,” but which each locality could determine at the time of application. And, instead of funding a variety of programs, the demonstration idea started from the premise that very few applications would ultimately get approval from federal administrators. Cities were free to experiment and offer bold solutions, but administrators would reward those applications they believed would achieve program coordination. Furthermore, in limiting the demonstration project to just a sub-section of the city, mayors could feel certain that no widespread challenge to their authority would creep into community engagement efforts. All in all, model cities rejected

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the political experimentation of CAP while extolling the need to achieve new managerial forms of administrative decentralization.⁹⁵

As with CAP, the administration sought to incentive coordination at the local level through the disbursement of additional federal monies to a separate local agency. Unlike CAP, however, the full range of available resources would not be limited to a single agency, like OEO or HUD. HUD would serve as the primary coordinator and administrator at the federal level, but under the new program, selected demonstration cities would receive priority funding and federal assistance in merging pre-existing grants-in-aid from across the entire federal bureaucracy. Administrators at the federal level would also be allowed to waive conditions of specific categorical grants if the locality could demonstrate how added flexibility would lead to greater program efficiencies and coordination. Cities could also take advantage of new supplemental grants when a federal program was non-existent – the “bait” and “glue” that would make Model Cities an enduring effort of governmental reform. As Edward Banfield summarized, in his landmark study of Model Cities,

A demonstration city, knowing that it would get from HUD any funds that might be lacking to carry out its approved plan, would be in a position to bargain with the other federal agencies and to compel them to accept coordination on the basis of its local made, HUD-approved plan on pain of being left of altogether from the biggest and most glamorous undertakings. Thus, city governments, in partnership with HUD, would bring about the coordination that had so far proved unachievable.⁹⁶

After receiving statutory authorization, HUD would take the “bait” and “glue” approach even further, issuing directives to model city agencies that they would be eligible for a “bonus

⁹⁵ Task Force Report: Proposed Programs for the Department of Housing and Urban Development, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 363.

⁹⁶ Edward C. Banfield. 1973. “Making a New Federal Program: Model Cities, 1964-68,” in Alan P. Sandler (ed.), *Policy and Politics in American: Six Case Studies*. Boston, MA: Little, Brown and Company, p. 134.

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award” if they succeeded to “pull together the responsibility and authority which may be dispersed in a variety of autonomous and semi-autonomous governmental and private agencies...”⁹⁷ And, as the namesake implies, the selected agencies were to demonstrate that, through more coordinated efforts, non-selected cities could create similar approaches to planning and resource consolidation. “The style,” Haar editorialized,

would be shared power; the objective, efficiency through cooperation; the base, a city hall power center plus involvement of the immediate neighborhood affected. The specter was OEO-CAP antagonism and chaos. Model cities was to be a departure from one prospect with a view towards another – that some kind of citizen participation, contained without necessarily being controlled, was indeed viable.⁹⁸

Part of the reason that the connection between the CAP and model cities has gone overlooked by scholars is because the administration took great care to limit the appearance of presidential repudiation.⁹⁹ In a rare analysis, Robert Self recognizes that, as it relates to the goals of political enfranchisement, the Model Cities program was a “second, nearly parallel War on Poverty.”¹⁰⁰ However, the president recognized that, still in its embryonic state, tying the model cities legislation to a full-scale revision of the CAP jeopardized both programs as Congress grew more weary over inflation and the federal budget. The desired association between these two programs is made clearer in the administration’s task force reports, and the internal White House correspondence over the decision to gradually transform the administrative authority of local

⁹⁷ *Public Management: Model Cities – New Role for the City Administrator?* February, 1968, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 4.

⁹⁸ Haar. 1975. *Between the Idea and the Reality*, p. 48.

⁹⁹ The lack of scholarly attention is further reinforced by the fact that much of the extant scholarship, particularly in the late 1960s and early 1970s, tended to focus on specific model city programs. Lacking a national focus, scholars developed a host of insights for future public administrators, but often neglected the political or constitutional implications of more widespread governmental reforms. See: Bret A. Weber and Amanda Wallace. 2012. “Revealing the Empowerment Revolution: A Literature Review of the Model Cities Program.” *Journal of Urban History* 38 (1): 173-192.

¹⁰⁰ Robert Self. 2003. *American Babylon: Race and the Struggle/or Postwar Oakland*. Princeton, NJ: Princeton University Press, p. 242.

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government over CAAs. Proposed organizational charts concerning the organization of the new program show clear lines of mayoral authority over community action programs. Indeed, draft reports even advocated removing CAP entirely from Shriver's OEO and placing it in HUD, where it would serve as a part of Model Cities instead of its own program. Most members of the Wood task force believed that this would more fully achieve the vision of HUD as a department for all federal-local programs, and not just as an elevated variant of the former federal housing and urban redevelopment agencies. The CAP remained under OEO's direct control for the next few years only because of the objections of Whitney Young, who feared "for the safety of Community Action if it is absorbed by bankers and mortgage men."¹⁰¹ Regardless, as is to be seen, the impending fight between OEO and HUD over who possessed the final authority to referee disputes between and within governments was stacked from the start. This tension was foreseen as soon as the task force report made its way to the president's desk. "The reorganization of the War Against Poverty is potentially the most politically explosive act the Administration could take," Califano wrote to Johnson that December,

even though it makes good organizational sense. There is at least one way to make it a plus. If the reorganization were coupled with the delegation of the HUD Secretary as the recipient of the coordinating functions of the War on Poverty...and if you named Shriver as Secretary of HUD (with a Negro like Weaver or Sam Proctor as Under Secretary), I believe you would not only get a little, if any, adverse political comment from civil rights groups, liberals, and others. You could also get a tremendous plus from the liberals, as well as the conservatives, and the mayors and city organizations who would like to get this program in more formal channels."¹⁰²

Humphrey, more than any other White House aide, piled on Shriver's discontents.

Channeling the voices of the nation's mayors, the vice president celebrated what the president's

¹⁰¹ Harry C. McPherson to Lyndon B. Johnson. December 9, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 5.

¹⁰² Joseph Califano to Lyndon B. Johnson. December 18, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 26.

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once-signature program had so far achieved, but only insofar as such praise was blanketed with severe criticism of OEO's coordinator role. "The complaints I get from Mayors," Humphrey wrote Johnson in December 1965, "interestingly enough, flow not only from unhappiness with some aspects of Federal-community relationships, but because of the success of some of the poverty programs." Humphrey continued to press for the expansion of the "national emphasis programs" as discrete federal initiatives, not to be weighed down by the toxic politics of OEO and community action. Indeed, Humphrey contended that tying programs like Head Start and Neighborhood Youth Corps to OEO threatened the financial viability of federal efforts, which would "cause us more difficulty with our cities than the general question of community action."¹⁰³

The real crux of Humphrey's concern was over the relevance of OEO at all: mayors had made their discontents clear, while remaining enthusiastic about the programs they desired; OEO had thus far failed in its efforts to achieve decentralized planning and coordination inside the cities; Congress, largely because they were attuned to the complaints of mayors, was skeptical of new federal efforts, which was especially salient as the administration planned its legislative agenda for 1966.

Humphrey was not alone in his thinking. He and Joseph Califano often saw eye-to-eye on the need for maintaining mayoral support if they were to extend the Great Society and coordinate the War on Poverty. Califano and Humphrey were not unsympathetic to the goals of community action; if that were the case then the soon-to-be proposed model cities bill would not have maintained provisions for local participation and community planning. However, the first year and a half of OEO proved that the balance between participation and coordination had to be

¹⁰³ Hubert H. Humphrey to Lyndon B. Johnson. December 2, 1965, in *White House Central Files: Executive We9*, Lyndon B. Johnson Library, Box 26.

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better struck. Starting over and creating a new demonstration agency in each city would make that point clear to the nation's mayors and to the members of Congress who would have to sign off on the administration's new plans. In distinguishing CAP from Model Cities, Haar later recounted that "more than incidentally, this turned out to be a decision which probably saved model cities, for encumbering it with unpopular OEO programs would have made its passage through Congress unlikely."¹⁰⁴ Nevertheless, in leaving the contours of local imitative and federal oversight largely underspecified both in the task force report as well as the draft legislation, the administration hoped to sequester this problem within the halls of HUD come implementation.

Congressional Abdication and the Legislation for Presidential-Federalism

The deliberate under-specification of the federal-local relationship is a product of the political environment in late 1965 – an environment defined by mayoral lobbying, administrative confusion, and an administration that had already designed much of its legislative program in secret. When Congress passed the Model Cities law, the composition and control of demonstration projects was statutorily ambiguous. But it is clear to everyone who designed the program that new local initiatives and community mobilization were to be executive-centered. As a compromise for consolidating power at the local level, federal administrators would have greater control over what types of programs model cities would come to sponsor. Congress enacted a number of significant revisions to the draft bill in over ten months of deliberation, but this political component to model cities remained fully intact. Echoing the promise of coordination no fewer than eight times, Johnson's vision of a presidential-federalism was never seriously challenged:

¹⁰⁴ Haar. 1975. *Between the Idea and the Reality*, p. 42.

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We must set in motion the forces of change in great urban areas that will make them the masterpieces of our civilization...an effort larger in scope, more comprehensive, more concentrated than any has gone before. From the experience of three decades, it is clear to me that American cities require a program that will concentrate our available resources...[and] join together all available talent and skills in a coordinated effort.¹⁰⁵

Congress began its consideration of model cities on January 26, 1966 and President Johnson signed the eventual bill – the Demonstration Cities and Metropolitan Development Act – into law on November 3, later that year. Much of the extant literature on the policy history of model cities emphasizes the extent to which Congress changed the proposal – how a \$2.3 billion proposal for sixty cities over six years morphed into a multi-round competition for planning proposals over three-years, with \$900 million in supplemental funds, and an additional \$250 million for current urban renewal projects.¹⁰⁶ It is perhaps unsurprising that Congress curtailed the ambitions of a president who was becoming more unpopular by the month in 1966, and who had to face the voters that November. As “demonstrations” in the cities broke out during another long-hot summer, even members sympathetic with the administration were weary to appear sympathetic to the demands of rioters for more money.

In two interesting ways, the Congressional politics that produced the model cities program intersected with the emerging form of presidential-federalism. First, while subnational officials – especially governors – had proven to be important voices for support and dissent in Congressional hearings, the political tumult insinuating municipal governance and mayoral power elevated the collective standing of the country’s mayors. The White House certainly

¹⁰⁵ Lyndon B. Johnson: "Special Message to the Congress Recommending a Program for Cities and Metropolitan Areas," January 26, 1966. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=27682>.

¹⁰⁶ R. Douglas Arnold. 1979. *Congress and the Bureaucracy: A Theory of Influence*. New Haven, CT: Yale University Press.

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depended on the mayors as the Economic Opportunity Act worked its way through Congress in 1964, but the mayors had little direct influence over its structure or in defense of specific provisions. Their voice was primarily raised in animating the plight of the city and in showcasing the need for new, dramatic action. With Model Cities, the White House sought to bring in mayors in a more robust fashion – not necessarily collaborative, since much of the legislation was already written, but with the perception of genuine partnership. Ever sensitive to both sides of the political debate, the president figured that mayors could serve as the symbolic and pragmatic middle-ground in the impending fight between those who simply wanted more money (urban renewal officials) and those who felt that federal efforts thus far had been badly managed.¹⁰⁷ At a special meeting between Secretary Weaver and 20 mayors representing the U.S. Conference and National League of Cities, the administration succeeded in cultivating a more positive attitude towards the program, despite increased calls for more funding. As Weaver soon reported to the president, the mayors concluded, that, “they should get out and effectively lobby to get it through Congress...the Mayors were determined to get behind this program and assist us in getting it enacted by the Congress.”¹⁰⁸ The National League of Cities soon followed with its own circular to member cities with information on the program and suggested talking points for mayors to use in lobbying their members of Congress.¹⁰⁹

Second, and often overlooked, the Congressional debate over model cities served to be an important proxy over the powers of the modern presidency and Johnson’s designs for a new

¹⁰⁷ Joseph Califano to Lyndon B. Johnson. January 27, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

¹⁰⁸ Robert C. Weaver to Lyndon B. Johnson. February 7, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

¹⁰⁹ National League of Cities, “Memorandum to All Members on the 1966 Demonstration Cities Program,” in *White House Central Files: Legislation, Local Government*, Lyndon B. Johnson Library, Box 139.

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“creative federalism.” Indeed, the eventual legislation more closely mirrored the critique of Senator Abraham Ribicoff and the conclusions of his subcommittee on Executive Reorganization, rather than the traditional committees and advocates for greater federal spending in urban areas. Ribicoff, who had served on the task force for model cities at the behest of the administration was a supporter of the model cities legislation, but, like a growing number of Democrats, wondered if the problem truly lied with administrative inadequacies rather than sheer lack of money. And he understood the program’s political effects more than most. In a series of high-profile hearings that July and August, Ribicoff drew a thick line between the administration’s prized legislative proposal for that year, and the growing dissatisfaction of the American people with their federal system. Over seven days, his committee sought answers to the perplexing question: “Why, when the massive resources of our Government have been poured into the cities for the past 20 years, when many dedicated people have worked with such resolve, do we have an urban crisis of such proportions?”¹¹⁰ More than just a sounding board for re-orienting federal priorities and encouraging a more ambitious federal response though, the Ribicoff committee hearings gave bi-partisan legitimacy to the decade’s ambition to reinvigorate localized governance, and offered a stunning rebuke of Johnson’s faltering efforts to nurture the country’s history of administrative decentralization.

To be sure, liberals, none the more prominent than Senator Bobby Kennedy, lampooned model cities as a “drop in the bucket” and demanded greater federal expenditures “on the order of a domestic Marshall plan” to combat urban poverty. It was during these hearings where the fissure between Johnson’s two-front war – the war on poverty and the war on Vietnam – was exposed. More fundamentally, Kennedy bespoke the widespread feeling among liberals that

¹¹⁰ U.S. Congress. Senate. Subcommittee on Executive Reorganization. 1966. *Federal Role in Urban Affairs, Part 1*. 89th Cong., 2nd sess., August 15-16, p. 1.

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federal efforts, far from nurturing a sense of community, had thus far sapped it. Echoing the criticisms of Jane Jacobs and the new variant of city planners, Kennedy sustained the attack against New Deal, and now Great Society programs, that obliterated community bonds: "the cities, in their tumbling spread, are obliterating neighborhoods and precincts. Housing units go up, but there is no place for people to walk, for women and children to meet., for common - activities. The place of work is far away through blackened tunnels or over impersonal highways. The doctor and lawyer and government official is often somewhere else -and hardly known." Quoting from Alexis de Tocqueville even, Kennedy described the urban denizen as a "stranger to the fate of all the rest." Highway policy, public housing, education, disparate unemployment for black residents – all had failed to nurture the necessary sense of community because the current administration and its Congressional allies lacked the resolve to spend the amount necessary. "We will spend this year, for the economic development of the 15 million people of South Vietnam, \$600 million," Kennedy testified, "But Federal poverty and educational employment assistance to the same number of people in 'the metropolitan New York area will be less than one-sixth that amount. The people of South Vietnam need this assistance. But so do people in the United States. And we can and we must do both."¹¹¹

The White House had been deeply concerned with what Ribicoff's committee might reveal, even if they largely accepted in private that the federal approach had thus far been inadequate. In the months leading up to the hearings, in which Shriver, Attorney General Katzenbach, and Secretaries Weaver (HUD), Gardner (HEW), Wirtz (Labor) would all testify, the White House sought to temper the impending criticism. The Budget Bureau produced dozens of reports in anticipation of criticism like Kennedys with a single conclusion, more money had

¹¹¹ Ibid., p. 40.

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flowed to the urban cities under the Johnson administration than ever before. All testimony, Califano wrote to the president, would acknowledge that “there are problems, but we are making the programs work.” Furthermore, each witness would promote the idea that “The major push must be within cities themselves – their mayors and councilmen hold the key to the problem, and local initiative and coordination is crucial. We don’t want the Federal Government to run each city.”¹¹² More money would help, but the problem, they contended, was not a lack of resolve, but a failure to properly administer.

Secretary Weaver –the first administration official to testify – received the brunt of the criticism during the hearing’s opening day, but also set the administration’s line of defense against criticism from both the left and the right. “I am not satisfied with the national response to urban problems,” Weaver confessed, “But let me say, also, that this administration has moved further, faster, with more understanding, and with a stronger sense of purpose to respond to the needs of our cities than any before it...Our national response to these challenges must be a strong and smoothly working partnership of State, local, and National governments, bringing public resources to bear in support of private resources in a consistent, coordinated, and orderly fashion. Public programs designed to build cities worthy of the people who live in them ought to be clear in their goals and flexible in their execution.” Denying that inadequate revenues was *the* primary problem facing cities, Weaver echoed the administration line that there needed to be greater flexibility to experiment and research the nature of the problem – one that related to the “paucity of trained, qualified people at every level of skill” in state and local bureaucracy. The administration, Weaver argued, was also remarkably sensitive to the fact that the number of local

¹¹² Joseph Califano to Lyndon B. Johnson. August 10, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

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governments was only growing. “This is an institutional situation which I think cannot be ignored,” the Secretary told Senator Jacob Javits (D-NY),

...we are going to have to again experiment. I think we are going to have to make ad hoc arrangements, and I think we are going to have to perhaps be a little inconsistent as among localities in order to get results which will be satisfactory. And we may well find ourselves in a whole series of special-purpose activities which we will then have to, in some way, try to coordinate...if we had all of the funds that anybody could imagine, the other factors would limit their effective utilization¹¹³

In addition, Weaver pointed to five problems affecting urban life – the five problems the administration’s demonstration program sought to combat. First, was the issue of scale: the increased pace of urbanization that would continue to press on limited financial resources at the federal level. Second was that fact that disparities within urban areas continued to grow: the fact that some areas of urban America thrived alongside deteriorating neighborhoods, predominated by minority communities. Third, as cities grew, inequities between the cities and the suburb accelerated forcing central cities to depend on a declining tax base; to recover they would need outside assistance. Fourth, history and timing made it so that the physical structure of the city was in desperate need of rehabilitation at mid-century, compounding the issues of migration and industrial change. And finally, years of neglect – in fact, problems exacerbated by existing federal policies – had led to a sense of “apathy, confusion, drift...and alienation” from civic responsibility.

Weaver went far to characterize the administration’s perspective on the problems of city life and the hope for Model Cities program. Senators, while never directly challenging Weaver or the other witnesses representing the administration, never shared in the White House’s enthusiasm – especially in its insistence that a new agency could finally achieve the elusive goal

¹¹³ Ibid., p. 156.

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of coordination. “What is the difference between Coordinator Weaver, Coordinator Katzenbach, and Coordinator Shriver? Who coordinates whom?” Senator Ribicoff questioned during the Attorney’s General testimony. When Director Shriver finally took his place at the center of the hearings, the first problem Ribicoff sought to explore was over OEO’s failure to coordinate, despite the charge it was granted by Congress. Raising Shriver’s latest statement on his “Face the Nation” appearance, where he stated that his primary job was to serve as the “spokesman of the poor,” Ribicoff quoted from OEO’s authorizing statute – two complete sections – that directed him to coordinate and administer:

Senator Ribicoff: How do you view your own functions? Are you another agency head like the Secretary of Labor or Commerce or HEW?

Mr. Shriver: I am like that, but I do not view my own functions as limited to that.

Senator Ribicoff: But who is the coordinator of all the functions that are involved in poverty?

Mr. Shriver: That is my job.

Senator Ribicoff: How does that differ from the assignment given to Secretary Weaver last week as the convener of the problems dealing with the cities? How do you see the difference between your functions and those of Secretary Weaver?

Mr. Shriver: Well, first of all, there are problems of the cities...¹¹⁴

To be sure, Ribicoff was not avowedly hostile to OEO and Shriver’s performance in the federal government; he would soon go on to exalt the energy and enthusiasm of the young agency, particularly in its development of the Head Start program. Moreover, as Ribicoff opened up that morning’s session, he believed that Congress must “guard against the temptation of reposing too much confidence in coordination...We should not confuse coordination-that, careful

¹¹⁴ U.S. Congress. Senate. Subcommittee on Executive Reorganization. 1966. *Federal Role in Urban Affairs, Part 2*. 89th Cong., 2nd sess., August 17-19, p. 403-404.

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packaging-with the contents of the package.”¹¹⁵ And yet, the consensus position to emerge out of days of hearings was that the machinery of federal government was broken and the best hope for improving urban life laid in superior intergovernmental relations, managed by a more empowered White House.

The consensus position in Congress did not mean that Model Cities was unopposed. Under the administration’s proposal, a new office was to be established in HUD that would serve as the chief liaison between the nation’s mayors and the federal government. The emphasis on a federal coordinator – the federal “czar” as critics ridiculed – served as the symbolic point of disagreement over the new program. Critics from real estate groups (Mortgage Bankers Association, National Association of Real Estate Boards) and the U.S. Chamber of Commerce tended to emphasize the particularistic and pork barreled nature of the program, challenging whether anything would be truly “demonstrated” to cities left out of the race. Many other Members of Congress, and even Secretary of Labor Willard Wirtz, challenged the premise of incentivized coordination. Seeing as both these critiques cut to the very core of the Model Cities idea, the decision to scrap the federal coordinator in the final bill was little more than a token victory for the bill’s opponents. In its place – and under a compromise position gently hinted at throughout the Ribicoff hearings – HUD would gradually assume greater command over all aspects of intergovernmental relations.

The Ribicoff hearings also exposed a second concern with the pending model cities legislation, and the administration’s approach to intergovernmental relations more generally. When mayors were asked to testify before Congress about the pending legislation, they persuaded members to expand the program well beyond a few demonstration areas. There was

¹¹⁵ Ibid., p. 261.

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no more important voice at the hearings than Detroit's Jerome Cavanagh. As president of the U.S. Conference of Mayors, as an early defender of Johnson's war on poverty, and as a recalcitrant politico against his Governor, George Romney, few could lay as much claim to understanding the problems of urban governance. Not coincidentally, given his early involvement in conceptualizing the demonstration cities idea, Cavanagh's testimony was a partial boon to the administration as the legislation lingered before the Congress. But Cavanagh was quick to point out that it was simply not enough. First, if the problem of urban life was so pervasive, why, Cavanagh questioned, would only a few cities benefit from the new federal efforts? Second, if the committee had resolved itself to the fact that pre-existing federal efforts were bogged down in administrative inefficiencies, why, he wondered, would the Congress not seek to revamp the entire system of grants-in-aid?¹¹⁶

Other mayors in their testimony echoed Cavanagh. As to be expected, the mayors of the nation's largest cities were enthusiastic advocates for the new federal money. But, as New York City's Mayor John Lindsay argued, the amount of money requested, "will limit sharply both the number of cities that may participate in the program and the scale and impact it can have on the individual communities which do, in fact, participate. It is of the utmost importance that the program be large enough and so apparent that our people will readily perceive its value...A competition among America's cities with the fate of the poor at stake, is not a very attractive prospect for local officials."¹¹⁷

Already faced with a torrent of new federal programs that created a backlog in the disbursement of grant funds, mayors joined with their respective Members of Congress in

¹¹⁶ U.S. Congress. Senate. Subcommittee on Executive Reorganization. 1966. *Federal Role in Urban Affairs, Part 3*. 89th Cong., 2nd sess., August 22-23, p. 625.

¹¹⁷ U.S. Congress. House. Subcommittee on Housing. 1966. *Demonstration Cities, Housing and Urban Development, and Urban Mass Transit*. 89th Cong., 2nd sess., February 28-March 9, p. 225.

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criticizing the limited nature of both the demonstration area, and the number of demonstration cities to be selected.¹¹⁸ Incidentally, Ribicoff anticipated such an issue as the task force finalized its draft proposals. As a member of the task force, he was among the first to raise the concern of municipal competition over a limited set of funds. “He has a practicing politician’s fear of a ‘contest’ in which some cities win, and other lose,” Harry McPherson wrote to Califano prior to Johnson’s receipt of the task force, “He was inclined to escalate a demonstration program into a come-one, come-all program; but this has murderous budgetary implications, and would not in any event achieve our goal of stimulating cities to take new and drastic steps to gain massive Federal support.”¹¹⁹

The Senate bill that finally passed 53-22 on August 19 would set the terms of the debate in the House over the amount of funding available, and the timeline for implementation. Much has been made over the administration’s decision to transfer, in early August, the floor management of the bill to Edmund Muskie (D-ME), who, as is seen elsewhere, had a profound interest in Johnson’s creative federalism. Muskie secured two important changes to the bill as it related to the distribution of funds across large, medium, and small cities (Portland, Maine was to be one of the first recipients of funds), as well as how assertively HUD was to reward plans for racial integration. Even then, the fight to secure passage in the House proved more difficult than first anticipated. As Robert Wood reported to Califano in early October, Democrats and Republicans alike had grown concerned with voters’ reactions to more spending, and the political implications of favoring spending in cities when their districts were likely to be ineligible. Weaver, Wood, and Califano were all adamant to keep the promises vague and to give

¹¹⁸ Haar, p. 65.

¹¹⁹ Harry C. McPherson to Joseph Califano. December 13, 1965, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

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the impression that all cities, no matter how small, would receive top consideration.¹²⁰

Eventually the House finally passed its version of the bill on October 14, 1966 (178-141); the impending conference report recommended – for ease and speed – adopting the Senate version by a 14-vote margin.¹²¹

Administrative Oversight and White House Control

The “Demonstration Cities and Metropolitan Development Act of 1966,” provided the statutory authorization for officials in HUD to achieve finally the promise of their young department – to serve as *the* office for coordinating the country’s tapestry of municipal governments. Even while the bill faced defeat in the House, HUD administrators – led by Assistant Secretary Ralph Taylor – began to develop the administrative apparatus that would govern the application, disbursement, and implementation of the new program. Throughout the summer, 1966, HUD officials had already traveled throughout the country, in person, in order to build support for the new program. The White House, too, had already instructed Cabinet officials to give model cities planning first priority, so as to expedite application drafting and approval come Congressional authorization.¹²² That February, after HUD had circulated an initial pamphlet on planning recommendations, Weaver and Taylor organized a set of regional conferences. Meeting with an estimated 3,500 municipal officials – primarily representing nascent model cities planning departments – they provided in-person technical assistance for

¹²⁰ Robert C. Wood to Joseph Califano. October 5, 1966, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 1.

¹²¹ P.L. 89-754.

¹²² Milton P. Semer to Lyndon B. Johnson. June 10, 1966, in *White House Central Files: Legislation, Local Government*, Lyndon B. Johnson Library, Box 139.

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filling out grant applications. However, they were also sure, as they told Johnson, to lobby the state governors to press for more model cities funds in the upcoming fiscal year.¹²³

Along with Weaver, Johnson called on the Director of OEP, former Florida Governor Farris Bryant, to make personal and direct contact with each of the 50 state governors. Bryant's "flying squad," was the administration's primary effort to "streamline administrative links between Washington and the States."¹²⁴ Model Cities would strengthen the federal-local relationship, but the White House also recognized that the strength of that relationship depended on state-level support. At the very least, Bryant suggested, the presence of federal administrators, meeting with dozens of state officials would "blanket the news in a particular State for one day with our conferences in its Capital," thereby demonstrating Johnson's commitment to efficient federated governance.¹²⁵ However, the meetings served more than just publicity students. Member for the Bureau of the Budget, Agriculture, Commerce, HEW, OEO, HUD, and OEP all attended the conferences; in the first month of travel they visited eight different states, with no discernable geographic emphasis¹²⁶

The reaction from Governors is, perhaps, most indicative of Bryant's efforts. "From the State's point of view," New York Governor Nelson Rockefeller (R) wrote, "we found it tremendously successful and most useful. I am extremely grateful to you for making it possible for us to discuss personally with those Federal officials who administer Federal assistance

¹²³ Robert E. Kintner to Lyndon B. Johnson. February 9, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

¹²⁴ Office of Emergency Planning, "Press Release," March 8, 1967 in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

¹²⁵ Farris Bryant to Marvin Watson. January 3, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

¹²⁶ Farris Bryant to Marvin Watson. January 3, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

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programs certain of the problems that we, and they, have.”¹²⁷ Recapping his meeting the Governor of North Dakota, and chair of the National Governor’s Conference, William Guy wrote Johnson, “We got down to brass tacks immediately and established the give and take that is necessary to iron out wrinkles and establish a person-to-person rapport. This meeting was meaningful in what it accomplished, but I think more dramatically meaningful was this evidence that you and your administration are intent upon attacking the problems which heretofore prevented an effective state-federal relationship.¹²⁸ Indeed, according to Guy, Bryant’s flying squad had proven so successful that the National Governor’s Conference was soon to implement a new, national office in Washington. “One of its express functions will be to establish a close relationship with the executive agency designated by you,” he wrote, and to develop “pipelines of communication with all major federal departments and agencies and Congressional committees.”¹²⁹

Johnson and his OEP delegates made the necessary contacts with the Washington Office of the National Governor’s Conference. However, in what would become a staple of modern presidential-federalism, the president depended more on the carefully crafted personal relationships he had with each statehouse. Part of this was the perceived inadequacy of the Governor’s Conference itself. As Governor Edmund Brown surmised at Harvard’s annual Littauer lecture,

the fact that a Governor’s Conference already exists as a forum and is not being used raises the question of whether joint action by the 50 governors is feasible. But the Governor’s Conference never was intended as a policy body. In a sense, it is a framework

¹²⁷ Nelson Rockefeller to Lyndon B. Johnson. February 14, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

¹²⁸ William Guy to Lyndon B. Johnson. February 14, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

¹²⁹ On the administration’s use of the National Governor’s Conference, see: Marvin Watson to Lyndon B. Johnson. March 16, 1967; William Guy to Marvin Watson. March 15, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

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for group therapy, a structure in which 50 men who share problems that nobody else understands, may gather to exchange views and ideas informally. Efforts to make something else of it in recent years, in fact, threaten to destroy its real function.¹³⁰

As such, with the support of the nation's governors, the White House continued its standing policy of working through OEP and its director - a continuation of the institutional processes set up in the White House Office of Intergovernmental Affairs. The meetings between Bryant and the nation's governors echoed the concerns that mayors had shared with Humphrey. Certainly, more money from the federal government would help; governors were also most keen on permanently overcoming the problem of weak state-level tax bases by enacting general revenue sharing. Yet, Governors proved to be the loudest advocates of the idea that it would be wrong, let alone politically imprudent, to request more money if the government was to continue spending it so inefficiently.¹³¹ Bryant's remarks before the Delaware Conference of state administrators is particularly revealing of both the managerial and political aspects of the new federal-state cooperation. "The obvious problem..." he argued, "is budgetary...less obvious, and more important and difficult, is the administration. Neither of these problems is 'political,' for they are common for Republicans and Democrats. Neither of these problems is 'deliberate,' for they are the unintended results of many separate actions by the Congress in the pursuit of diverse but good goals." Creative federalism's solution was to put "the Governor in the co-pilot's seat," for "While the President and the Governors are setting our course, the rest of us can keep the

¹³⁰ "Draft of remarks by Governor Edmund Brown to Harvard University, Littauer Lecture," January 9, 1964, in *White House Central Files: Executive File, Speeches*, Lyndon B. Johnson Library, Box 52.

¹³¹ Farris Bryant to Lyndon B. Johnson. March 10, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

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ashtrays clean, and tigers in our tanks.”¹³² To that extent, Governors became effective advocates for the president's plans in reforming local governance.

By May 1, 1967, just six months after Congressional approval, HUD had received 193 applications for planning funds. To help expedite the federal response, Taylor established an inter-departmental committee to review the applications with the intention of announcing the first round of planning grant recipients within several months. Only a White House directive, instructing Taylor to delay announcement, prevented him from achieving his goal.¹³³ Taylor and his intra-governmental committee had succeeded in reviewing applications by July 10th and set over a preliminary approval list to the White House for its review. Of the 193 applications, the department was ready to announce the 58 cities HUD had deemed worthy. In sending the list to the White House, Weaver was also clear in highlighting the political implications of each choice. Next to each applicant city appeared the name(s) of the city's Congressional delegation, and whether they voted “right” or “wrong” on the authorization legislation. Of the 58 selected cities, only three had representatives who voted in the “wrong”: Greenville, Mississippi, Charlotte, North Carolina, and Columbus, Ohio. Twelve additional cities were left to the administration's “discretion.”¹³⁴

Despite having a rather complete list, Califano urged a delay in announcing the selected cities until after the Senate had voted on the next round of authorizations for the Model Cities program – an addition \$662 million to supplement the original \$900 million; ultimately this was

¹³² Farris Bryant, “Remarks at the Delaware Governors’ Conference on Federal-State Relations,” January 26, 1967, in *White House Central Files: State Government*, Lyndon B. Johnson Library, Box 1.

¹³³ Robert C. Weaver to Lyndon B. Johnson. June 14, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

¹³⁴ Joseph Califano to Lyndon B. Johnson. July 10, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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to be scratched down to \$237 of additional appropriations.¹³⁵ It was not until November 16th that the first 63 cities to participate in model cities received their notice. For Taylor, the announcement's delay had the contradictory effect of simultaneously validating HUD's critics who saw nothing but more red tape, while also ensuring more funding for a second round of city demonstrations, as any announcement would have removed an important carrot from the administration's effort to coax hesitant representatives. Delays, naturally, brought about charges of political favoritism. In retrospect, however, and with access to classified reports, the amount of politics that went into the eventual funding decision was somewhat minimal. Only one of the recommended cities that voted "wrong" was dropped from the list (Greenville, MS), and just two of the discretionary cities vetoed had "wrong" votes; the only other discretionary city not added was McAlester, Oklahoma (so, in the end, only two cities with Congressional delegations that voted against model cities funds received funds). Perhaps the largest intervention made by the White House concerned a planning grant for Washington, D.C. At the time of the initial report, Weaver singled-out its application as the "worst organized city of all those applying." It, nevertheless, found its way on to the final list.

Reforming Local Government through Grants-in-Aid

Every major American city with a population over one-million received Model Cities funding, with the exception of Los Angeles; 29 cities with a population between 100,000 and 500,000 received grants, as did 8 cities with populations under 20,000. In March, 1967, HUD awarded 12 additional cities planning grants and shortly thereafter announced a second-round

¹³⁵ Lyndon B. Johnson to Mike Mansfield. August 16, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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competition for new planning awards. Months after Johnson had announced he would not run for reelection, HUD notified 50 cities of planning grants on September 6, 1968, and the final 22 recipients on November 22, 1968.

Those initial funds were for planning. It was not until December 23, 1968 that the first new monies for programs made its way into nine cities: Baltimore (\$10.5 million), Boston (\$7.7 million), Atlanta (\$7.1 million), Denver (\$5.7 million), Seattle (\$5.2 million), Waco (\$2.6 million), Huntsville (\$1.9 million), Portland, Maine (\$1.8 million), Smithville, Texas (\$1.4 million). Already, Model Cities was doing something that CAP was unable to achieve -- administrators exercised restraint in doling out funds until local, state, and federal officials could all agree on plans. While the supplemental funds amounted to a relatively paltry \$44 million in new money to combat urban poverty (compared to \$1.06 billion in appropriations for community action in FY1968), the total amount of federal money to be funneled through the new community development agencies (CDAs) across the nine cities exceeded \$140 million. For example, Boston's City Demonstration Agency received \$7.7 million from the supplemental fund, in addition to the \$192,650 it received to establish its mayor-controlled CDA (in Boston, the Director of the CDA was appointed directly by the mayor and served on his cabinet). Those supplemental funds were to be used for a variety of projects proposed by the CDA, but which was "staffed predominantly with Model Neighborhood residents." Under the HUD-approved plan, \$711,782 was to go to emergency health services, evening clinics, dental care program, and health career training; another \$1.08 million was allocated for loans and grants for interim financing through the city's housing development fund; \$142,925 would go to staff "street workers to help teens who have stared on drugs" and to "provide psychiatric and medical help to drug addicts;" and another \$121,980 would go to improve police-community relations by

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preparing 50 black residents to take the city's police entrance examination. These programs would supplement other new programs in childcare and family counselling; other monies would go to expand staff for pre-existing efforts in parks and recreation. The remaining \$13.5 million would come from other HUD and federal government sources, primarily dedicated to slum clearance and building rehabilitation. Only one program – the “Evaluation, Data Collection, and Information Systems” clearinghouse secured funds from a private source; \$43,600 of the total \$601,892 from nearby M.I.T.

Despite its relative slowness, HUD and its Model Cities Agency were winning converts to the creative federalism philosophy, none the more important, so it seemed, as the city managers and local administrators who felt helpless under OEO's reign. Local CDAs, under strong mayoral authority, might clash with and upset bureaucratic norms in municipal government, but they would not outright challenge it as was the case, so the perception went, with OEO. Public administration journals heaped high praise on President Johnson's plan, and the Democratic National Committee circulated its own materials on how to encourage local officials to set up their own CDA: fill-in-the-blank letters to the editor appeared at the end of a lengthy pamphlet along with discussion questions to raise at the next city council meeting.¹³⁶

A rare dissenting voice found in the pages of *Public Management* reveals much about the challenge Model Cities would soon face - both in its substance and relative paucity – as the first planning proposals made their way to HUD. “The coordination buck and the innovation buck have both been passed to city government,” Gilbert Steiner argued. “For all of its commonsense appeal, coordination, in the perceptive words of Harold Seidman, ‘is not neutral.’ Coordination means that there is agreement on a course of action; agreement means that some agency or some

¹³⁶ Democratic National Committee, “Cities to Service People: Model Cities Program,” in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 2.

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program will step aside in favor of some other agency or some other program... the project funded at 120 percent of cost by three overlapping programs is a scandal, of course, but so is the unfunded worthy project that waits endlessly for a coordinated decision from a coordinated agency.”¹³⁷

That lone voice identified what was quickly becoming the major issue enveloping Model Cities administration. Nine departments and agencies administered programs that local CDAs could apply for in their efforts to bring together the disparate range of services to combat poverty. Yet, while there was common agreement inside the administration over the need for greater coordination, establishing new organizational forms at the federal level proved to be more challenging than anyone at the time first thought. It was not until the summer of 1968 that HUD was able to finalize the interdepartmental agreement over what the departments should be agreeing about: the hard work of establishing new processes for developing common funding targets, assuring consistent planning and review procedures, expediting model city requests for categorical grants in aid, and providing coordinated technical assistance.¹³⁸ Far from giving any one agency or department sole authority to make determinations for a coordinated response, Johnson officials maintained a quasi-formal, inter-agency group comprised of assistant secretaries from HEW, HUD, OEO, the Budget Bureau, and the Departments of Justice, Agriculture, Commerce, Transportation, and Labor. In private, however, even Charles Schultze waxed over how successful any structure like that could be. “These interagency committees are, quite frankly, not much use for ‘coordination in general,’” Schultze wrote to Califano, “You will

¹³⁷ *Public Management: Model Cities – New Role for the City Administrator?* February, 1968, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 4.

¹³⁸ See attached memorandum concerning “Model Cities Coordination: Plan for Implementation” in Joseph Califano to Willard Wirtz. August 6, 1968, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

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recall our generally unsatisfactory experiences with the Cities cabinet lunch group and the Vice President's poverty council. Standing committees can't coordinate. A committee can be useful in solving a specific problem."¹³⁹

All agencies at the federal level were reticent to give up any autonomy in funding decisions, but the competition between HUD and OEO was especially visceral, given the very "problem" model cities was supposed to overcome – a problem that the CAP had not only failed to overcome, but, in fact, exacerbated. Given the similarities between OEO and HUD's Model Cities Agency – at least insofar as their coordination goals overlapped – White House officials were dragged into a dispute between HUD and OEO as the inter-agency task force worked on establishing more regimented procedures for coordination during the summer of 1968. With funds coming in to Model Cities area, the dispute centered once again on how much veto authority local officials should have over federal-projects. OEO's acting director, Bertrand Harding, got wind of a White House meeting to adjudicate upon the agencies competing claims, and furnished his general counsel's own report on the subject: "it would be improper for OEO to impose a requirement of mayoral approval. I think it is clear that Congress intended, in the 1967 amendments, to deal comprehensively with the distribution of power with respect to community action programs at the local level. For us to provide for a mayor's veto when Congress did not do so would be inconsistent with the carefully worked-out scheme of the 1967 legislation."¹⁴⁰

The White House response to OEO is revealing and unambiguous. Regardless of OEO's own interpretation over how CAAs should, or could, interact with a city's formal government, when operating in a demonstration neighborhood, OEO was beholden to the policies and

¹³⁹ Charles Schultze to Joseph Califano. December 11, 1967, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

¹⁴⁰ Donald Baker to Bertrand Herding. July 19, 1968, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

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procedures of Model Cities. In other words, the White House made sure that all CAP programs were subservient to Model City control, thereby mayoral approval. OEO, along with the other affected agencies, was to “accord top priority to program funding of Model Cities requirements” and that included establishing procedures to “assure early and full involvement and participation of the local chief executive” in OEO programs.¹⁴¹ Califano’s response to OEO should not have come as a surprise. The president had made his priorities clear as early as January 1967, as model city planning grants slowly trickled out of Washington: “To be effective, concerted attacks on city problems must be planned by the cities themselves,” the president’s 1967 budget message read, “the new model cities program is *now the primary* incentive provided by the Federal Government to accomplish this objective” [emphasis added].¹⁴² When OEO and HUD reported back to the president on September 27, the new OEO director had fallen in line with the White House’s marching orders. Both agencies had agreed to work together and encourage, wherever possible, the consolidate of CDA and CAA resident organizations.¹⁴³ The implications of this agreement would only grow as the president’s final budget request for FY1969, for the first time, recommended more money for Model Cities’ supplemental fund than for OEO community action.¹⁴⁴

The consequences of the coordination drive were more visible in the locality. Municipal governments in the late 1960s were as fragmented as the federal bureaucracy, but local CDAs

¹⁴¹ Joseph Califano to Bertrand Harding. August 6, 1968, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

¹⁴² The Budget Message of the President. 1967.

¹⁴³ “Processes for Assuring that Model Cities Can Coordinate All OEO Assisted Programs that Affect Model Neighborhoods,” September 27, 1969, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 3.

¹⁴⁴ United States. Bureau of the Budget and United States. Office of Management and Budget. “Fiscal Year 1969,” Budget of the United States Government (January 29, 1968).
<https://fraser.stlouisfed.org/content/>

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proved more successful in reconciling competing agencies within City Hall. Local administration officials quickly recognized that citizen participation goals contradicted the goals of efficient governance. As one former official, James Sundquist, soon summarized after he left the Johnson administration, “When they [CDAs] come under resident control, whether in law or in fact, they will similarly sacrifice their potential as coordinators exercising the powers of mayors, city managers, and city councils to bring about concerted action by the many public and private agencies whose resources are to be mobilized.” Sundquist, in his review of existing CDAs, found that most cities had opted for mayoral control structures, ones where the development agency took its cues from staff operating inside city hall, or better yet, the mayor’s office. Local government capacity – its claim to innovate novel programs and the ability to implement those programs – flourished in those cities. “Those who find shortcomings in the coordination processes are wont, currently, to place the blame upon the mayors,” he argued in 1969. “The program, after all, was to be theirs. Where they abdicated and turned the program over to the neighborhood residents, where they let the city demonstration agency slip out of the city’s official family and become an advocate organization, where they delegated large segments of the program to agencies independent of city hall, the fault was theirs...”¹⁴⁵ Where the mayors succeeded, however, they acquired new forms of authority and prestige, largely unheard of in modern municipal governance. After decades of splintering authority into special purpose governments and federally-spawned sub-agencies and regional councils, mayors found, through their CDA, a form of consistent and coordinated review.

The planning procedures in and of themselves offered profound moments for change in the cities, but the CDA’s relationship to broader city politics offered another moment for mayors

¹⁴⁵ Sundquist. *Making Federalism Work*, p. 99, 111.

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to augment executive authority in the city. HUD was never oblivious to the standards of community participation, which were hinted at throughout the authorizing statute. And, as with OEO's community action, the establishment of CDA advisory boards was often just as conflict-ridden as the creation of local CAAs years earlier. Developed in tandem with the National League of Cities-U.S. Conference of the Mayors, citizen participation guidance from HUD was, unsurprisingly, rather vague.¹⁴⁶ And yet, most cities developed a policy-making body that gave neighborhood residents direct say – and in some cases, a veto – over CDA plans. Most CDAs used community elections to choose board members, and several contemporaneous studies suggest that turnout for board selection often exceed those of local CAAs.¹⁴⁷

Nixon Takes Over, Intergovernmental Relations Remains

Never did the policy architects of Model Cities consider how the program might fare under a different administration. Coordination and efficiency are generally regarded as “good government” ends, widely embraced by Democrats and Republicans alike. Reformers believed that if decentralized administration produced its instrumental effects of more efficiency, less waste, and the appearance of more efficacious governance, then the substantive ends of eradicating poverty were also to be more secure. Indeed, when Lyndon Johnson announced on March 31, 1968 that he would not seek his party's nomination for re-election, White House officials were all the more concerned with establishing robust administrative procedures to

¹⁴⁶ Bernard J. Frieden and Marshall Kaplan. 1975. *The Politics of Neglect: Urban Aid from Model Cities to Revenue Sharing*. Cambridge, MA: The MIT Press, p. 76.

¹⁴⁷ Department of Housing and Urban Development. 1970. *The Model Cities Program: A Comparative Analysis of the Planning Process in Eleven Cities*, prepared by Marshall Kaplan, Gans and Kahn. Washington, D.C.: U.S. Government Printing Office.

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validate the new program, cut down on costs, and secure the support of the country's mayors, Republican or Democrat.

Regardless, few could have foreseen the election of Richard Nixon in November 1968, a full month before any of the supplemental monies flowed to the first nine demonstration neighborhoods. Yet, in its long-term legacy for the development of American federalism, it is precisely this change of administration that makes the Model Cities program an integral part for understanding contemporary intergovernmental politics. Nixon inherited a cacophony of federal programs that were at odds with the new administration's overarching philosophy and failed to serve (or at least *appear* to serve) Nixon's personal constituency. Model Cities, however, embodied Nixon's rhetorical, if not real, nods to local initiative, decentralized governance, and governmental efficiency through coordination. And yet, it was clearly stamped with the personal image of Johnson and his Great Society. In the effort to enact a "New Federalism" Nixon had to target the programs he inherited, while retaining (and even extending) the administrative procedures enacted by reformers from the other party.

During the transition period, a task force headed by Richard Nathan – then an enterprising scholar-reformer in the Budget Bureau – endorsed Model Cities as a flexible administrative device to carry out other presidential objectives. Nixon's new Council of Urban Affairs convened a special subcommittee to study the model city program and also found the program to be in line with the general tone and tenor of the administration's federalism philosophy. And HUD's new secretary, former Michigan Governor George Romney, openly expressed his enthusiasm for the program and HUD's dedication to governmental efficiency upon taking office. Less than a year after taking office, Nixon appointed Edward Banfield to chair a task force dedicated to evaluating both the concept and performance of Model Cities.

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While HUD officials could stand to lessen regulations over participation requirements and CDA structures, the report was clearly enthusiastic, concluding

Despite over-regulation and under-support, the model cities program has made a useful contribution. It has succeeded in making some city halls more aware of the special problems of their poor neighborhoods; it has brought some mayors and citizens groups into mutually advantageous relations; it has given some encouragement to the improvement of management methods, and, especially in the larger cities, it has given rise to some projects that are both new and promising... In short, the model cities program is better than what went before. We think that if the cities are given greater freedom and more substantial support the program will be a great deal better still.¹⁴⁸

Model cities sought to enhance local government's capacity to combat poverty, and, in doing so, its capacity to more effectively combat other policy problems increased. Nixon's newly appointed Assistant Secretary for Model Cities, Floyd Hyde, was the former mayor of Fresno, California, and was sympathetic to the goals of local capacity building. While fighting poverty was always a co-terminus goal of the program, under Hyde and Secretary Romney, strengthening local government came to supersede the substantive goals of community development. Model cities provided an administrative structure well-suited to the new administration's new philosophy, given the emphasis on procedure and decentralized decision-making.¹⁴⁹ But, so pleased were the nation's mayors with Nixon's management and reform of the program, that the U.S. Conference of Mayors openly celebrated the administration's efforts "to turn the program around to place authority in the hands of the elected executive."¹⁵⁰

During the first year of Nixon's administration, HUD tinkered with the program in two significant ways. First, echoing the emphasis Romney placed on mayoral control in an April press conference, HUD began to scrutinize the structure of local CDA's more carefully. When

¹⁴⁸ U.S. President's Task Force on Model Cities. 1970. *Report, Model Cities: A Step Towards the New Federalism*. Washington, D.C.: U.S. Government Printing Office, pp. 9-10.

¹⁴⁹ Friedan and Kaplan, *The Politics of Neglect*, p. 88.

¹⁵⁰ Haar, 176-177.

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federal administrators felt that the mayor had unduly abdicated his responsibility (i.e., citizens had too much participation), Hyde would write them asking for a written justification as to how this aided in the coordinating function of local government.¹⁵¹ The shift in participation requirements was one of degree rather than emphasis, given the program's initial goals.

The second change struck more to the heart of what model cities was supposed to accomplish, by expanding the population threshold for a demonstration area within a city. Congress had not made any effort to determine what constituted a "concentration" of resources within the city, and under Johnson HUD had determined that model areas could not exceed 10 percent of the city's population, or 15,000 people, whichever was the larger. Mayors, placed in the position of choosing between deserving neighborhoods, had recoiled at the political consequences that would arise from selecting neighborhoods for funding, and they lobbied Johnson to change the policy. Nixon, coveting Johnson's close political relationship with mayors, changed the policy. The politics of picking winners and losers was one thing at the federal level, and quite another when the mayor of a city had to stand reelection. In Nixon's administration they found a friendly ally to those concerns, the indefatigable critic of community action and now advisor to the president, Pat Moynihan. "How are the *second* 10% poorest people going to feel?" Moynihan asked in a memorandum to his staff of the Council for Urban Affairs.

In expanding the definition area of Model Cities, Nixon responded to mayoral pressure, but opened up new conflicts over the amount of money his administration was advocate for in its first budget requests. The first requests from HUD, approved by Romney, topped \$5 billion for the first full fiscal year of the Nixon administration – nearly double what the Johnson task force had

¹⁵¹ May 1969 requirement that local CDAs provide written assurance to HUD that participation requirements and board composition would not impede "the city's ability to take on responsibility for developing the plan." CDA Letter No. 10A – issued in December – gave the local chief executive legal permissiveness to "assume early, continuous, and ultimate responsibility" for the program. See: *Ibid.*, 90.

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first proposed less than five years earlier. Faced with budgetary pressures, administrators, responding to White House directives, sought further reforms to the Model Cities program that would finally achieve the goal of programmatic coordination, but without busting the budget. HUD's response was to give mayors even more control over the extent of program initiation and implementation under a policy known as "planned variations." In what has become a hallmark of presidential-federalism ever since, the administration announced that it would waive certain federal review provisions subject to cities developing plans for stronger "chief executive review and comment." Only 20 cities would get the waiver, thus representing a demonstration with a program of demonstrations. Missing from the conversation was any discussion over the total flow of monies now funneled through city hall, or over the specific innovations supposedly emerging across 150 disparate neighborhoods. As Richard Nathan recounted, the hope was that planned variations would be "a way to finally turn the program around...to finally go after management reform at the Federal and local level, rather than administer the program like the poverty effort."¹⁵²

Far from heralding a dramatic departure from Model Cities policy – planned variations were a continuation of the same federal-local dynamics unleashed during the Johnson White House, then fully ensconced in the new administration. In a very different way, the efforts to shore up support for Model Cities inside the White House and City Hall reflected a growing disappointment with the administration of the program. Reports, including Banfield's lamented the fact that while more monies flowed to the model neighborhoods, few of those monies were from pre-existing sources; most money allocated by HUD came from the supplemental fund, as the separate agencies and departments continued to funnel money through traditional grant

¹⁵² Cited in, *Ibid.*, p. 123.

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processes. CDAs, while successful in developing plans to combat poverty, were less successful in identifying resources already appropriated by the Congress for these purposes. Model Cities was slowly transforming into its own variant of a grant-in-aid program, even though the amount authorized by Congress was relatively small, given the complex goal of eradicating poverty through coordinated, concentrated, and mobilized action. Reluctance within the Nixon administration was to be found over the fact that, as HUD concluded in a memorandum sent to Christopher Demuth, “all the funded cities have tied up a substantial amount of their supplemental money in projects for which other authorizations could have been found.”¹⁵³ Government accounting reports vary in how much of the supplemental fund represented a redundancy in federal authorizations, but at the lowest estimate, 60 percent all money spent through the supplemental fund could have been accessed through other programs – a majority of money spent, even after several layers of coordination and communication screened applications to prevent that exact occurrence.

As Model Cities developed an image of just another earmarked program, its relevance to Nixon’s domestic agenda faded. The luster of grand presidency-centered urban reform soon faded, and Nixon’s 1974 budget sounded the death knell for Model Cities -- all housing programs were suspended until the newly created Office of Management and Budget could evaluate them. Ultimately, all programs would be folded into a special revenue sharing agreement, allowing the administration to significantly curtail the staffing and oversight of HUD officials, and more firmly control the use of funds within the locality. OMB, so the logic went, could handle the process of intergovernmental review and control, with greater attentiveness to the needs of subnational governments, and, of course, the president himself. When Congress failed to follow

¹⁵³ Haar, p. 168.

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through on the requested spending cuts, Nixon simply refused to spend the appropriated monies. Impoundment demonstrated presidential power in the negative, but it was a strategy only feasible because of OMB's administrative capacities.

Nixon may never have fully bought into the idea of model cities – a possibility reflected by the fact that no fewer than seven White House studies exist asking whether it was politically advantageous program. However, the goals of coordination and strengthened local capacity remained essential elements of the president's administration. When Nixon and his aides determined that Model Cities had not achieved those goals, it went back to the drawing board, and, in its place, adopted one of the proposals for coordination first proposed by Walter Heller concerning revenue sharing. Sequencing counts here, however. Revenue sharing would now take place in a much different political and administrative context. Mayors and their planning agencies had real authority and had demonstrated for nearly a decade they clout they had when federal administrators reached down too far. Politically, the War on Poverty and its implications for American race-relations, spawned a powerful movement opposed to more government spending. And yet, by the 1970s, revenue sharing had become the presidency's newest panacea to achieve the elusive goal to make federalism work.

Community Action, Model Cities, and the Legacy for American Federalism

In emphasizing the behind-the-scenes efforts to actually achieve decentralized administration, I hope to suggest that the efforts of the Johnson administration are sincerer than are often given credit. There is clearly a political calculus in these decisions, but rarely is it one that speaks to immediate partisan politicking of the era, or the Republican trope that the “so-

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called war on poverty” was “bypassing the state capitols, thrusting aside local government, and siphoning off to Washington the administration of private citizen and community affairs.”¹⁵⁴

The genesis of the two programs smacks of centralized control. The result of secret White House task forces, the authorizing legislation was not the work of interest group pressure politics; consequently, few interest groups had a hand in its implementation. This is truly a distinguishing feature of the model cities legislation. And yet, this intellectual independence allowed the administration to offer a novel condemnation of American liberalism that it often does not get the credit for: the growth in government programs arose out of the shortcomings of previous efforts, particularly the lack of coordination between widespread, but complementary efforts with the states and cities.

Presidential-Federalism, as witnessed through these two programs, showcases the two substantive goals of this new mode of coordinated, or integrated, governance – material improvement and political accountability. These two goals are inherently contradictory: to improve material conditions, the administration needed the support of political elites; in changing the politics of municipal governance, the White House routinely riled its necessary allies in City Hall and the Governor’s Mansions. There is a tendency, however, to disentangle these two goals that were apparent both in OEO and Model Cities

Contemporaneous studies of the two programs almost universally emphasize participation – or lack thereof – over coordination.¹⁵⁵ The insights are profound, especially in

¹⁵⁴ Republican Party Platform. 1964. Reprinted in *New York Times*. July 12, 1964, p. 56.

¹⁵⁵ Robert A. Levine. 1971. *The Poor Ye Need Not Have with You: Lessons from the War on Poverty*. Cambridge, MA: MIT Press; J. David Greenstone and Paul E. Peterson. 1976. *Race and Authority in Urban Politics: Community Participation and the War on Poverty*. Chicago, IL: University of Chicago Press; Ricardo A. Millett. 1973. *Examination of 'Widespread Citizen Participation' in the Model Cities Program and the Demands of Ethnic Minorities for a Greater Decision Making Role in American Cities*. PhD diss., Brandeis University.

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how participation requirements intersected with the fissuring of the civil rights movement in the later 1960s. They are nevertheless incomplete. As a result, not only are the political implications on the question of centralization and decentralization overlooked, there is a tendency to lambast the Nixon administration for exploiting a conservative backlash against the program. More recent scholarship has perpetuated this piecemeal evaluation, blaming not only Nixon, but Johnson for the “cruel hoax played on minority and other poor communities,” and for failing to prevent rioting throughout the decade.¹⁵⁶ Guian McKee’s analysis of Philadelphia’s Model Cities program comes closest to recognizing this tension, pointing to the fact that goals remained unfulfilled both because of limited funding, and also because of the under specification in how City Hall was to deal with citizen advocates.¹⁵⁷ The irreconcilability between these two, however, is never specified.

On the other side, there is a tendency to condemn these two programs from a more anti-statist perspective: that the only insight to be gained from the policy history traced above is that massive government interventions only result in wasteful spending and unintended consequences. Interestingly, such a perspective recognizes the administrative components to the war on poverty, while downplaying the participatory elements. There was corruption and misuse of public funds. But more problematically, in developing new community groups, social reformers working for the federal government were, by design, seeking to disrupt politics as usual in local communities¹⁵⁸ As a result, there was a deepening trust problem – one that kept

¹⁵⁶ Walter Thabit. 2003. *How East New York Became a Ghetto*. New York: New York University Press, p. 138; Alice O'Connor and Gwendolyn Mink (eds.). 2004. *Poverty in the United States: An Encyclopedia*. Oxford, UK: ABC/CLIO.

¹⁵⁷ Guian A. McKee. 2009. " 'I've Never Dealt with a Government Agency Before': Philadelphia's Somerset Knitting Mills Project, the Local State, and the Missed Opportunities of Urban Renewal," *Journal of Urban History* 35 (3): 387-409.

¹⁵⁸ Unraveling, p. 118.

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other vested interests in the communities (local political leaders, other reformers, middle-class neighbors) from wanting to participate. When those institutional problems hampered the success of the program's policy implementation, then disillusionment with liberal reform grew even more. Almost a billion dollars per year was funneled through CAPs between 1964 and the early 1970s – money that did a lot of good for a lot of communities. But at what political cost? As Moynihan suggested, such “tactics, when they became disruptive, were presumably seen by the rest of the urban population as signs of the *further* deterioration of the community as a whole. What may or may not have been therapeutic for the poor was evidence to the non-poor that the community was sicker than ever.”¹⁵⁹ No doubt, such perceptions galvanized the administration itself to win the war for public opinion and emphasize how these programs would lead to good governance, less waste, and maximum cost efficiencies.

However, CAP and Model Cities was not just the victim of racial animosities towards newly empowered communities. The racial dynamic leads many scholars to emphasize Congress' 1967 revision to community action and OEO – the moment of reckoning that forever sealed the fate of the poor and their ability to participate in the programs targeting their neighborhoods, particularly minority neighborhoods. Animosity between Congress and OEO had long been brewing.¹⁶⁰ And in an amendment to the Economic Opportunity Amendments of 1967 sponsored by Edith Green (D-OR), the House Education and Labor Committee agreed to statutorily require that all community action agencies be a State, city, or county government, *or* that “such government agencies designate a public or private nonprofit agency as the community

¹⁵⁹ Daniel P. Moynihan. 1969. *Maximum Feasible Misunderstanding: Community Action in the War on Poverty*. New York, NY: Free Press.

¹⁶⁰ In October, the House had already decided to eliminate pay raises for all OEO staff from the federal civil service increase (the Senate, however, did not accept this provision, and it was never enacted). See: P.L. 90-206, December 16, 1967.

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action agency.”¹⁶¹ The Green Amendment (Sec. 210 & 211), for sure, struck at the very political nature of community action and OEO in two ways. First, it mandated that any CAA must have, in effect, the political blessing of either a State or a political subdivision of a State; CAAs could remain independent from elected officials if they were “designated” by those formal entities (Sec. 210). The amendment further stipulated requirements on how the governing board of a local CAA was to be defined; one-third would be made-up of public officials, including the local chief-executive, one-third would be by community members, and one-third would be representatives of the impoverished areas served (Sec. 211).

The amendment galvanized some last-minute opposition, but not from the stalwart defenders of OEO and those who championed participation of the poor, as is sometimes suggested. Rather, the leading speaker against the Green Amendment (one of only eight in two weeks of debate) was a Republican critic of the administration, Representative Charles E. Goodell (NY).¹⁶² The oft-cited characterization of the Green Amendment as a “bosses and boll weevil” amendment, written to cobble together a coalition of city liberals and Southern Democrats, was authored by Goodell on the first day of debate on the new authorization. But Goodell’s “defense” of participation for the poor should also be seen as one part of an overarching strategy to gut most of OEO. In the same speech, he characterized the organization of OEO as “a monument to administrative asininity,” and openly asked his colleagues where they could “name me an agency that has made as many mistakes...” Goodell, far from content

¹⁶¹ U.S. Congress. House. Committee on Education and Labor. 1967. *Report on the Economic Opportunity Amendments of 1967*. 90th Cong., 1st sess., Report No. 866, October 27.

¹⁶² Speaking against the amendment in floor debate were Reps. Goodell, Quie, Ryan, Erlenborn, Reid of New York, Steiger, Dellenback, and Bell (who supported the final bill, nevertheless). Reps. Farbstain and Gilbert also spoke against the bill but on grounds related to federal intrusion in meddling with pre-existing CAAs, not because the bill would weaken participation requirements. Congressional Record. House. 1967, pp. -32401.

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with the status quo of community action, was a leading proponent of entirely restructuring OEO programs into pre-existing agencies – the effort to build an “opportunity crusade” that would replace the war on poverty and end CAAs all together!

Goodell and his allies failed in their efforts to repeal the Green amendment, and so, under new legislative authorization, one-third of the seats on any CAA had to come from public officials, and up to a third from major “business, industry, labor, religious, welfare, education, or other major groups or interests in the community.” As has often been noted, the Green Amendment at once secured a political backstop for the nation’s mayors, but it was one that was used for fewer than five-percent of then-existing CAAs.

The reason why the backstop was rarely used -- and why undo emphasis is placed on the Green Amendment -- is that, by late 1967, the Johnson White House had clearly made its own mind up about the fate of the CAP inside OEO, and its relationship to the entire federal effort to eradicate poverty. Johnson’s decision to maintain CAP’s independence was a political tactic to ensure the success of its new favorite program – Model Cities. Congressional opposition to these plans was virtually non-existent among liberals, but rather emerged from those who deemed the war on poverty as a partisan scheme to divert more federal monies to the places of Democratic Party control. And, by the time Congress turned its attention to revising the provision for “maximum feasible participation,” OEO and local CAAs had already been operating for years under guidelines that emphasized stronger centralized control at both the federal and local levels. Or, as the HUD’s first bulletin described the new local demonstration agency: “To the maximum extent feasible it should have the authority to reconcile conflicting plans, goals, programs,

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priorities, and time schedules; to eliminate overlaps; and to link operating programs among contributing agencies.”¹⁶³

These two programs beg the question, therefore, over what was “decentralized.” Coordination requires that the affected parties agree on, first, what the problem is, and the second, over what mechanisms are more efficient in combatting that problem. But in decentralizing the first, while maintaining strong federal control over the second, neither CAP nor Model Cities agencies could fulfil the burgeoning promise of modern presidential-federalism. Rather, responsibility for answering the tough questions became the provenance of local officials, while the president bowed at the altar of creative federalism. Or as Haar later characterized his own task force work

“rather than attempting to provide a substantive ‘answer’ to the urban ‘problem,’ the task force sought to set up a process by which diverse courses could be pursued and different localities could choose from a variety of solutions. In a basic sense the program was committed to certain principles and tied by certain assumptions: planning, coordination, comprehensiveness, and social and physical development through mobilization of all sectors. Within this framework of national competition, but with national goals set forth in loose terms, the localities were challenged to set forth how, given more federal funds, they would go about wiping out blight and revitalizing the lives of their citizens. In light of this emphasis on delegated responsibility and of the optimism over the ingenuity that many cities would display once they received such power, it would be difficult (but, also, unnecessary) to be too specific about the form at the federal legislative level.”¹⁶⁴

In the final analysis, the almost decade long effort to achieve greater program coordination never met its promise. The commitment to decentralized administration was sincere and long-lasting; in addition to the programmatic and legislative changes sought to the administrations’ signature federalism programs, a host of purely administrative reforms further solidified the new approach to presidential management of the federal system. Yet, the

¹⁶³ *Public Management: Model Cities – New Role for the City Administrator?* February, 1968, in *White House Central Files: Local Government*, Lyndon B. Johnson Library, Box 4.

¹⁶⁴ Haar. P. 124

The Community Action Program and Model Cities Project (1964-1974)

presidency could not overcome a defining feature of American federalism – an aspect that had always promoted a complicated, often cooperative structure: Congressional appropriations. Even though the modern presidency had assumed extraordinary control over the federal accounts, the Constitution clearly limited the extent to which the executive can preempt Congressional standards for authorizing and appropriating funds. Funding requirements are spread out across hundreds of different statutes, further codified by time in existing bureaucratic practice. The Department of Transportation, for example, was law-bound to administer highway funds through an individual state’s highway agency, at levels specified by Congressional formulas. HUD sent its urban renewal funds to local, special purpose governments dedicated to slum clearance, while HEW disbursed its monies for medical treatment centers through the county, which might have border coterminous with a city, but in some states might exclude the county seat. If half the battle for local coordination was to simply figure out what money was going where and plan for new interventions, CAP and Model Cities never achieved its primary goal of securing greater coordination in scheduling and disbursing the wide array of federal funds. Instead, an even more complicated system emerged that continued to raise expectations over what modern presidential government could achieve, while stifling federal reformers dedicated to bringing about a "new federalism."¹⁶⁵

The three signposts traced here – the CAP from 1964-1968, Model Cities under Johnson, and the revision of Model Cities under Nixon – are discrete moments in policy history, but also reactions to the same political problem. The reaction was also informed by a similar conception

¹⁶⁵ In one prescient analysis of model cities programs in Oakland and Detroit, Martin Lowenthal worried just this point. Noting that Model Cities had an “historic role in the political development of the poor and their increasing political education about the nature of politics, planning, and public institutions,” the program would likely perpetuate the “frustrated expectations” of the many Great Society efforts. Martin David Lowenthal. 1970. *The Politics of Planning in the Model Cities Program*. PhD diss., University of California, Berkeley.

The Community Action Program and Model Cities Project (1964-1974)

of presidential power and therefore represent developments along a similar trajectory in the construction of presidential-federalism. This evaluation might sit uneasily alongside the glowing rhetoric and outsized ambitions of the Great Society, but the rhetorical promises of any president should not overwhelm the very practical aspects of governance that consume day-to-day life in the White House. The travails of administrative politicking did not blunt the enthusiasm for redefining the federal system, but it did force the Nixon administration to turn to procedures that more acutely addressed the problem of fiscal appropriations. Not coincidentally, because Johnson and Nixon embraced a similar view of presidential power, Nixon unearthed the plans for general and special revenue sharing – plans first crafted during the Kennedy administration, and further extended by another Johnson-era task force. Revenue sharing is politically unimaginable without the Great Society’s emphasis on decentralization and the recognition, even among the most innovative liberals of the day, that the federal government cannot be solely responsible for everything. As important as these legislative successes – and more importantly, failures – were to the enactment of general revenue sharing, just as important to the development of modern intergovernmental relations were a series of administrative and legislative reforms ushered in by the Johnson White House.

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In simplest terms, the Office of Management and Budget emerged from the ashes of the old budget bureau and the travails of community action that President Nixon inherited when he took office in 1969. Nixon was a devout conservative and a fierce partisan. And yet, he behaved much like Johnson in building the administrative structures necessary for intergovernmental integration. Just as with Johnson, Nixon confronted administrative asymmetries between various governments and exploited them for conservative ends. And, as with Johnson, Nixon used intergovernmental politics as a way of circumventing a Democratic Congress. Nixon so capitalized on the pressures working in favor of presidential-federalism that he empowered the Bureau of the Budget (BoB), by transforming it into the Office of Management and Budget (OMB), largely as a device for further managing intergovernmental politics.

Despite leading a dramatic transformation of the American intergovernmental system, BoB never was able to get its head above water, and the deluge of additional responsibilities continued to drown out other institutional goals it became responsible for. Early in Johnson's tenure, Larry Berman writes, "The Budget Bureau soon became a dumping ground for all sorts of Presidential problems that should have gone elsewhere. The Bob, however, had few options because its very existence depended on its responsiveness to Presidential demands...this was the beginning of the end for the Bureau of the Budget..."¹ These organizational problems existed side-by-side with the legislative demands heralded by each new task force report Johnson commissioned. As William Carey, a former BoB official in the Johnson White House remembered, "the task force routine, with all its other merits, was regarded and treated

¹ Larry Berman. 1979. *The Office of Management and Budget and the Presidency, 1921-1979*. Princeton, NJ: Princeton University Press, p. 74.

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principally as a kind of instant policy blender to whip up tasty concoctions to meet the message schedule in January. There was no way on earth to integrate task force activities with budget assumptions and planning figures, and for sheer disarray the double exercise of task- forcing and budgeting had no peer."²

Rather than cut down on expectations, however, the Nixon White House sought to aggressively build up the institutional capacity for managing more fully integrated networks of intergovernmental and interdepartmental administrative agencies. As with Johnson, there is little mistaking that Nixon saw great potential in an empowered White House, so long as it was in the right hands. With Nixon's ascent, Barry Karl argues, "the equation – familiar since the New Deal days – of expanded federal programs and a strong presidency with liberalism, the opposite with conservatives, no longer applied, for Nixon, as much as Johnson, wanted to centralize control of the bureaucracy in the White House."³ New institutions, specifically designed to enhance communication across governments would provide the White House with the necessary knowledge and authority to implement policy objectives. Old institutions, designed for a simpler bureaucracy, within just one level of government, had to be replaced with new ones, sensitive to the demands of the new federalism.

Hostile as ever to many of the welfare-oriented, big government programs of the Great Society, Nixon did not so much seek to roll back the size of the welfare state as to manage it more economically. Reforming the intergovernmental grant system and enhancing the discretion exercised by subnational governments would relieve costly burdens endemic to the Great Society welfare state and new oversight processes, centered in the White House where good management

² William D. Carey. 1969. "Presidential Staffing in the Sixties and Seventies." *Public Administration Review* 29 (5): 451.

³ Barry D. Karl. 1983. *The Uneasy State: The United States from 1915 to 1945*. Chicago, IL: University of Chicago Press, p. 226.

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could be incentivized and held to account would cut down on bureaucratic waste and inefficiencies. Decision-making, not to mention the costs associated with making those decisions and ensuring compliance, could be carried by state and local governments, relieving pressure from the president and his aides. A new presidency gave political cover to a staff that was ready to embrace the central conclusion reached by Johnson's own advisors: "a permanent dilemma for Presidents is that the Presidency has too many dimensions for one man to handle alone yet also is constitutionally indivisible."⁴ Nixon's New Federalism would allow the president to remain at the top, but those key supporting institutions would finally be in a position to help him better achieve his goals.

Nixon's New Federalism was just as much an administrative program, focused on reorganizing government institutions and processes, as it was a set of new initiatives or programs. By never challenging the basic premises of the Great Society service strategy, or the foundational logic of administrative cooperation, Nixon *advanced* and even extended the project of intergovernmental integration.

Goals of The "New Federalism"

The name for Nixon's domestic program was not the only thing he took from the Johnson White House. While party and ideology clearly distinguish these two administrations, Nixon shared the same zeal for intergovernmental reform as did Johnson, and, like Johnson, he packed his White House with loyal, energetic aides who brought bold, comprehensive ideas with them to Washington. Nixon's "New Federalism" was ambitious, but in its vision of presidency-centered government, it was nothing revolutionary.

⁴ The Organization and Management of Great Society Programs: A Final Report of the President's Task Force on Government Organization," June 15, 1967, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 406, p. 10.

The Office of Management and Budget (1970)

Like Johnson, and even Kennedy, Nixon shared a certain belief in government responsiveness. And because the most responsive institution was the presidency, government, in general, should take its bearings from changes in White House policy. For Kennedy, the overarching goal of the modern presidency was to "get the country moving again," and for Johnson, the overarching mission of the Great Society was to make government more energetic, more reactive, and better equipped to handle citizens' problems. Nixon, on nearly every dimension, desired government to play less a role in citizens' day-to-day lives. But this was to be achieved by making government -- namely, federal bureaucracy -- more accessible and adaptable, and, above all else, reactive to presidential command. Nixon, as his predecessors were, was a small-d democrat. And, when he won election in 1968, he carried with him the people's marching orders to transform American governance. "The days of a passive presidency belong to a simpler past," Nixon foretold. "Let me be very clear about this: The next president must take an activist view of his office. He must articulate the nation's values, define its goals and marshal its will. Under a Nixon Administration, the presidency will be deeply involved in the entire sweep of America's public concerns."⁵

At the heart of Nixon's transformative vision was the belief that federal officials had become too insular and rigid in their approach to government policymaking. So, the Nixon administration argued on the campaign trail, government was inefficient because it was stymied by an abundance of rules and procedures; job protections provided little reason for federal bureaucrats to spend money wisely, or confront and reform programs that were clearly failing. Nixon's anti-Washington rhetoric was a part of a broader populist appeal -- one recurrent

⁵ Nixon, Richard M. 1968. "Remarks on the NBC and CBS Radio Networks: 'The Nature of the Presidency'," September 19. Online by Gerhard Peters and John T. Woolley, The American Presidency Project. <http://www.presidency.ucsb.edu/ws/?pid=123874>.

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throughout American history -- that capitalized on American distrust of privilege and the intellectual elite. To be sure, this was related to the sentiment that motivated the decentralized programs of Johnson's Great Society, and which would continue to animate the left in bringing about a new age of "interest group liberalism" in the 1970s.⁶ Public administrators themselves -- who, indeed, did have a stake in promoting the legitimacy and necessity of their profession -- could not even escape the penetrating critique. "The advent of the New Federalism in the 1970s," the *American Institute of Planners* editorialized, "seems very much a symptom of the failure of the bureaucratic welfare state. The broad aims of social welfare politics seem to have broken down, not only in the United States but also in other nations in both the East and West. The provision of social equality, the elimination of rank and privilege, and the provision of an adequate standard of living are elusive goals in both socialist and capitalist societies. And the instrument for their achievement - a competent bureaucratic administration with stability and even-handed universalism as part of an energetic nation-state -has been found wanting."⁷

For Nixon, the attack on federal bureaucracy took on a very familiar, functional ritual: reform of intergovernmental politics. Under the old model Nixon inherited, states and localities were limited by what federal agencies and Congress were willing to offer in the form of categorical grants. Even the federal government's most decentralized program, the Community Action Program, feel victim to nationalized objectives and pre-packaged solutions. When Nixon delivered a prime-time address on the "failure of government," six months after taking office, he

⁶ R. Shep Melnick. 2005. "From Tax and Spend to Mandate and Sue: Liberalism after the Great Society," in Sidney Milkis and Jerome Mileur (ed.) *The Great Society and the High Tide of Liberalism*, Amherst, MA: University of Massachusetts Press.

⁷ American Institute of Planning. 1973. "Editor's Introduction: Planning and the New Federalism." *Journal of the American Institute of Planners* 39 (4): 226-228.

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was merely reiterating something that many in government, of both parties, had privately acknowledged.

Nixon was certainly more willing than Johnson and Kennedy to denigrate the role of the central government, and government in-general, as a rhetorical ploy. But liberals also tried to show that they were attentive to issues of bureaucratic waste and citizen dependency on government. Indeed, of the four proposals that Nixon championed as the pillars of his "New Federalism," three of them had emerged from the BoB, but during Lyndon Johnson's presidency. Revenue sharing was promoted and studied early in Johnson's tenure -- lauded as a necessary government reform by Walter Heller, Kennedy and Johnson's chairman of the Council of Economic Advisors.⁸ Restructuring the federal government's job-training programs to give state and localities greater discretion in how to use funds was not only recommended by several of Johnson's task forces -- including Heineman -- it was proposed by Kennedy during his presidency. And the Office of Economic Opportunity (OEO) was in constant flux and reorganization during Johnson's tenure. While Nixon would ultimately use the president's reorganization powers to essentially terminate OEO, the administration's initial proposals to redistribute its program authority reflected the same ambivalence that was present throughout Johnson's own tenure. In sum, only Nixon's welfare program -- especially the creation of a guaranteed minimum income -- represented anything new in the field of federalism reform. And, as the president recognized, such a program would actually represent a dramatic increase in

⁸ Paul R. Dommel. 1974. *The Politics of Revenue Sharing*. Bloomington, IN: Indiana University Press; Samuel Beer. 1974. "The Adoption of General Revenue Sharing: A Case Study in Public Sector Politics." *Public Policy* 24 (2): 127-195.

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federal responsibility for citizen welfare, increasing payments to residents in 20 of the 50 states, if enacted.⁹

Nixon's electoral coalition and political situation was different from Johnson's and Kennedy's. Nevertheless, his presidency proved just as ripe for intergovernmental integration on all three dimensions: asymmetric administrative capacities, geographically diffused policy support, and a hostile Congress. First, the programmatic innovations of the Great Society lead to a dramatic increase in the subnational capacities and expectations for subnational governance.¹⁰ President Johnson's own rhetoric is responsible, in part, for the sustained attention members of Congress and federal bureaucrats paid to issues of local and state policy flexibility. The proliferation of new grant-in-aid programs increased compliance costs by subnational governments, to be sure, but they also had the effect of increasing the size of state and local government independent of federal aid (Figure 1). Throughout the 1960s, federal aid to state and local governments, as a percentage of all state and local spending, held constant at around 10 percent, jumping up to around 15 percent during Nixon's first year in office (Figure 2).

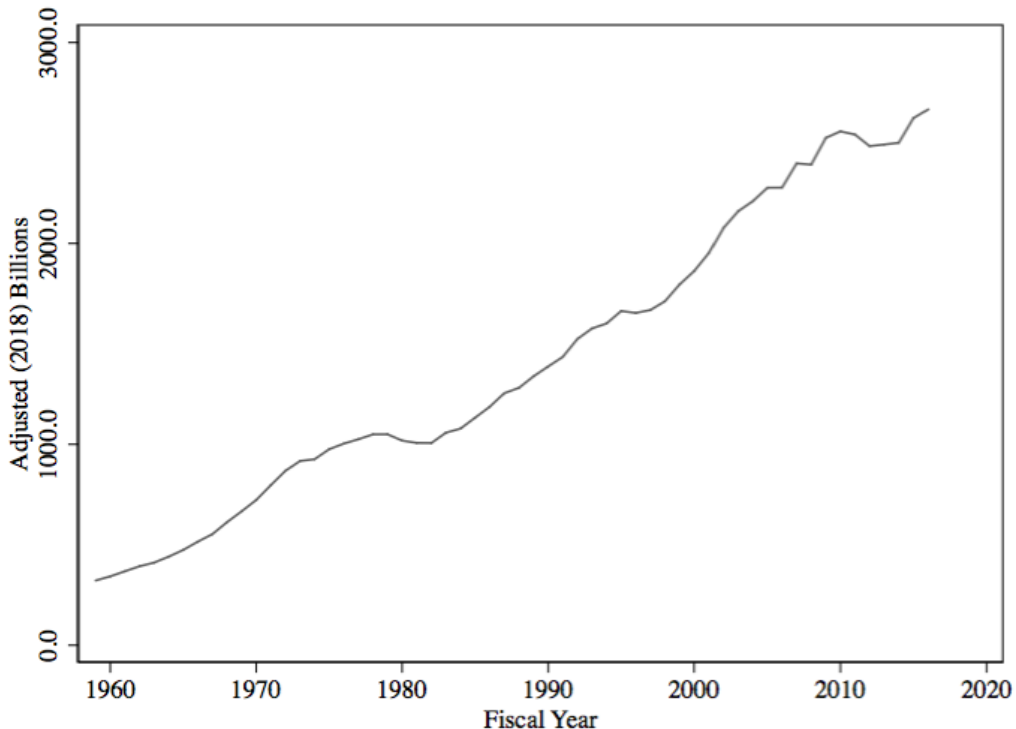
Financial capacity, structured by a robust tax base or intergovernmental aid, is only one aspect of government capacity. Further asymmetries between levels of government increased as an increasing percentage of the federal government's budget was tied up in mandatory spending, or funding for entitlement programs, such as Medicaid and Social Security. The gap between subnational discretionary outlays and federal discretionary outlays grew throughout the 1970s, accelerating a trend that had its origins in the structure of 1960s-era social welfare policy (Figure

⁹ Richard Nixon. August 8, 1969. "Address to the Nation on Domestic Programs." Online by Gerhard Peters and John T. Woolley, The American Presidency Project. <https://www.presidency.ucsb.edu/node/239998>

¹⁰ Joseph F. Zimmerman. 2008. *Contemporary American Federalism: The Growth of National Power*. Albany, NY State University of New York Press.

3). And the budgetary pressures Congress faced during Johnson's tenure continued into Nixon's presidency. In fact, as the war in Vietnam grew, and as those mandatory spending requirements increased, Congressional budget leaders viewed state and local grants-in-aid as a prime target for more spending cuts, independent of Nixon's pleas to return taxing and spending authority to the states and localities.¹¹

Figure 1: State and Local Government Spending, Including Federal Aid



Source: State and local expenditure data are compiled by the U.S. Bureau of Economic Analysis, “State and Local Government Current Expenditures,” Series ASLEXPND. Data retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/>. All dollar amounts are adjusted to the 2018 calendar year, and are not seasonally adjusted. State and local government spending totals include intergovernmental transfers. Last Accessed, April 11, 2017.

¹¹ One additional reason for the increase in budgetary rigidity was the result of an active, and successful, welfare rights movement. By using the federal court system to expand statutory definitions of protected populations, litigants crafted new categories of beneficiaries for costly state and local programs, such as nutrition assistance, Social Security disability, and public schooling. These had the effect of adding administrative pressures, primarily on the front-lines of program management in state and local government, without changing the underlying funding formulas. See: Shep Melnick. 1994. *Between the Lines: Interpreting Welfare Rights*. Washington, D.C.: Brookings Institution Press.

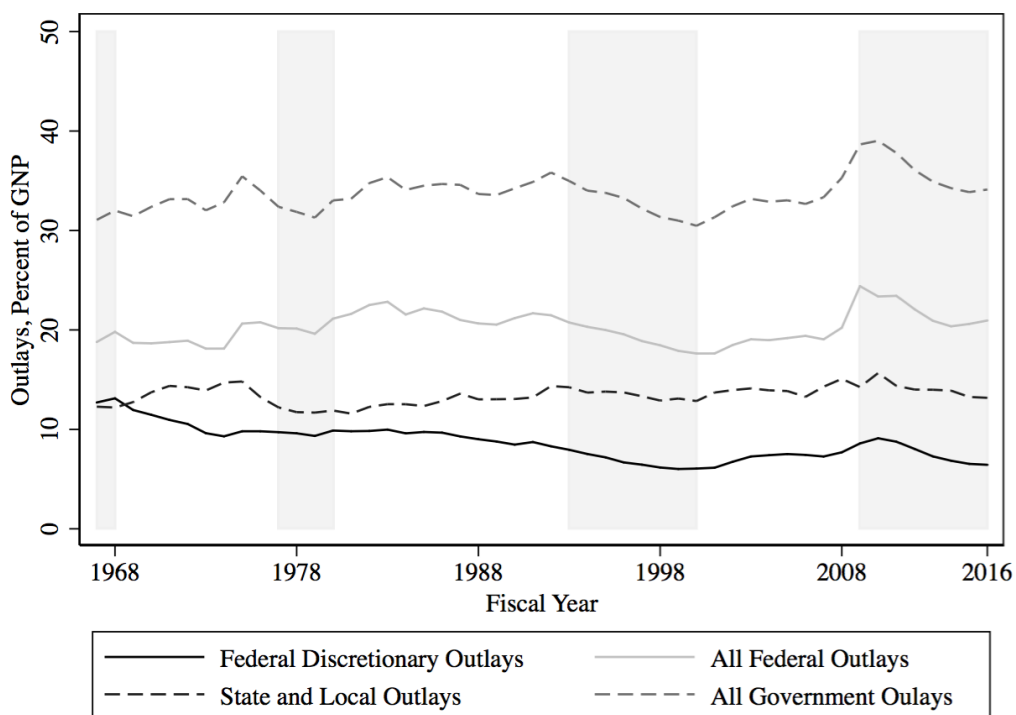
Figure 2: Intergovernmental Transfers as a Percent of State and Local Spending



Source: State and local expenditure data are compiled by the U.S. Bureau of Economic Analysis, “State and Local Government Current Expenditures,” Series ASLEXPND. Data retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/>. All dollar amounts are adjusted to the 2018 calendar year, and are not seasonally adjusted. Intergovernmental Transfers include grants-in-aid and individual payments for Medicaid. Last Accessed, April 11, 2017.

When Nixon entered the White House, he became the first president in the modern era to do so without the aid and support of unified government. Democrats still controlled the House and the Senate, while Nixon took the helm of a powerful, reinvigorated executive branch. With anti-establishment passion fueling his popular mandate, Nixon faced a hostile Congress, furthering the incentive to pursue policy change outside the traditional framework of president-Congress negotiation. Instead, Nixon was able to take advantage of the enhanced administrative capacities left to him by the Johnson administration -- capacities developed with a specific purpose for moving policy in the states and cities.

Figure 3: Total Government Outlays, Federal, State, & Local, Democratic Administrations Shaded



Note: Federal Outlays include intergovernmental transfers, while State and Local Outlays exclude receipts coming from the federal government; intergovernmental transfers are only included in the calculation once. Discretionary outlays and GNP estimates are calculated by the Congressional Budget Office, “Historical Budget Data.” Data are reported by the Congressional Budget Office, “Historical Budget Data,” January 2017 estimates. URL: <https://www.cbo.gov/about/products/budget-economic-data#2>. State & Local expenditure data are compiled by the U.S. Bureau of Economic Analysis, “State and Local Government Current Expenditures,” Series ASLEXPND. Data retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/>. All dollar amounts are pegged to their corresponding calendar year, and are not seasonally adjusted. Last Accessed, April 11, 2017.

Finally, Nixon's electoral coalition was a new creation for Republican party politics, and it represented a geographic shift in Republican support across many areas of the country. Taken together, this new, rapidly growing region coined the "Sunbelt" laid at the heart of Nixon's victory. As Kevin Phillips – one of the principal strategists behind the Republican Party’s ascendancy in the late 1960s and early 1970s – recognized, the

Democratic “Great Society” programs aligned that party with many Negro demands, but the party was unable to defuse the racial tension sundering the nation. The South, the West, and the Catholic sidewalks of New York were the focal points of conservative opposition to the welfare liberalism of the federal government; however, the general opposition which deposed the Democratic Party came in large part from prospering Democrats who objected to Washington dissipating their tax dollars on programs which did them no good.¹²

Nixon capitalized on this pervasive anxiety. Or, as Robert Novak’s pithy retrospective summarized, Nixon’s was a campaign that promised to welcome those disillusioned by the Democratic Party - the party of “abortion, amnesty, and acid.”¹³

The “Sunbelt,” coined by the same Kevin Phillips quoted above, grew as a distinct political region in the 1950s and 1960s. And, as a testament to Phillip’s analysis and politicians’ responses to it, the Sunbelt remains a distinct area of political and cultural life. After Congress passed the Immigration and Nationality Act of 1965 – replacing the 1920s quota-based system that awarded preferential treatment to immigrants of European nationality – the Sunbelt outpaced the rest of the country in its ethnic diversity.¹⁴ Coupled with the fact that these states had always been more racially and ethnically diverse than the rest of the country, these changes provided ripe terrain for political exploitation. Federal housing policy and supportive state and local zoning boards made massive internal migration financially viable for white, middle class Americans. What was once a predominantly rural landscape transformed into a sprawling suburban scene, dotted with low-density metropolises like Charlotte, Atlanta, Houston, and

¹² Kevin P. Phillips. 1969. *The Emerging Republican Majority*. New Rochelle, NY: Arlington House, p. 25.

¹³ Robert D. Novak. 2008. *The Prince of Darkness: 50 Years Reporting in Washington*. New York, NY: Three Rivers, p. 225.

¹⁴ On the passage of this law and its connection to the broader Great Society, see: Daniel J. Tichenor. 2016. “Lyndon Johnson’s Ambivalent Reform: The Immigration and Nationality Act of 1965.” *Presidential Studies Quarterly* 46 (3): 691-705.

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Phoenix. Burgeoning tourism economies were further buttressed by direct federal subsidies in space and engineering facilities and large military complexes. The Sunbelt was a political construction and politicians would thereafter fight over its primary largesse, voters.¹⁵ President Johnson and the Democratic Party did not forsake this rapidly growing part of the country; Democrats, for one, already held the advantage. Johnson was a native Texan, and federal programs supported by liberals poured billions of new dollars into this region. The Great Society included a host of programs for rural redevelopment; the expansive suburbs of the South needed the federal funds made available by LBJ's administration for new infrastructure and the leading proponents of federal research funds – those monies that fueled America's mission to the moon and effectively subsidized new industries in the region – were outgrowths of President Kennedy's New Frontier. When the beneficiaries of these new programs returned to the polls, however, they repudiated the presidential administration that had launched them. The American people did not see progress, even if they benefited from it. What they saw was lawlessness and invasive, ineffective government intervention. What Nixon promised them was more help to the places in America he deemed as thriving and growing; coupled with that financial support would be more flexibility and control.

The Administrative Strategy and the Creation of the OMB

Nixon's New Federalism promised a return to traditional constitutional principles and limited government. Once in office though, Nixon used the institutional powers of the modern presidency to further tie state and local governance to presidential prerogative. As the president

¹⁵ Matthew D. Lassiter. 2007. *The Silent Majority: Suburban Politics in the Sunbelt South*. Princeton, NJ: Princeton University Press.

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himself would later reveal, his administration was motivated by the assumption that "bringing power to the White House was necessary to dish it out."¹⁶

Nixon was very interested in continuing the reorganization work begun by Johnson and the Heineman task force, going so far as to directly contact the president during the transition and request a copy of the report. Johnson summarily replied with a curt, "hell no."¹⁷ But, Johnson's unwillingness to share his recommendations for executive reorganization mattered very little. Immediately after his election, the president-elect named Roy L. Ash to chair the President's Advisory Council on Executive Organization. Ash quickly got his hands on the Heineman report; the similarity between the two documents testifies to the power of administrative reform sought by both liberals and conservatives, and the allure of integrated governance. During the transition, the Ash Council laid a preliminary plan for a reorganized executive branch. After Nixon took office, he requested that they provide more specific structural recommendations to be submitted to Congress using the executive reorganization act.

Whereas the Heineman task force advocated a new office for managing the president's political affairs and for coordinating intergovernmental programs, the Ash Council recommended keeping those functions within a revamped budget bureau with a new Office of Executive Management (OEM) under the BoB's control. Instead, Nixon's report recommended creating a new institution for planning and program evaluation that did not rely on budget staffers -- the new Domestic Policy Council (DPC). In many ways, this reversed recommendation acknowledges the significant degree of investment BoB staffers had already

¹⁶ Quoted in Joan Hoff-Wilson. 1988. "Richard M. Nixon: The Corporate Presidency," in Fred I. Greenstein (ed.), *Leadership in the Modern Presidency*. Cambridge, MA: Harvard University Press, p. 177.

¹⁷ Charles S. Murphy to Lyndon Johnson. November 22, 1968, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 406

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paid in learning the ins and outs of intergovernmental management. These types of relationships and knowledge of complicated procedure were difficult to acquire, and starting a new planning agency appeared more achievable than changing the institutional norms of career staffers inside the BoB. Together, the DPC and OEM represented, according to Ash, "the first major improvement in the President's management capabilities since the Brownlow commission recommendations were implemented by President Roosevelt in 1939."¹⁸

It took almost two years for the Ash Council's recommendations to develop into concrete plans. By the time Organization Plan No. 2 made its way to Congress, the OEM proposal had morphed into a more comprehensive institution that would incorporate the old budget bureau. The new Office of Management and Budget (OMB) reflected the experience Nixon and his aides had learned during their ill-fated efforts to enact parts of the New Federalism before 1970 - namely, reforming Model Cities. Nevertheless, it continued to emphasize management and government operations reform as opposed to any dramatic cuts in federal activity. During the first two years of Nixon's term, much of the White House's time and energy was spent on programmatic change and administrative tinkering in lieu of Congressional support. Many of those initiatives were continuations of Johnson-era policy: the creation of new grant award procedures as a way of unilaterally cutting down on the number of independent categorical programs, and procedural changes to the Model Cities program. Even then though, it is regarded by most observers -- including former administrative officials themselves -- that Nixon's first two years in office were marked by legislative defeat after legislative defeat. Unable to persuade Congress to adopt wholesale reform of the grant-in-aid structure, or drastically delegate

¹⁸ Roy Ash to Richard Nixon. October 17, 1969. "Proposed Organization of the Executive Office of the President," in *White House Central Files: Staff Member and Office Files, Roy Ash*, Richard Nixon Presidential Library and Museum, Box 2.

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responsibility for manpower training to the states, Nixon increasingly became convinced that the only way to enact change was through executive reorganization. Such reorganization -- as Johnson even recognized -- would allow the executive to exert more direct control over the structure of American governance at all levels of the federal system. As Richard Nathan argues, "Nixon and Ehrlichman came to the conclusion sometime in 1971 that in many areas of domestic affairs, *operations is policy*. Much of the day-to-day management of domestic programs -- regulation writing, grant approval, and budget apportionment -- actually involves policy making."¹⁹ Nixon was learning the lesson of his predecessors, but had the additional benefit of having the tools necessary for an administrative presidency at hand.

President Nixon sent Reorganization Plan No. 2 to the Congress on March 12, 1970. In it, the administration asked for an expanded staff, and the inclusion of several more high-level positions responsible to the president, who would oversee career civil servants in the executive branch. Specifically in the area of intergovernmental affairs, the reform plan proposed doing away with the old Office of Emergency Preparedness -- distributing its responsibilities between HUD and the General Services Administration. Given how central the Office of Emergency Preparedness was to Johnson's creative federalism, the reorganization plan represented a full effort to consolidate the White House's intergovernmental response capabilities within a single office. It was only after several years of OMB operation that Congress finally dismantled the old emergency office -- a relic of the presidency's more ad hoc approach that OMB had successfully modernized by 1973.²⁰

¹⁹ Richard Nathan. 1975. *The Plot That Failed: Nixon and the Administrative Presidency*. New York, NY: John Wiley and Sons, p. 62.

²⁰ U.S. Congress. House. Subcommittee on Government Operations. 1973. *Hearing on Reorganization Plan No. 1 of 1973*. February 26. 93d Cong., 1st Sess.

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To be sure, the old BoB was never apolitical. Even "career" civil servants in the budget office could be deployed for partisan purposes. The reorganization plans signified, more generally, the increased weight and importance of presidential management, information acquisition, and policy analysis in modern American governance.²¹ Significantly, proposals for the OMB were submitted jointly with plans to elevate Nixon's Domestic Policy Council to Cabinet-level status and to reshuffle executive agencies dealing with intergovernmental and inter-departmental coordination. Nixon's report to Congress echoed the Heineman Task Force and Ash Council's insistence for enhanced policy expertise directly responsive to presidential preference. Policy evaluation, recruitment of top civil servants, and policy development all required trained specialization in public administration. And, given the functional form of government program and bureaucracy, that expertise had to be intergovernmental. Once again, the president and the Congress set off on the elusive goal on ensuring broad-based coordination of local, state, and federal politics.

Despite its eventual significance for intergovernmental reform, Reorganization Plan No. 2 said very little about OMB's prospects for working with states and localities. The President's message only included a small nod to the "New Federalism" objectives: "The Office will also respond to requests from State and local governments for assistance on Intergovernmental programs. It will work closely with the Vice President and the Office of Intergovernmental Relations."²² However, the lack of attention specifically paid to intergovernmental relations in the planning phase should not outweigh the fact that OMB was conceived of and designed to

²¹ Peri E. Arnold. 1998. *Making the Managerial Presidency: Comprehensive Reorganization Planning, 1905-1996*, Second Edition. Lawrence, KN: University of Kansas Press.

²² President's message reprinted in: U.S. Congress. House. Subcommittee of the Committee on Government Operations. 1970. *Reorganization Plan No. 2 of 1970: Office of Management and Budget; Domestic Council*. 91st Cong., 2d sess, p. 4.

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make the president a more powerful institutional actor in the federal system. And, to convince Congress that this was in their best interest, the Nixon administration only had to reference legislation enacted several years earlier under the Johnson administration: The Model Cities Act and the 1968 Intergovernmental Cooperation Act. As previously discussed, both these bills mandated that federal agencies develop processes for greater coordination and communication with subnational governments. In doing so, they created new expectations for presidential management of the federal system. When Nixon claimed that the EOP lacked the resources to fulfill those expectations, the administration could point to the faltering system of intergovernmental management Congress had failed to create in existing legislation.

In fact, the expectations for greater coordination only grew at the end of the 1960s. This reflected, in part, a demand for increased domestic spending that conflicted with the country's sustained war efforts in Southeast Asia, and inflationary pressures that had fiscal hawks demanding for a reduction in expenditures. Consequently, Congress and the Executive devised new management procedures for allocating federal funds. In short, the legislature itself became convinced that legislative deliberation over federal goals inhibited their realization, because Congress could not -- or would not -- rationally evaluate the economic effects of public spending, especially over a multi-year period. Instead, the federal government adopted a major new technique to depoliticize funding decisions, particularly as it applied to intergovernmental grants: Planning-Programming Budgetary Systems (PPBS). In simplest terms, PPBS was a complicated assortment of actuarial methods and accounting procedures to secure the most efficient distribution of resources in the government: the biggest "bang for your government buck," so to speak. This required federal agencies to rely on systems of "cost-benefit analysis" in evaluating financial decisions, while simultaneously empowering officials at the highest levels of

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affected agencies with the decision-making power to allocate those resources in line with those estimates. As it related to the political situation of the late 1960s, PPBS provided the president and his senior officials throughout the bureaucracy not only with the expectation that they would take the lead on making decisions inherently political in nature (who gets what, when, and how), but provided them the capacity to do so. As Aaron Wildavsky summarized, during the BoB's final days, PPBS "contains an extreme centralizing bias. Power is to be centralized in the Presidency (through the Budget Bureau) at the national level, in superdepartments rather than bureaus within the executive branch, and in the Federal government as a whole instead of State or local government."²³

If Nixon drew specific attention to the goals of New Federalism in his reorganization plan, it would have been dead on arrival in the Congress. Instead, the administration emphasized its continuity with legislative efforts to expand PPBS and reductions in wasteful spending. Nixon could legitimately lay claim to a rationale that favored greater presidential control over state and local policy implementation because of investments already made in the executive office. As Nathan -- soon to be Assistant Director of OMB -- saw the situation, "because of the weakness of existing management structures he [Nixon] needed to create a direct means of exercising authority over the domestic bureaucracy in order to achieve his New Federalism aims."²⁴

Many members of Congress were quick to recognize the implications of OMB for the president's agenda, and saw through the veneer of neutral management. While this fact torpedoed support for Nixon's plan in the House (the oversight committee recommended disapproval), Nixon found a warm, enthusiastic audience in the Senate. Former Connecticut Governor, now

²³ Aaron Wildavsky. 1966. "The Political Economy of Efficiency: Cost-Benefit Analysis, Systems Analysis, and Program Budgeting," *Public Administration Review* 26 (4): 305

²⁴ Richard Nathan, *The Plot That Failed: Nixon and the Administrative Presidency*, p. 61.

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Senator, Abraham Ribicoff had once played a leading role in the Johnson White House during its efforts to strengthen intergovernmental coordination. Drawing on his experiences then, he celebrated Nixon's efforts, despite his partisanship. "The Budget Bureau now," Ribicoff complained,

is in the position to try to make the decisions for the President on policy. Every speech you wrote and every piece of testimony before a committee, every bill that you were interested in would be bucked up to the Bureau of the Budget. And I want to say to the Director of the Budget, who is here, I think that the most backward bureaucracy in the Federal Government is the Bureau of the Budget. Nothing moves when it gets there. They stalemate. They are people without imagination. And they frustrate the work of members of the Cabinet, whether it was President Kennedy's Cabinet or President Johnson's Cabinet and as has become very obvious to me, also President Nixon's Cabinet.²⁵

Ribicoff was not the only strange bedfellow to defend the Republican president's plans. Joseph Califano personally testified before Ribicoff's committee in favor of the DPC-OMB split. Adamantly proclaiming his support for a strengthened budget department, Califano confessed that, "superficially, these thoughts may appear to be contrary to the general popular trend toward further and further decentralization, and I am not unaware of the danger of over centralization of power in terms of individual freedom." However, he continued

We must recognize, however, that some problems do not lend themselves primarily or even essentially to local solution. Mass transit problems do not honor arbitrary jurisdictional lines drawn on the basis of nineteenth century geography or political issues. The congestion in New York City, as you well know, Mr. Chairman, cannot be solved without acting as well in New Jersey, Connecticut, and Pennsylvania. Nor can the problem merely be left to the Mass Transit Administration in the Department of Transportation. We are all too well aware of the enormously complicated social problems such as housing, location of industry, educational facilities and hospitals, that are an integral part of mass transit problems.²⁶

²⁵ U.S. Congress. Senate. Subcommittee on Executive Reorganization and Government Research. *Hearings on Reorganization Plan No. 2 of 1970*. 91st Cong., 2nd Sess., p. 28.

²⁶ *Ibid.*, p. 40

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Former Johnson ally Robert Wood -- the leading architect of Model Cities - also wrote in favor of Nixon's plan and, as he was apt to do when advising the president, stressed the degree of complexity inherent in modern presidential governance. "Giving tasks back to states, localities, and neighborhoods," he wrote,

in the hopes of reducing them to manageable proportions, is not a self-evident solution-not until the resources and motives of these institutions are appraised. Building up presidential staffs, on the expectation that they can think, act, lead, and manage may be necessary but is far from sufficient. With operations flowing increasingly to the top and policy covertly bootlegged in at the bottom, the dilemma can be resolved only by a systematic series of steps which extends proper presidential oversight throughout the executive branch, encourages operational discretion at the program level, and rewards professional behavior.²⁷

Even in opposition to the plan, former budget official William Carey testified that, "What is needed most acutely is a policy planning staff to be concerned with all analysis of public investment priorities and the formulation of administration goals... a beginning needs to be made at linking presidential policy planning more explicitly to the pluralistic decision structures of the society. The shape of society is the product of decisions taken by city-states, state governments...and numerous other social forces, including the national government. The institutions severally act upon each other, but not in a way that produces rational outcomes." Carey disagreed with plan No. 2 on the grounds that the Heineman report sought to empower the old BoB. However, he nevertheless shared in the Ash-Nixon consensus that presidential policy had to be further tied to the decisions reached elsewhere in the federal system.

Senate support and intensive lobbying from the White House was enough to secure passage of Reorganization Plan No. 2 in the House by a vote of 193-164.²⁸ Executive Order

²⁷ Wood's statement first appeared in the *Public Interest*. See: Robert C. Wood. 1970. "When Government Works," *The Public Interest* 18 (Winter): 50-51.

²⁸ The vote was to approve or disapprove the House committee's "disapproval resolution." As such, 193 members voted "nay," which was a vote in favor of the president's plan.

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11541 transferred all responsibility and staff from the BoB to the new Director of OMB. George Shultz took command of OMB for the first two years, followed by Caspar Weinberger. A symbolic symbol of the OMB's new role, Shultz was the first budget official (Director of OMB) since the New Deal to have a White House office. Both Weinberger and Shultz left OMB for Cabinet level positions following their stint as manager in chief (Shultz went off to run Treasury and then served as Secretary of State under Reagan; Weinberger left to head HHS, and also came back as Secretary of Defense under Reagan). Roy Ash -- of the Ash Council -- took charge of the OMB in February 1973 and led it into Gerald Ford's tenure.

In the final analysis, the bi-partisan demand for a new OMB was an outgrowth of the budget bureau's low reputation -- a reputation owed, in part, to the near constant criticism it had received over the previous decade from state and local officials, and from members of Congress who viewed it as a political arm of Johnson's presidency. As Berman notes, "unable to ameliorate the many intergovernmental problems facing both the President and the country," and having "traded its long-run institutional perspective for short-term influence as the peddler of task force reports," "presidential expectations surpassed Bureau [BoB] capacities and no one could turn off external demands."²⁹ Ironically, the institutional capacities of the OMB would have the two-fold effect of enhancing the president's political power, while extending it deeper into the arena of state and local politics through the tools of intergovernmental management.

The OMB, Fiscal Federalism, and Administrative Control

From 1970 until Nixon's resignation in 1974, the OMB was at the center of every White House initiative, blurring the lines between administrative management and partisan politicking. It represented the final culmination in a longstanding effort -- as old as the modern presidency

²⁹ Larry Berman, *The Office of Management and Budget and the Presidency, 1921-1979*, p. 113.

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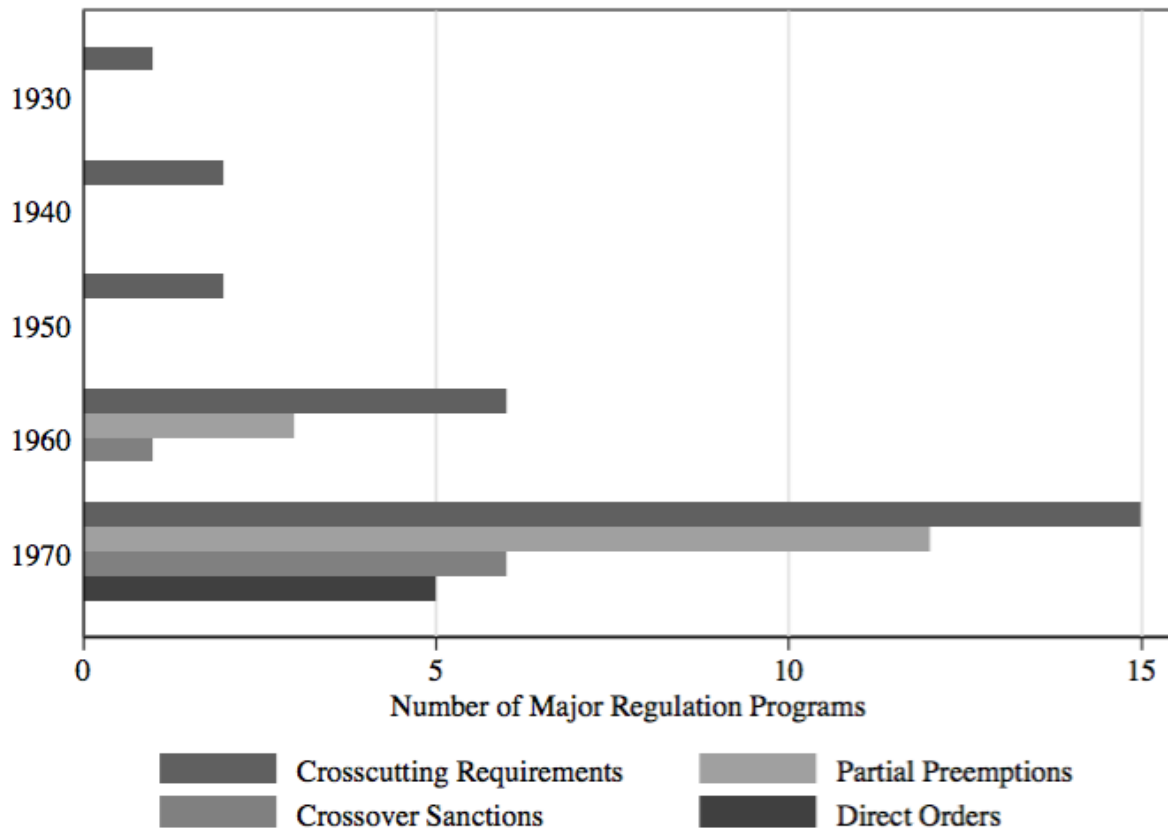
itself -- to strengthen the administrative capacities of the executive branch for managing intergovernmental politics.³⁰

As a tool of unilateral change, the OMB provided the necessary administrative capacity -- budgetary control, personnel management, information, planning, oversight, programmatic evaluation -- that allowed the president to achieve the four goals of the New Federalism. The OMB identified, expanded, and then oversaw the placement of Nixon loyalists throughout the entire bureaucracy, exercising a degree of presidential control on Cabinet offices that was uncustomary in American politics. This had the effect of solidifying lines of communication between the White House and federal agencies, especially those involved in intergovernmental program management. The OMB piloted new, often informal inter-departmental offices within then EOP, effectively creating the super departments advocated by Heineman and Ash, but situated firmly inside the White House. The OMB was a necessary resource when President Nixon decided to impound funds from OEO after Congress refused to completely reorganize and terminate the Great Society organization. In managing and budgeting, Nixon found power.

In the field of regulation, OMB devised a new set of tools for presidential control. While the BoB during the Kennedy and Johnson years was clearly at the vanguard of the regulatory approach, OMB elevated it to a standard operating procedure for intergovernmental politics. While none of these regulatory forms were invented by the Nixon administration, OMB provided the president with unprecedented ability to ensure their compliance. Indeed, as discussed, this was part of the OMB's reason for existing in the first place.

³⁰ It is the fourth recommendation from the 1955 Kestnbaum Report, p. 88.

Figure 4: Major Regulation Programs affecting Intergovernmental Relations, By Decade



Source: U.S. Advisory Commission on Intergovernmental Affairs. 1984. *Regulatory Federalism: Policy, Process, Impact, and Reform, Doc. A-95*. Washington, D.C.: Government Printing Office, p. 97.

The largest growth in intergovernmental regulation took place by issuing crosscutting requirements. Crosscutting requirements tie federal grant-in-aid programs to federal rules that have little to do with the underlying grant. Importantly, they are "across the board" in their application. These requirements could affect state and local governments directly, such as prohibitions on age discrimination, sex discrimination, and, as previously discussed, racial discrimination.³¹ The largest growth in crosscutting requirements during the 1970s had to do

³¹ P.L. 94-135, *Age Discrimination Act of 1975*; P.L. 92-318, *Education Amendments of 1972*, Title IX; P.L. 88-352, *Civil Rights Act of 1964*, Title VI.

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with environmental regulations, as federal agencies required recipients of federal grant dollars to write environmental impact statements as a planning condition.

Whereas crosscutting requirements applied to all federal programs, crossover sanctions penalized grant recipients in specific programs. The federal government rescinded or reduced funding in one program if the underlying grantee failed to comply with a program standard in another, discrete program. These regulations were widely adopted in intergovernmental management of highway systems. Failure to comply with federal restrictions limiting billboard density could jeopardize up to ten percent of a state's highway construction funds; later, in 1974, new regulations prohibited any construction grants to states who refused to lower their speed limits to a maximum of 55 mph.

OMB was a vital partner in ensuring compliance and managing these administrative tools, because they are tied to federal dollars. Direct orders and partial preemptions provided even more latitude for White House control and discretion, because they were removed from the Congressional appropriations process. Although, to be sure, Congress did, and still could, issue these regulations in opposition to the president's preference.

Direct orders force states and localities to do something at the risk of litigation. These usually involved extending prohibitions that the federal government imposed on itself and private businesses to subnational governments -- hiring discrimination in state and local government, for example.³² Finally, by preemption, federal regulatory agencies set minimum

³² This was achieved by the *Equal Opportunity Act of 1972*. Importantly, up until 1985, there were strong limits on the federal government's ability to regulate state and local governments as it would itself. The constitutionality of regulations concerning wages and hours for subnational government employees was tested in *National League of Cities v. Usery* (426 U.S. 833, 1976), when they found that the tenth amendment prohibited federal oversight of state and local government employment practices. However, the court reversed that ruling in 1985 (*Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528), and applied federal labor protections to those individuals working for state and local governments.

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standards for compliance in policy areas traditionally regulated by subnational governments themselves. States and localities were free to go beyond those minimums, but federal regulators still often exercised supervision of those plans.³³

OMB as a Tool for Presidential Unilateralism

Like the fiscal "carrots and sticks" approach of crosscutting sanctions and requirements, direct orders and preemptive regulations are moored to Congressional statute. Appreciating the presidential nature of these programs requires a deeper understanding of the review and information sharing procedures established by OMB during Nixon's administration. When states and localities pursued policies in conflict with the White House's overarching goals, OMB quickly acted to curtail the discretion and flexibility subnational governments enjoyed. Importantly, these procedures continue to inform presidential management strategies of intergovernmental relations decades after OMB institutionalized them as essential features of presidential management.

The method by which OMB allowed the president to exercise his administrative muscle was a change in degree, not type. In the year prior to its termination, the BoB issued new guidelines for carrying out its statutory requirement to consult with state and local governments in intergovernmental programs.³⁴ Circular A-95 specified the federal programs that had to comply with consultation procedures, and stipulated what information had to be relayed in those consultations, namely cost-benefit analyses conducted under PPBS criteria. Over the next three years, A-95 dramatically expanded to include close to 200 federal government programs, each of which contained their own series of grants-in-aid.

³³ Joseph F. Zimmerman. 2008. *Contemporary American Federalism: The Growth of National Power*, Second Edition. Albany, NY: State University of New York Press, Chapter Four.

³⁴ The impetus for the procedural change was the enactment of the 1969 Environmental Policy Act, which mandated environmental impact statements for federally funded projects.

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A-95 consultation procedures established a separate venue for state, local, and federal officials to negotiate over conflicting objectives and methods. Since most federal programs still required matching funds, or simply supplemented state and local spending, consultation procedures brought federal administrators into new areas of state and local activity. As a formal document, the circular is rather benign in stipulating its three goals: regularize evaluation (e.g., cost-benefit analysis); specify and make explicit positions of all governments affected by the project; and adapt the program to seek "maximum congruence" between national, state, local, and regional plans.

These changes continued the policy that BoB and President Johnson had implemented as early as 1964 -- a time when, as James Sundquist notes, the president "chose to rely almost wholly upon systems of mutual adjustment rather than of central direction, upon what could be attained through negotiation among equals rather than through the exercise of hierarchical authority."³⁵ With the new OMB, President Nixon gained the ability to exercise such "hierarchical authority" -- doing so was the point of executive reorganization because a decade of "negotiation among equals" had failed.³⁶

OMB did not make the presidency all-powerful by giving Nixon the ability to command decisions and unilaterally coerce compliance. Its centralizing effects were subtler, but nevertheless important. A-95 Circular procedures had the effect of making intergovernmental relations more executive-centered at each level of government, and most immediately increased the importance of regional, metropolitan, and state planning boards who owed much of their existence to these planning processes. While much of the criticism directed towards A-95

³⁵ Sundquist, *Making Federalism Work*, p. 19.

³⁶ George J. Gordon. 1974. "Office of Management and Budget Circular A-95: Perspectives and Implications." *Publius: The Journal of Federalism* 4 (1): 55.

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procedures dealt with the administrative burden it imposed on subnational governments, without a doubt the several administrative units most directly involved in intergovernmental management grew in stature and influence. As a result, in some cases this limited federal power, as when states and localities were able to make an effective claim against federal evaluators on the grounds of programmatic inefficiency. Yet, even in cases where such pushback emerged, the process for state and local resistance clearly advantaged executive-oriented the organization with greater information and claim to national equality.

One of those areas was in the intergovernmental provision for "social services." During the New Deal, the federal government and states entered into a mutual and equitable partnership in financing various aspects of the 1935 Social Security Act. In 1962, at President Kennedy's urging, Congress passed a set of amendments to the public welfare provision of the Social Security program -- those aspects of social welfare dealing with aid to families with dependent children, aid to the blind and permanently disabled, and medical assistance for those groups (services later preempted by Medicaid and Medicare). The law specified no new areas for government intervention, but rather, in an effort to emphasize "rehabilitation instead of relief, and training for useful work instead of prolonged dependency," Congress raised the federal matching formula from 50-50 to 75-25 cents on the dollar. States would receive the additional money for whatever intervention they deemed appropriate and necessary, so long as the Secretary of Health and Human Services agreed with the definition of a "social service" (left intentionally vague in the statutory authorization). Additionally, states were required to submit plans on how they would use additional funds to enhance public service provisions in their state.

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In effect, the federal government promised more money for programs that states were now obligated to design.³⁷

Throughout the 1960s, as the federal government emphasized its own programmatic innovations, backed by categorical grants-in-aid, subnational governments made little use of 1962 provisions. But beginning in 1968 costs associated with Social Security skyrocketed. In 1968, all governments in the U.S. spent about \$230 million on welfare and social services; four years into Nixon's term the amount had risen to just over \$1.691 billion (dollar amounts adjusted for inflation, 1973 dollars). In FY 1973 alone, spending amounts were nearly four times what budget officials in the White House had estimated. OMB officials estimated that within the next decade, social spending would continue to grow, unimpeded, unless Congress acted.³⁸

OMB's reaction to state-spending is proof of Nathan's quip that *operations is policy*. Labeling it a form of "back-door revenue sharing," the administration widely publicized the practice and costs over-runs, even as it pushed Congress to expand general revenue-sharing agreements with the states. The administration blamed federal bureaucrats for the eagerness to approve state plans that funneled additional monies into pre-existing programs that were at one point funded solely through state revenues. The White House propagated regulations targeting local government and local social workers who increasingly derived their salaries from the federal coffers. And, the OMB enhanced its fraud and accounting division, threatening to withhold payments to states in proportion to the amount of waste and improper payments it discovered. Using A-95 procedures to collect and disseminate information of program

³⁷ Wilbur Cohen and Robert Ball. 1962. "Public Welfare Amendments of 1962 and Proposals for Health Insurance for the Aged." *Social Security Bulletin* (October): 3-22

³⁸ U.S. Congress. Joint Economic Committee. Subcommittee on Fiscal Policy. 1972. *Open-Ended Federal Matching of State Social Service Expenditure Authorized Under the Public Assistance Titles of the Social Security Act*. 92d Cong., 2d session.

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compliance and cost-overruns, states and localities enhanced their own administrative resources to comply with new federal regulations, cementing the new procedures within the structure of subnational government for defining efficient allocation of resources. The short-term risk of losing federal funding or facing financial sanction crowded out political discussion of what public problems existed (if any) and what citizens in affected states wanted.

The OMB and Congress

As a final note, it is worth considering how OMB mattered for president-Congress relations, particularly in the realm of grant consolidation and the president's plans for general and specialized revenue sharing. Johnson's tenure and Nixon's first two years in office demonstrated the limits that the country's constitutional system placed on presidents and their control of grant management.³⁹ Neither president was able to fundamentally transform the grant system to the extent that they wanted. Both presidents shared a likeminded goal of simplifying grant programs, but Congress routinely demonstrated its strong incentive for keeping programs fragmented and under the purview of parochial committee control.⁴⁰

The strengthened OMB allowed the Nixon administration to take a hatchet to the system of federal grants-in-aid even in opposition to Congress. Under the name of management, economy, and efficiency, OMB evaluated the most visible government services, recommending their complete termination due to programmatic inefficiency, such as the Office of Economic Opportunity, or by folding various programs into special revenue sharing agreements, under the logic that states and localities could pick up the administrative costs since the federal government had made the initial investment.

³⁹ Martha Derthick. 1970. *The Influence of Federal Grants: Public Assistance in Massachusetts*. Cambridge, MA: Harvard University Press.

⁴⁰ Alice Rivlin. 1993. *Reviving the American Dream: The Economy, the States, and the Federal Government*. Washington, D.C.: Brookings Institution Press.

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In the end, Congress acted on the president's demand to curtail state spending by imposing a maximum ceiling on the amount the federal government would share in jointly administered social-service programs. OMB set these ceilings, specific to state needs, even as the administration sought to increase revenue-sharing, deprioritize service delivery, and ensure a government-backed guaranteed minimum income. These reforms would have been infeasible if not for OMB's administrative capacities and enforcement procedures. And, as a part of those statutory maximums, the White House developed further capacities to review and regulate state-level spending.

OMB performed a similar service in leading the charge for specialized and generalized revenue sharing (GRS). Special revenue sharing agreements refer, most broadly, to the set of grant consolidation programs proposed by the president throughout his tenure. Only two of these proposals succeeded along lines remotely mirroring the president's proposals: the Community Development Block Grant (CDBG) and the block grants tied to the Comprehensive Employment and Training Act of 1973 (CETA). Nixon's plans to create revenue sharing agreements in education, transportation, and law enforcement were all summarily rejected by the Congress.

While CETA and CDBG had presidential support, their enactment was largely in spite of Nixon's efforts, not because of them. Unlike other domestic policy areas, members of Congress and local officials were more sympathetic to the decentralizing aspects of urban aid (CDBG) and vocational training (CETA), given the intense scrutiny of these programs in the 1960s. In some ways, these programs were efforts to reign in the degree of discretion the White House had been able to leverage in existing programs -- primarily through Model Cities grants and OEO job programs. Decentralizing authority was one way to limit White House control, at least temporarily. In other policy domains, support in favor of the status quo, particularistic grant

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programs was insurmountable -- a classic case of what political scientists would come to label the "iron triangles" of Congressional spending, interest group support, and bureaucratic self-interest.⁴¹

Largely because mayors and governors were able to exercise such considerable degree of pressure on Congress, CDBG and CETA passed. However, neither one of these programs was devoid of federal regulations or White House oversight. Federal spending -- be it categorical or a specialized form of revenue sharing -- flowed to the states and localities through channels OMB and Nixon constructed. As a result, for every dollar "returned" or sent back to the states in the name of limiting federal control, the president gained more opportunity to affect subnational policy. With the new regulatory procedures -- crosscutting requirements, crossover sanctions, direct orders, and preemptory minimum standards -- the White House could unilaterally set conditions and requirements within the broad standards set by Congressional statute. OMB gave the President the capacity to actually make executive discretion consequential. "In fact," as Timothy Conlan notes, "because block grants and general revenue sharing brought federal aid to many communities for the first time, the New Federalism actually became the vehicle for carrying federal influence more deeply into American society than ever before."⁴²

As with these two specialized forms of revenue sharing, GRS had a similar coalition of supporters in the Congress. Although the final vote to enact GRS was technically on party lines - a majority of Republicans in favor against a majority of Democrats -- significant coalitions from each party switched sides. Liberal Democrats, as they did with CDBG and CETA, rallied in

⁴¹ The precise term, "iron triangle," belongs to Gordon Adams. 1981. "The Iron Triangle: The Politics of Defense Contracting," *Council on Economic Priorities*, but a similar idea emerges several years earlier in Hugh Hecl. 1978. "Issue Networks and the Executive Establishment," in Samuel Beer and Anthony King (eds.), *The New American Political System*. Washington, D.C.: American Institute.

⁴² Conlan, *From New Federalism to Devolution*, p. 87.

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support of Nixon's plan; fiscally conservative Democrats from the South opposed it. In fact, as Samuel Beer documents, the largest predictor of opposition against GRS was whether a member of Congress was chair or held a ranking position on a Congressional committee or subcommittee, regardless of ideology.⁴³ GRS threatened traditional Congressional appropriations power even more than the creation of large block grants. Moreover, the executive branch had developed in such a way as to clearly advantage it in the administration of federal funds, even if there were no "strings attached." Ten years before Congress passed GRS, President Johnson had nixed plans because revenue sharing did not allow the presidency to hold state and local executives accountable.⁴⁴ By 1972, Congress opposed GRS precisely on the grounds that the president would have too much control of federal funds. The development of OMB explains, in part, the change.

GRS was a central pillar of Nixon's New Federalism and it represented the most rationalizing, management-oriented reform of the new intergovernmental relations. Cloaked in a language of citizen choice and local control, it cannot be viewed in isolation from the executive's newly amassed powers over federal-state-local policy implementation. GRS was only politically desirable to Nixon once the presidency could demonstrate a new capacity for managing a more dispersed and unwieldy federal checkbook. Just a few years into the GRS experiment, in 1985, President Reagan would argue for the program's termination and succeed a year later. Where once Nixon and his supporters had argued that GRS would help alleviate the federal burden for program management, Reagan deployed the same argument in favor of ending the program. The

⁴³ Although, as Beer notes, seniority rules in the Congress still advantaged Democrats from Southern states who were traditionally more conservative than their fellow partisans. See: Samuel Beer.

⁴⁴ See interview with Walter Heller in, Erwin C. Hargrove and Samuel A. Morley. 1984. *The President and the Council of Economic Advisers: Interviews with CEA Chairmen*. Boulder, CO: Westview Press, p. 212.

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federal executive had no way to effectively manage or hold subnational governments accountable in the distribution of GRS. The rational thing to do was end the program to reduce costs.

Conclusion

In January 1970, as the Nixon administration pondered its pathway forward, William Safire, a special assistant to the President, passed out copies of small essay he drafted for his fellow White House colleagues. A testament to Safire's ambitions, he titled his thesis, the "New Federalist Paper No. 1" and signed it, *Publius*. In rich, theoretically engaging prose, Safire specified the dilemma facing not only Richard Nixon, but all presidential administrations that had come before him: "We like the blessings of strong central government: a clear direction toward social goals...we also like the blessings of decentralization...with its respect for diversity." Asking "Do we have to choose one way or the other -- centralization or decentralization -- taking the bitter with whatever we consider the sweet?" Safire unequivocally answered no, Nixon's "New Federalism" finally would "come to grips with [the] paradox."⁴⁵

Their common pseudonyms did mean that Safire shared Madison's faith in politics or his fear of power. For Safire, the New Federalism would replace the old variant: "Local authority will now regain the right to Federal financial help; but it will not regain the right it once held to neglect the needs of its citizens. States' rights are now more accurately described as States' duties; that is a fundamental change in Federalism, removing its great fault without undermining its essential local-first character."

⁴⁵ The set of essays are reprinted in a special edition of *Publius: The Journal of Federalism*. See: Publius. 1972. "New Federalist Paper No. 1." *Publius: The Journal of Federalism* 2 (1): 98-115.

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Safire's essay provoked significant response from other White House officials, who penned their own "New Federalist Papers" in response. Richard Nathan, writing as Johannes Althusius (a 17th century advocate of federalism) praised Safire's argument and gave it greater substance. Then working at OMB, Nathan provided a more detailed account of the administration's reforms to bring about a new era of "responsible decentralization" -- how the specific programmatic innovations allowed the administration to strike a balance between centralized control and home rule. Wendell Hulcher (Polybius) in the White House Office of Intergovernmental Relations praised the president's necessary sense of restraint -- a vital ingredient in making the "interlocking partnership" between all three levels of government work.

It fell to Tom Huston, a special assistant to Nixon, to take on the literary and theoretical position of *Cato* and expose the "pretensions of New Publius." Simply asking, "What about the Constitution?" Huston spoke an unfamiliar language to students of intergovernmental management inside the White House. "New Publius," Huston wrote, "is saying that once the Federal Government determines that a problem - any problem - exists and decides that something should be done about it, the States have the first option to take action and if they refuse the Federal Government may rightly act on its own-if this be his argument, then not only is it objectionable, it is revolutionary." In making such a summary, the new *Cato* identified the potential problems of the new federalism as adroitly as the *Cato* of 1787. The key question for making sense of federalism was not to ask, at a single point in time, whether the constituent governments were balanced, relevant, and consequential. Rather, the mark of a federal system was in its propensity for each government to overcome imbalance, recover its relevancy by responding to citizen demands, and developing the capacities to enact consequential policies, independently of other governments. In short, both *Cato's* recognized the centralizing tendencies

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of integrated governance. It is revealing that, of the four writers, only Huston soon left the administration.⁴⁶

The creation of the OMB rested on the belief that it was possible to fully separate politics from administration. In strengthening the office and centralizing control of budgeting processes inside the White House, OMB led to full institutionalization of federal-state-local politics. Johnson's use of the budget bureau as an instrument for intergovernmental integration demonstrated the power of modern presidential management and the monopoly it enjoyed on information and process. OMB was an effort to reinforce a division between the institutional presidency and the political presidency -- a president that, regardless of party, could carry out the necessary work of program coordination, efficient distribution of funds, and policy evaluation. But OMB sat at the middle of the president's New Federalism agenda and often steered its course. As such, OMB never developed a reputation as anything but the president's personal office. The domestic council experiment faded -- lacking institutional experience to do the hard work of policy analysis, made all the more difficult because of how fragmented the New Federalism's policies were designed. Consequently, OMB took over the policy creation functions that the DPC was supposed to have. Writing in 1975, Hugh Heclo identified how problematic the new arrangement of power had become: these changing norms and relationships call into question the possibility of preserving the institution as a source of impartial continuity for the Presidency. There is a real and growing danger that as demands on government performance are growing, and as the need for continuity, executive branch coordination, and independent analysis is increasing, the standards of neutral competence are being eroded."⁴⁷

⁴⁶ Daniel Elazar. 1972. "Editor's Introduction."

⁴⁷ Hugh Heclo. 1975. "OMB and the Presidency -- The Problem of 'Neutral Competence'." *The Public Interest* 38 (Winter): 84.

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The assault on the new, integrated administrative state did not begin as a partisan crusade. Nixon's aides routinely drew on the work of former officials in the Johnson administration and the criticism that poured out from policy schools following 1969 did not disconfirm the belief that better management and budgetary tools could "make federalism work." Rather, it pointed a way forward for the Nixon administration to use national power in pursuit of its own goals.

The emphasis on state and local political actors as complicit, negotiated partners in the development of national priorities is at odds with how scholars tend to understand the politics of federalism during the 1960s and 1970s. Far from a competitive model, where sub-national actors limit the extracting powers of a larger government, during the mid-20th century states and localities were willing, enthusiastic partners in the development of various national priorities. Indeed, the peculiar deployment of administrative power during Johnson's creative federalism is one reason why national administrative power has continued to expand, even though Congress and the courts have limited executive power in several key ways since the 1970s. As the BoB and OMB sought to encourage "voluntary cooperation" with the federal government, the White House was often able to exploit political divisions between the locality and the state government – providing the president with an important set of political allies that legitimated this new federal role against the cries of "states' rights" and federal overreach. At other times, the federal promise of additional monies or further flexibility in implementing policy brought hesitant governments in-line with federal policy. Overlooked by political scientists and historians alike, these behind-the-scenes administrative reforms lacked the news-making headlines of the era. Yet, even while the White House recognized the limited "political sex appeal" of intergovernmental relations, they sincerely conceded that the substance of any new federal program depended on winning

The Office of Management and Budget (1970)

new political converts at the subnational level.⁴⁸ The development of new federal governing commitments both depended on and nurtured a form of federalism that had its roots in America's constitutional legacy.

The construction of new administrative procedures and institutions -- none more consequential than OMB -- are not spectacular, awe-inspiring changes. There was no historic commencement speech and no flowing rhetoric about national purpose or identity. That in itself makes it a powerful political force. Its ideological moorings went largely unchallenged; public debate over what presidential management entailed was never jumpstarted. The doctrine of intergovernmental integration had become unchallengeable. And that the doctrine outlives the specific instruments that gave rise to its institutional vessel, the OMB. With a simple stroke of a pen -- another budgetary circular, A-11 -- OMB effectively ended PPBS as a mandatory reporting requirement for federal agencies. And, in the mid-1980s, Reagan slashed the number of federal programs required to engage in A-95 consultation procedures, thereby reducing the amount of information that had to be shared among those entities that remained. But as with previous administrative innovations, such as the NRPB and its relationship with state planning boards, the termination of a specific program did not fundamentally disrupt the new structural relationships that developed as a result of their enactment. OMB still served as the principle evaluator of federal, state, and local programs, even in the absence of a specific actuarial reporting requirement. State and local administrative agencies still shared a similar language of expertise, experiences, and goals, even as A-95 procedures dwindled. The removal of these

⁴⁸ Warren Cikins to Harry McPherson. June 23, 1965, in *White House Central Files: Legislation, States*, Lyndon B. Johnson Library, Box 155; Harry McPherson to Warren Cikins. July 7, 1965, in *White House Central Files: Federal Government*, Lyndon B. Johnson Library, Box 50.

constraints, if anything, opened up even greater opportunity for presidents and their appointees within these institutions to use government power to fulfil political goals.⁴⁹

This last chapter explains why that was the case and to point to those aspects of intergovernmental integration -- the logic, the mechanisms, the laws -- that make an alternative, political variant of American federalism less realizable. Johnson helped to usher in the New Federalism by exposing the weaknesses of the modern presidency and its principle institution for implementing national goals atop a constitutionally fragmented system, the budget bureau. However, unable to meet those demands, Congress supported Nixon's efforts to successfully achieve intergovernmental integration, even as they disagreed with specific visions for what integrated governance entailed. Budgetary pressures and a logic of mutual cooperation made states and localities -- especially their own executives -- willing partners in the horizontal and vertical redistribution of authority and power. Direction over the political agenda, and the resources to achieve it, were willingly handed over to a presidency that still needed help.

Intergovernmental reform did not end with Nixon and the creation of OMB. But the ways in which presidents have successfully wielded power within the federal system has not all that much changed. Their respective partisan goals fluctuate with each new administration, but following Nixon and Johnson, each president has relied on the ritualized processes of administrative and budgetary control ensconced in the 1960s and 1970s. OMB, because of its value to the president's personal power, sits at the heart of the continuing struggle between the federal government and its constituent member governments.

⁴⁹ Allen Schick. 1973. "Death in the Bureaucracy: The Demise of Federal PPB." *Public Administration Review* 33 (2): 146-156.

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How do these historical developments help us understand the contours of 21st century federalism and presidential power?

For as much as each presidency is distinct – taking on the character and motivations of its chief occupant – presidents throughout the 20th Century have found it necessary to engage with sub-national political actors in order to achieve their personal and partisan goals. Much of this is because all modern presidents have embraced a form of executive power that places the president’s rhetorical, administrative, and partisan tools at the center of America’s constitutional government, albeit to different degrees. With this, the public’s expectation for vigorous and public presidential governance has become the norm. Since Roosevelt, presidents have had to contend with these new expectations, layered on top of a formalized order defined by non-centralization and separation of powers. The story of how presidents have re-built the national arrangement of powers is well told. And, as a major point of emphasis, scholars have long-noted that presidents inherit, exacerbate, and alter these expectations so that successors will find themselves in unique, but familiar political contexts. The same is true for federalism.

It is impossible to say when federalism looked more modern than it did pre-modern – the same set of political incentives that compel President Trump to act within the states and cities existed when Roosevelt was president; Roosevelt engaged with and relied on governors to help implement policy in the same ways Trump has; both Roosevelt and Trump (and everyone in between) articulated a “theory” of federalism that simultaneously paid homage to the importance of America’s communal diversity and localism, while it also re-oriented how those communities and localities responded to presidential directives.

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It has been an irregular, intermittent political development. But the arguments undergirding this transformation have been consistent. Presidential politics is predicated on discourses relating to national equality, governmental efficiency, and the need to respond to emergencies, at home and abroad. Simultaneously, presidents have sought to nourish America's complex diversity, ensure that reasonable policy alternatives remain, and encourage deliberation over those alternatives. These discourses are transformed, manipulated, and ultimately generative. Indeed, all presidents – Republican or Democrat, liberal or conservative – negotiate the meaning of these terms in office and while campaigning for office. Laws, regulations, and jurisprudence are all grafted on to this ever-changing language. And, while these constructions seem to promote federated governance through the instruments of executive power, embedded within them is an inherent tension, masked over by careful political creations, which exist to manage that tension.

Those creations are the institutions surveyed throughout this work: the state administrative agencies created by the National Resources Planning Board, the White House Office of Intergovernmental Affairs, the U.S. Advisory Commission on Intergovernmental Relations, the Bureau of the Budget, the Community Action Program, and, finally, the Office of Management and Budget.

Consequences and Pathologies

As presidents have sought to build new institutions to leverage asymmetric administrative capacities in the federal system, evade Congressional opposition, and respond to geographically diffuse policy preferences, they have strengthened the office of the presidency. These new capabilities have transformed the ways in which the office bargains with other institutional actors, namely, the Congress and the states themselves. Culminating in the presidencies of

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Barack Obama and Donald Trump, the century-long effort to enhance presidential power within state and local governing institutions provided both presidents - one Democrat, another Republican - with immense opportunity to pursue their policy agenda. If, as Orren and Skowronek persuasively argue, modern-day federalism fails to act as a containing “structure” against the ubiquity of policy-solutions and presidency-made solutions, it is because “the states lost autonomy but gained governing capacity.”¹ Presidents put that capacity to work, making federalism an indispensable opportunity structure for the deployment of executive power, the impoverishment of legislative deliberation, and the further centralization of policy discourse.

There is considerable push-back among those who argue that executive-branch policy making is apt to protect state interests and prevent further centralization of power. Even though the country has become more socially and economically homogenous, badly eroding the critical bedrock of federalism, sub-national governments continue to exert consequential effects on the direction of policy and the fate of elected leaders. While it is open for debate as to the true size of their influence, there is no denying that states, counties, cities, and towns, while badly bruised, remains a critical organizing feature of American politics. By most common indicators of government strength and energy, these governments (over 3,000 of them!) exert a vitality that belies their dimly lit prestige: the states and localities collectively employ about 14.2 million full-time employees, whereas the federal government only employs 2.5 million people;² In 2014, states and localities spent a total of 3.7 trillion dollars, while the federal government spent 3.2 trillion, after accounting for intergovernmental transfers;³ in 2006, non-federal courts handled

¹ Karren Orren and Stephen Skowronek. 2017. *The Policy State: An American Predicament*. Cambridge, MA: Harvard University Press, p. 95.

² U.S. Census Bureau. *2013 Annual Survey of Public Employment & Payroll*. URL: <http://www.census.gov/govs/apes/>

³ U.S. Census Bureau. *2013 State and Local Government Finance*. URL: <http://www.census.gov/govs/local/>

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over 102.4 million new cases (54% of them non-criminal traffic cases), while the federal judiciary handled about 2.85 million new cases that same year.⁴

As the argument goes, the sheer vitality and administrative apparatus that sub-national governments possess is an important reason why national government leaders often find it in their interests to keep policies decentralized. For example, John Dinan suggests that the decentralist-elements of the Affordable Care Act resulted from Congressional reliance on state experience and expertise in developing and regulating insurance marketplaces.⁵ He argues that states successfully defend their interests in the national government, “when congressmembers are not necessarily disposed to accommodate state interests but find that it is necessary to do so in order to secure enactment of policies that might otherwise be derailed due to state government opposition and mobilization.”⁶ Similarly, Vesla Weaver plants the roots of the current “carceral state” in the Congressional enhancement of state and local government capacity to arrest, prosecute, and jail millions of individuals with greater efficiency.⁷ Weaver chronicles the adoption of two large national policing programs and argues that “through these investments and new arrangements, the menu of options in later policymaking changed, increasing the likelihood of certain outcomes and diminishing the probability of others.”⁸ In both examples, these scholars contribute to the larger consensus that one of the reasons states continue to hold considerable influence in the federal system is that they exist and have always existed.

⁴ Bureau of Justice Statistics. *2014 State Court Caseload Statistics*. URL:

<http://www.bjs.gov/index.cfm?ty=tp&tid=30>

⁵ John Dinan. 2011. “Shaping Health Reform: State Government Influence in the Patient Protection and Affordable Care Act.” *Publius: The Journal of Federalism* 41(3): 395-420.

⁶ *Ibid.*, 20.

⁷ Vesla Weaver. 2012. “The Significance of Policy Failures in Political Development: The Law Enforcement Assistance Administration and the Growth of the Carceral State.” In Jeffrey Jenkins and Eric Patashnik (eds.), *Living Legislation: Durability, Change, and the Politics of American Law Making*. Chicago, IL: Chicago University Press.

⁸ *Ibid.*, 248.

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Arguments that emphasize federal government reliance on states for implementation and development overlook how presidents have constructed that capacity for their own advantage. To begin with, the state capacity argument does not readily explain how the states ever came to be in such a constitutionally precarious situation that would require some sort of mechanism *within* the national government to adequately guard their interests. Additionally, it presupposes an idea that the national government will never be able to implement a bureaucratic apparatus that does administrative work as successfully as 50 smaller state governments. But, this supposition better explains why the federal government is more likely to rely on states to implement policy decisions, but not that they are guaranteed to do so. State capacity arguments provide a partial, albeit insufficient, explanation for describing federalism's full developmental trajectory. Instances of successful state opposition to federal programs tend to be, at best, short-lived, and at worst, exceptions that prove the general rule of diminishing state government relevance in policymaking.

The state capacity arguments suggest why federalism has been an enduring feature, but not why it will continue to be. Indeed, presidential-federalism suggests that further emphasis placed on the administrative or procedural protections for state and local governance might likely sap those governments of their lingering autonomy.

In the first instance, presidential-federalism continues to shift the locus of governing authority upwards, out of the states and localities, and into the White House. Subnational governance is still alive, but it is not clear whether it is well or sustainable. Presidents have a national constituency, but their supporters are increasingly from different areas of the country, living different lives, and wanting different policies. Geographic differentiation for policy outcomes feeds into a governing structure that shifts government revenue across these

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geographies, hides costs, creates new constituencies for policy demand, and new presidential promises for increased funding. Political economists have long understood federalism as a market-preserving mechanism, or an institutional structure that imposes fiscal discipline on member states. Now that federalism has become presidential, federalism increases the overall fiscal instability of the system, because state and local taxing and spending authority is so rigidly tied to national processes dominated by the American president.

In the second instance, geographic cleavages intersect with the institutional rivalry that grows with the ratcheting up of presidential power. Under the auspices of programmatic management, presidential federalism contributes to the basic fact in American public policy that some places gain while other places lose. Differentiated policy, prosecutorial discretion, strategic grant investments for specific areas, waivers -- these are the tools of national management that erode fundamental commitments to stable, generalizable, and transparent law. As the demands for differentiated, but nationalized policy pile up on the president's desk, the political incentives in favor of adaptability, change, and revision conflict with other laudable goals necessary for the rule of law in a liberal system.

Modern federalism is also predicated on the idea that efficient government is presidential government. Forged during the Progressive era, presidential government is a mode of governance that prioritizes unity, expertise, and transparent accountability. While the administrative arm, at least in theory, would remain objective and subservient, the political body would be housed in a presidency empowered by public opinion, national leadership – it was to become, as Franklin Roosevelt articulated, “enlightened administration.”⁹ Reacting to economic industrialization, urbanization, and a new sense of national identity, scholars and intellectuals in

⁹ Milkis, 1993, *The President and the Parties*.

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the early 20th Century built the foundation for this new form of administrative “politics.” And it was to be a politics, that as Stephen Skowronek has suggested, was intended, “not to nationalize and reform parties, but to link interests directly to national governmental institutions, thus making intermediary organizations such as parties less important in the scheme of things.”¹⁰ But Progressives did not disregard federalism’s role in structuring the nascent administrative state. Indeed, arguments for efficiency are often both a consequence of different policies, as well as transformative of the national-state-local relationship. Far from disregarding or purposefully undermining federalism, presidents have sought to use sub-national actors in creating a more “enlightened,” expert-driven, executive-centered politics.

When presidents engage in a discourse of efficiency and expertise, they are seeking to concentrate greater authority in the administrative arm of the modern executive branch. Most often, we have sought to understand these motivations as they relate to Congress. Such deliberate strengthening of executive power can be traced to the 1937 Brownlow Committee, which began their report on recommendations of executive reorganization with, “The President Needs Help!” They were happy to assist. Congressional power was dependent on presidential agenda-setting and popular leadership: “apparently Congress can defend its autonomy only by refusing to legislate, and it can legislate only by surrendering its autonomy,” Samuel Huntington argued.¹¹ However, as surveyed here, these changes also have vertical dimension – they are also used as justifications for re-centering federated commitments in the executive arms across multiple levels of government. Presidents have relied on state bureaucracies in designing and implementing their programs; Obama’s Affordable Care Act and the 1996 bi-partisan re-design

¹⁰ Stephen Skowronek. 1982. *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920*. Cambridge, UK: Cambridge University Press, 12.

¹¹ Huntington, Samuel. 1973. “Congressional Responses to the Twentieth Century.” in David B. Truman (ed.), *The Congress and America’s Future*, 2nd ed. Englewood Cliffs, NJ: Prentice-Hall, Inc, p. 5-31.

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of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) are just two examples of presidential reliance on state administrative experience.¹² Simultaneously, states have responded (willingly and not) to directives that emerge from presidential administrative power; Presidents Reagan and Nixon both used federal regulatory power to restrict how states could implement federal programs. And most importantly, the president's control of the federal budget (with over \$700 billion going directly to the states and localities in 2016) has been justified under this logic of efficiency and expertise. Even fiscal plans, such as revenue sharing, that were prized as strengthening federalism, are best seen as pursuits of presidential prerogative and nationalized aims.

To say that a discourse on efficiency prizes presidential administration is to also say that presidential government is opposed to political dissent. It stresses governmental cooperation and streamlined efficiency over contestation and oppositional politics. Federalism promotes dissent and competition, and to the extent that presidents have prided efficient administration, they have sought to diminish how capably and legitimately states can disagree with administrative goals.

Finally, government must contend with emergencies. As Carl Schmitt recognizes, it is during times of emergency and crisis where the image of sovereignty -- the ultimate answer to who governs -- is revealed.¹³ Emergencies can take many different forms and promote many different actions. Emergencies empower presidents; they erode federalism. Emergencies require rapid response. They require hierarchical chains of command. They prioritize decision-making over deliberation and bold innovation over incremental adjustment. As Barack Obama has most

¹² John Dinan. 2011. "Shaping Health Reform: State Government Influence in the Patient Protection and Affordable Care Act." *Publius: The Journal of Federalism* 41(3): 395-420; Richard P. Nathan, 1996. "The Devolution Revolution: An Overview," *Rockefeller Institute Bulletin* 1996: 5-13.

¹³ Carl Schmitt. 1922. *Political Theology: Four Chapters on the Political Theology*, translated by G. Schwab. Chicago, IL: University of Chicago Press, 2005.

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frequently stated during his administration, emergencies – be they natural disasters, economic instability, or injustice – mean that presidents do not, indeed cannot, wait when faced with crisis.¹⁴ The language of emergency is both a response to crises and a construction of crises. The Great Depression, World War II, the 2008 financial collapse – these are all external events that have forced presidents to act when they might not have otherwise. And these responses have mattered in redefining the president’s role as *de facto* manager of the economy and as the preeminent political leader. Presidents recognize that in emergencies people do not feel safe; citizens want their strongest leader to take action now to mitigate the danger -place constitutional propriety aside, there just is not time for all our various political actors to come together and respond.

States and localities – and the political leaders representing those communities – have stifled presidential attempts to overcome the latest pressing crisis on the political scene. Consider Franklin Roosevelt’s New Deal – as James Patterson concludes, “The most striking feature of federal-state relations during the 1930’s was not the failure of the New Dealers, but the limits in which they had to operate...for all the apparent nationalism of the 1930’s, states’ rights and strict constructionism remained remarkably healthy. Indeed, the system of federalism itself, far from serving as a flexible medium for change, revealed itself...to be better suited to preserving diversity than to encouraging strong and coordinated national action.”¹⁵ Such recalcitrance has helped to erode a popular belief in federalism’s usefulness at a time when Americans feel increasingly unsafe. Federalism mattered and, in the end, produced a different set of outcomes than the president would have been able to achieve.

¹⁴ ([http:// www.whitehouse.gov/blog/2011/10/24/we-cant-wait-president-obama-nevada](http://www.whitehouse.gov/blog/2011/10/24/we-cant-wait-president-obama-nevada)).

¹⁵ James T. Patterson. 1969. *The New Deal and the States: Federalism in Transition*. Princeton, NJ: Princeton University Press. See also, Suzanne Mettler. 1998. *Dividing Citizens: Gender and Federalism in New Deal Public Policy*. Ithaca, NY: Cornell University Press.

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But while states have limited centralization of power in times of crisis, presidents have used crisis language to evade the constitutional thresholds federalism established. For example it is possible to consider how states – far from inhibiting Roosevelt’s plan – aided in its implementation. Roosevelt’s administration was highly attuned to the demands and needs of municipal officials, and it was through these local organizations that much of the New Deal dollars passed through. Robert Moses in New York City (despite personal animus) and Frank Shaw in Los Angeles (despite rampant corruption) were both instrumental in directing, fashioning, and publicly supporting New Deal relief efforts.¹⁶ Additionally, presidents have not just relied on a language of emergency when managing external or unexpected crises – they have invented them as well. Lyndon Johnson had a “War on Poverty” and Ronald Reagan had a “War on Drugs;” Obama identified a healthcare “emergency” and Nixon routinely demanded action to ameliorate crime rates that were reaching “crisis proportions.” Recognizing a language of emergency is not to suggest that the issues at stake are not problematic, but to the extent that federalism – while not opposed, per say to emergency – promotes deliberation and multiple voices in responding to policy dilemmas, discourses promoting emergency are one way presidents have used language to re-balance federal responsibilities.

Presidential Federalism and Partisan Polarization: Barack Obama

Gridlock, ideological warfare, and divided government are the hallmarks of American politics since at least 2000. But has this created an unanticipated renaissance for the states?

The dynamics of partisan polarization operate within a larger structure of Constitutional change, of which the most pertinent feature is the ascendancy of the presidency in the

¹⁶ Robert Caro. 1975. *The Power Broker: Robert Moses and the Fall of New York*. New York, NY: Vintage; Tom Sitton. 1983. *Urban Politics and Reform in New Deal Los Angeles*. Riverside, CA: University of California Press.

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Constitutional order. These changes in the constitutional order, especially as it relates to the diminished capacity of Congress to deliberate and appropriate funds, have elevated the status of the president in providing party and policy leadership. Increasingly, Democrats and Republicans have come to rely on the sitting presidential administration to define their approach to government. Sidney Milkis and co-authors have argued that since Ronald Reagan a ‘new’ “executive centered party-system” has come to define presidential politicking.¹⁷ This development is both part cause and part consequence of ideological polarization, but is principally the result of larger, intentional developments inside presidential administrations. Since Reagan, presidents have actively sought to take a greater role in directing the fortunes of their fellow partisans. Milkis argues that, “modern presidents will become strong party leaders – committed to strengthening their party’s national committees, working with their partisan brethren in Congress, and appealing to the party’s supporters – if their ambitions extend far beyond office-seeking or if the political environment changes in ways that presidents perceive as undermining the efficacy of non-partisan styles of campaigning and governance.”¹⁸ The strategies and approaches individual presidents take in making policy should be viewed in terms of their party-building effects. As executive-center partisanship increases, presidents will be more activist in making policy and will increasingly search for new, unconventional ways in which to carry out their party’s electoral promises.

Consider the presidency of Barack Obama -- perhaps the president most tortured by endemic polarization.¹⁹ Obama (2009-2017) would not have achieved much if not for the

¹⁷ Sidney Milkis and Jesse Rhodes. 2007. “George W. Bush, the Republican Party, and the ‘New’ American Party System.” *Perspectives on Politics* 5(3): 461-488.

¹⁸ *Ibid.*, 464.

¹⁹ Much of the following section is developed in: Nicholas Jacobs. Forthcoming. “Obama, Barack.” In Joseph R. Marbach, Ellis Katz, and Troy Smith (eds.) *Federalism in America: An Encyclopedia*. Center for the Study of Federalism. Available On-Line at: <http://encyclopedia.federalism.org>.

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country's federal system. Under his leadership, the president gained new power to shape government policy at the national, state, and local levels. Obama used these broad grants of authority to expand the role of government at the national, state, or local level, despite endemic partisan polarization. He also faced considerable resistance to his policies within states dominated by Republican Party opposition. Through the use of lawsuits and administrative bargaining, states demonstrated their continued relevance as a check against federal overreach, but, in the end, the presidency prevailed.

Confronting the largest economic crisis since the Great Depression, a Democratic Congress delegated new executive authority to the White House during the first two years of the Obama administration. Of the \$787 Congress authorized as a part of the federal "stimulus," over a third, \$285-million, was sent directly to state and local governments to maintain government spending for schools, local police, and medical care. The administration received broad leeway to direct new spending in conjunction with state and local governments, representing the largest influx of federal cash to states and localities in recent history.

While federal aid was short-lived, Obama continued to rely on these original grants of power over the course of his eight-year term (six of which were under divided government). The stimulus contained a new \$5-billion grant competition, *Race to the Top*, which encouraged local and state education departments to adopt new reforms: expanding school choice, adopting Common Core standards, and using data-driven performance standards for evaluating teachers all earned "points" and a greater chance at receiving federal dollars. As with education, the Obama administration used an innovative set of carrots and sticks to move state policy in environmental regulation (states can now issue permits regulating carbon emissions), the

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legalization of marijuana (federal law became void in some places), and local policing (the Department of Justice negotiated consent decrees between local police agencies and civil rights groups to alter local police tactics and training).

The president's namesake domestic achievement, the Patient Protection and Affordable Care Act (ACA), or "Obamacare," was the largest overhaul of the nation's healthcare system since the 1960s. After hearing a series of cases, including one brought by the state of Florida, the Supreme Court struck down a major provision of the new law -- one that would have required states to enroll more citizens in Medicaid, a jointly funded program between states and the federal government. Such a mandate, they concluded was unconstitutional "commandeering" of state administrative agencies.²⁰

However, far from preserving the federal-state relationship, the Supreme Court decision opened up new opportunities for presidential power. Instead, the Obama administration was able to use a variety of administrative techniques to encourage states to expand Medicaid and encourage states to adopt new health insurance "exchanges." The White House relied on state-level health departments to help implement key portions of the law and to smooth out discrepancies between existing state regulations and the flurry of new federal requirements. The administration also made active use of Section 1115 "demonstration waivers," which allowed states to ignore or modify federal regulations with presidential permission.²¹

Elsewhere, the Obama administration further relied on the executive's administrative powers to set new minimum performance requirements in areas already regulated by state and federal governments. In the absence of national political support, Obama's strategy was to

²⁰ *National Federation of Independent Business v. Sebelius*, 567 U.S., 2012.

²¹ Daniel Beland, Philip Rocco, and Alex Waddan. 2016. *Obamacare Wars: Federalism, State Politics, and the Affordable Care Act*. Lawrence, KN: University of Kansas Press.

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leverage intergovernmental flexibility to encourage state and local participation. Like his predecessor, Obama also used waivers to relieve local school districts of financial penalties they would have faced under the *No Child Left Behind* Act. And, after Congress failed to pass a new energy and climate change reform bill, the EPA set about implementing the president's "Clean Power Plan" - a change in federal regulations first implemented under the 1970 Clean Air Act. As a way to secure compliance with new carbon emissions reductions, the EPA set variable reduction targets for each state. State environment and transportation officials were encouraged to negotiate with federal agencies on how best to achieve those goals.

Obama did not have a specific agenda for federalism. As a former community organizer, the president often celebrated the efforts of grassroots democracy and local government. Obama also relished the role of expertise and government innovation, especially in the name of social and economic equality. Conlan and Posner conclude that across these different circumstances, Obama has presented a "hybrid model of federal policy innovation and leadership," which featured "unprecedented levels of federal funding, thanks to the fortuitous if temporary opening provided by the Great Recession and large Democratic majorities in Congress."²² With a different set of policymaking opportunities, and without highly extraordinary circumstances that accompanied the 2008 recession, there is no reason to suggest that Obama would have taken a similar approach in cooperating with the states and localities.

Obama's presidency is a continuation of the administrative politics that dominated Lyndon Johnson and Richard Nixon's presidencies. Moreover, as government budgets are increasingly dominated by mandatory entitlement spending, and as executive-legislative politics is wracked by partisan gridlock, we might expect Obama's successors to take a similar approach

²² Timothy Conlan and Paul Posner. 2011. "Inflection Point? Federalism and the Obama Administration." *Publius: The Journal of Federalism* 41(3): 421-446.

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in intergovernmental politics -- one dominated by administrative innovations at the top and legal adversarialism at the bottom. Obama's successor, Donald Trump, has continued to rely on waivers, regulatory preemptions, and direct orders from the White House to move policy in the states and localities. In return, Democrats in states and cities have taken their cues from Obama's opponents to mobilize their own resistance to presidential overreach.

The degree of partisan polarization facing the United States has led some to praise federalism for providing new outlets for federal policymaking in the face of Congressional gridlock. Obama's efforts in environmental protectionism, education reform, and local policing -- all of which required subnational cooperation -- will remain foundational examples for this new school of "National Federalism."²³ Others might worry about what these changes mean for the stability of law, the ability for legislatures to deliberate over competing values, and constitutional guarantees against federal encroachment in the future.

In any case, the Obama administration reveals that the tensions at the heart of federalism -- equality versus diversity, national unity versus local control -- are very much alive in the 21st century. Perhaps the only efficacious statement that can be made regarding the totality of the polarization paradigm is that there has been a decisive break from the "normal order" in Washington.²⁴ For presidents, polarization has had a rather limited effect on their institutional incentives when compared to the larger structural displacement of Congress and nationalization of policymaking. Presidential administrations have taken greater responsibility for party leadership and programmatic reform and this is what governs the larger incentive structure for modern presidential leadership. The dynamics of partisan polarization and legislative gridlock

²³ Heather K. Gerken. 2012. "Our Federalism(s)." *William and Mary Law Review* 53 (5): 1549-1573.

²⁴ Don Taylor. 2013. "Why Did Normal Order Go Away?" *Washington Monthly*. URL: http://www.washingtonmonthly.com/ten-miles-square/2013/01/why_did_normal_order_go_away042576.php

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have created new opportunities and have forced presidents to be more creative, in their efforts to do what they have increasingly been expected to do in the new Constitutional order.

Obama's actions in the states must be understood in light of the executive-centered party system. Presidential party leadership is at odds with the progressive-era notion that presidents are "enlightened administrators."²⁵ Most commentators on Obama's federalism, at least those who push forward the executive-federalism thesis, must take the view that his administration keeps the promise of expert-driven, bureaucratic neutrality. But such presidential tactics are antithetical to the incentives of the presidency in light of the current constitutional order. Lowande and Milkis argue that Obama, "actively – if sometimes reluctantly – embraced the role of party leader, even in the management of the bureaucracy, the arena in which the modern presidency's claim to transcend partisanship was nurtured. Indeed, it is our contention that President Obama has surpassed the institutional strategies of the Bush administration in combining programmatic achievement and electoral calculation that will endure beyond 2016."²⁶ Recent work has confirmed that prediction, as Donald Trump's administrative juggernaut attests.²⁷

At best, executive negotiation with the states provides temporary moments of activist policymaking that overcomes the "gridlock" crisis that most commenters of polarization bemoan. The anti-democratic elements of this largely opaque, non-popular process should challenge us to think about the prolonged use of this strategy, however. At worst, polarization produces vastly unpopular outcomes in fits and starts, and only for those states whose leadership aligns with the

²⁵ Sidney Milkis and Jesse Rhodes. 2007. "George W. Bush, the Republican Party, and the 'New' American Party System." *Perspectives on Politics* 5(3): 461-488.

²⁶ Kenneth Lowande and Sidney Milkis. 2014. "We Can't Wait": Barack Obama, Partisan Polarization and the Administrative Presidency." *The Forum* 12(1): 3-27.

²⁷ Sidney M. Milkis and Nicholas F. Jacobs. 2017. "I Alone Can Fix It": Donald Trump, the Administrative Presidency, and Hazards of Executive-Centered Partisanship." *The Forum* 15 (3): 583-613.

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president's party. Additionally, to the extent that the entire system has become more reliant on presidential initiative and governing strategy, the states are left in an even more precarious position as executive-federalism further displaces other institutional actors. For those that find value in maintaining the "compound republic," partisan polarization is a temporary solution to an endemic disease – the growing imbalance *within* the national government and centralization of the political system on the presidency.

Wither Federalism?

Presidents depend on state and local government to succeed. Some have suggested that this heralds a new era of federalism during an era of polarization – that the presidency has crafted an unusual alliance with state and local governments in order to give Americans what they want. The presence of state and local institutions in negotiating and implementing those policy outcomes suggests that increased executive power can adequately preserve an appropriate state-federal balance of power. This dissertation has tried to suggest that such trust in the presidency for defending federalism is misguided. I have also tried to suggest that the correct way in which we should try to evaluate the relevance or propensity for future non-centralized governance is by looking at the broader set of institutional incentives national and subnational actors have, as defined by the institutions established for managing intergovernmental administration.

Executive-federalism was, in part, possible because of major political and institutional changes that made unilateral executive policy-making possible and acceptable to the public. Whereas federalism was originally designed as a bulwark against executive power, America's federated structure has provided new opportunities for presidents to act and implement domestic policy initiatives without legislative authority. Federalism allowed for different possibilities of

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expanding executive power. But they are, nevertheless, political possibilities that remain directly at odds with the original design and intent of keeping the compound republic. To the extent that federalism now enhances executive power and makes presidents less dependent or accountable to the Congress, this is hardly a means for celebrating the new practice. The growth of presidential power does not change the fact that, as Martha Derthick put it, “No matter what their preferences about intergovernmental relations, presidents have policy goals, political needs, and obligations of office that drive them to employ – and usually to extend – the powers of the federal government”²⁸ Presidential appreciation of devolved power is fleeting and opportunistic. As executive-federalism enhances the powers and expectations of presidents to continue to act unilaterally, the already fragile status of federalism is put in a graver situation.

Madison also suggested that with these profound changes, individuals would relate in increasingly negative ways with their governing institutions. Citizen dissatisfaction and distrust in their governing institutions is overdetermined.²⁹ But, if we correctly identify the reasons with which presidents engage with federalism, it is possible to see how the practice of executive-federalism contributes to this sense of apathy and listlessness about politics and self-government. Federalism existed to promote and extend the opportunities for active engagement in the exercise of self-government. Not only does executive-federalism further debilitate the possibility that representatives in Congress could regain their deliberative functions, the practice further removes individuals from participation in state and local institutions as well. In this sense, the practice and defense of executive-federalism overlooks the most important reasons for the founding of a

²⁸ Martha Derthick. 2006. “Presidency.” In Joseph R. Marbach, Ellis Katz, and Troy Smith (eds.) *Federalism in America: An Encyclopedia*. Center for the Study of Federalism. Available On-Line at: <http://encyclopedia.federalism.org>.

²⁹ William A. Galston and Elaine C. Kamarack. 2008. “Change You Can Believe in Needs a Government You Can Trust.” *The Third Way Middle Class Program*.

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federated republic in the first place. Federalism was not just a safety valve for policymaking if there was dysfunction at the national level. As Martin Diamond suggested, the “ends of federalism” are no small achievements: combating the ill effects of individualism, instilling a sense of patriotism, giving society a proper idea of rights and obligation, and ultimately “infusing society with unparalleled human energy.”³⁰ It is debatable how well the history of federalism has lived up to those ends, but it is difficult to see how executive-federalism does anything but work against the potential of fulfilling them.

³⁰ Martin Diamond. 1972. “The Ends of Federalism.” *Publius: The Journal of Federalism* 3(2): 145.