Have the States Become an Anchronism in the Federal System - The Case for a Negative Answer

Dale Cattanach
HAVE THE STATES BECOME AN ANCHRONISM
IN THE FEDERAL SYSTEM?
THE CASE FOR A NEGATIVE
ANSWER

DALE CATANACH*

INTRODUCTION

State governments are unquestionably on trial today. If we are not willing to pay the price, if we cannot change where change is required, then we have only one recourse. And that is to prepare for an orderly transfer of our remaining responsibilities to the federal government.¹

Dismal descriptions and predictions, such as the one just cited, have not been uncommon over the past fifty years. Critics of state government have termed it anachronistic (or at least obsolescent), and its role in American society has generally been regarded as having diminished substantially. On various occasions, the states have been referred to as "sick,"² "parasitic,"³ "hollow shells,"⁴ "reluctant partners,"⁵ and "the fallen arch in the federal system."⁶ State legislatures have been called "our most extreme example of institutional lag"⁷ and "sometime governments";⁸ more-

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1. COMMITTEE ON ECONOMIC DEVELOPMENT, MODERNIZING STATE GOVERNMENT 6 (1967).

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over, such governments have been viewed as being "on the spot" and "at the crossroads," and even one of their defenders has said that there is a "storm over the states." The federalist system of government has been termed a "ghost," and one scholar has even recommended that the "new federalism" be renamed "no federalism." So much of the literature on state government has had an ominous tone that one commentator was led to remark: "The rhetoric of crisis prevails, the language is sharp with a foresmell of doom."

While there has been—and, as with any institution, probably always will be—much to be criticized in the role and performance of the states in the federal system, there is a considerable amount of growing evidence to point to the increasing vitality of the states. This paper will examine the current status and trends of state government and in the process of such examination demonstrate state government's present healthy condition and continued meaningful role in American society. The traditional arguments in favor of a federal system of government composed of three levels—national, state, and local—will first be presented in order to provide a framework for the ensuing discussion. The extant criticisms of state government will then be set forth in order to direct attention to those factors which have been perceived as limiting the utility and ability of the states in dealing with contemporary problems. Finally, the performance and role of state government will be analyzed by taking into account both its shortcomings and strengths, and trends and directions will be suggested. From this examination should evolve a composite picture of the present and future status of state government.

THE RATIONALE OF FEDERALISM

Federalism is generally contrasted with a unitary form of gov-

11. Sanford, Storm Over the States (1967).
ernment (such as that of Great Britain or France) in which power and responsibility are concentrated at the national level. In such a system, lesser organs of government act solely as administrative units for the central body. In a federal system, however, authority is divided among the various levels of government, and this concept is thought to be more appropriate for some countries than others. One study noted that a federal type of government appeared to be best suited for those nations in which:

1. There exist pronounced diversities and subcultures, resulting in a wide range of needs and demands;
2. Experimentation among a number of different political units is considered desirable;
3. Extensive participation in and access to the political process is deemed requisite for the fulfillment of its democratic principles;
4. The population is spread out over a large geographical area; and
5. A monopolization of political power in a central government is considered to be detrimental to the well-being of the society.\textsuperscript{15}

To varying degrees, all of these conditions for a federal type of government have tended to exist in the United States. Moreover, in the American experience, certain general qualities and functions have been associated with each of the three levels of government—national, state, and local—which have served to justify their continued existence in a federal system of government in which power and responsibility are divided and shared.

THE NATIONAL GOVERNMENT

Over the years, the centralization of power at the national level has been justified on three basic grounds.\textsuperscript{16} First, the federal government has been viewed as possessing a superior capacity for dealing with nationwide problems, and particularly those arising in crisis-like situations. The conduct of foreign affairs and the maintenance of military forces, for example, have almost always been considered matters which could only be handled effectively by the government in Washington. Moreover, there can be little doubt that the federal government is fiscally superior to the other levels of government. The individual and corporate income taxes, for example, have proven

\textsuperscript{15} MacMahon, Federalism: Mature and Emergent 10-11 (1955).

\textsuperscript{16} This section relies extensively on the discussion provided in Carr, Bernstein, and Murphy, American Democracy in Theory and Practice: National, State and Local Government 108-109 (4th ed. 1963).
themselves to be very effective revenue-raising devices because Washington has been able to apply substantially higher rates (compared to the states) without having to fear an exodus of either taxpayers or industry. Via its numerous fiscal tools, the national government must be recognized as being best suited for most of the classical economic functions of stabilization, growth, allocation, and distribution. The governmental machinery at the national level is also deemed more responsive to major national emergencies, and especially those which extend beyond the boundaries of state lines. In times of crisis affecting wide areas of the country, a central government is not handicapped by the presence of a multitude of decision-making bodies.

The second major argument in favor of a strong central government is that it has generally been able to attract more competent personnel to legislative, executive, judicial, and administrative positions. The recruitment of talent has undoubtedly been facilitated by higher salaries, greater prestige, and more adequate staffing, facilities, and resources for the formulation and enactment of public policy.

A third argument was also frequently employed in the past, and that was that the federal government was alleged to be more representative of the entire American electorate. This claim, however, has lost most of its validity in the wake of the reapportionment decisions of the past decade.

STATE GOVERNMENT

Over the years, a number of factors have been cited to justify the continued existence of state governments. First, the states have represented mechanisms capable of adapting to local and regional needs and conditions. In a nation with the cultural, historical, economic, and geographical diversity of the United States, it has been felt that a national government could not possibly respond to the multitude of demands and problems likely to arise. As two prominent political scientists have observed, "The fact is that if the states were eliminated it would be necessary to create similar subdivisions. . . ."\(^{17}\)

Second, in a political system founded upon a theory of checks and balances, the presence of state governments was thought to prevent any monopolization of power by a central government; this was, of course, one of the foremost tenets held by the framers of the American Constitution.

Third, the states have commonly been referred to as "the laboratories of government." A British observer of the late 19th century, Lord Bryce, noted that: "Federalism enables a people to try experiments in legislation and administration which could not safely be tried in a large centralized country." Although the laboratory analogy may not be entirely accurate, several states have gained considerable acclaim as innovators in public policy.

Fourth, state government has commonly been regarded as being the training ground for the recruitment and development of political leadership and it has traditionally been the state political parties which have assumed the major responsibility for grooming potential public officials. Woodrow Wilson once noted: "The governorship of a State is very like a smaller Presidency; or, rather, the Presidency is very like a big governorship. Training in the duties of the one fits for the duties of the other."

Fifth, the states have often been felt to occupy an ideal intermediate position between highly centralized and highly decentralized government. A recent study of state legislatures asserted:

They [state governments] are supposed to give us the advantages of local government (closeness to the people and problems) without its disadvantages (parochialism, shortsightedness). Likewise, it is to have the advantages of a central government (broad perspective and powers, large human and financial resources, a single focus) without its disadvantages (remoteness, inflexibility, arbitrariness).

LOCAL GOVERNMENT

There are three principle advantages of local units of government that are usually cited. First, they generally provide the greatest opportunity for individual citizens to participate in or have access to the decision-making process of government, as both the state house and Congress are considerably more remote than city hall.

20. Supra note 8, at 20.
Second, local governments are perhaps the most sensitive instruments for detecting the immediate and pressing problems of the local community. Finally, local government generally entails the least complex system of administration, characterized by a high degree of visibility and accessibility, with a minimum amount of red tape and more person to person administration.

INTERGOVERNMENTAL RELATIONS: NATIONAL-STATE-LOCAL

Probably the most striking feature of the American system of federalism is that it has been in continuous flux since the inception of the nation. The relationships between federal, state and local governments have continually been changing, and many once clear-cut divisions of power have been blurred to the extent that it is no longer (if it ever was) possible to conceive of the system as being composed of autonomous, self-contained layers of government. The role of the states, particularly, has changed dramatically since the days of the Constitutional Convention. The decision to establish a federal form of government was made by thirteen semi-autonomous jurisdictions at a time when the individual "state" legislatures were clearly the dominant forces in American politics. The Nineteenth Century witnessed a general decline in the power of the legislatures, a trend toward increased sharing of governmental activities by the various governmental levels, and a Civil War which delineated the ultimate powers and rights of the states in the federal system.

Among the more significant governmental developments of the Twentieth Century have been the increased prominence of the governors, a tremendous expansion of governmental activities at all levels, and the increased involvement of the national government in domestic matters. These changes have coincided with other major developments in the United States, such as increased rates of urbanization, industrialization, immigration, education, and suffrage—all of which have substantially altered the fabric of American society. With these changes have arisen the claims that the role of the states in the federal system has substantially lessened in importance.

21. For the most comprehensive accounts of the evolving patterns of intergovern-
HAVE STATES BECOME AN ANACHRONISM

THE CRITICISMS OF STATE GOVERNMENT

Criticizing state government is by no means a recent phenomenon. In the 1880's, for example, Woodrow Wilson remarked that the states were in a sharp state of decline and, unless reforms were undertaken, they were thought unlikely to continue as viable instruments of government.\footnote{Supra note 19, at 22, 23.} Although the debate over the role of the states has been going on for some time, certain allegations have been more persistently made than others; likewise, several recent attacks on the states have focused upon shortcomings thought to hamper their ability to deal with current problems. In this section, what seem to be the most serious and relevant criticisms of state government, and the state legislatures in particular, will be presented. While this list should not be considered all-inclusive, it is intended to represent some of the strongest arguments against the role of states.

INEQUALITY AND INADEQUACY OF RESOURCES

There can be little doubt that there is a wide variation in the fiscal capacity of the fifty states. That these differences in resources have had an impact upon the benefit levels of public policy has been pointed out by a number of political scientists, who have found that a state's wealth (as measured by per-capita median income) is probably the foremost factor influencing the levels of funding for various public programs.\footnote{Dawson and Robinson, \textit{Inter-Party Competition, Economic Variables, and Welfare Policies in the American States}, 25 J. 265-89 (1963); Dye, \textit{Politics, Economics and the Public: Policy Outcomes in the American States} (1966); and Hofferbert, \textit{The Relation Between Public Policy and Some Structural and Environmental Variables in the American States}, 60 AM. POL. SCI. REV. 73-82 (1966).} In other words, states such as Wisconsin and New York are able to spend more money for education and welfare programs than Mississippi or New Hampshire because their revenue base imposes less of a constraint upon their policy-making decisions. Federal grants-in-aid have tended to reduce the financial disparities, but there still exists a striking amount of variance. It is stated...
that only the national government (with its superior revenue-raising machinery) is able to raise the funds needed to provide uniform distribution of such program benefits to the public.

LACK OF INNOVATION

Although the states were formerly acknowledged to be the "laboratories" for experimentation in government and policy-making, a number of critics have charged that they have largely vacated this role. Duane Lockard, for example, stated that: "Washington . . . has led the way in health care, water pollution programs, highway safety, law enforcement, educational integration, antipoverty programs, and urban renewal."\(^{24}\) Lockard admits that this may, to a great extent, be due to the fiscal strength of the federal government, but such a change still questions the fulfillment of one of the states' classic functions. Indeed, a recent "manual" for state legislators hinted that the complexity of contemporary issues would tend to make the representatives abandon their notions of innovative policymaking.\(^{25}\)

CORRUPTION AND INEPTITUDE

One of the longstanding charges against legislative bodies and state legislatures in particular has been that they have been permeated by corruption and scandal. Although such allegations had more validity in the late 19th Century, when numerous legislatures were reportedly "bought and sold," there still arise occasional outcries concerning scandal in the state-house.\(^{26}\) Another frequent criticism has been that the state legislatures too often get bogged down with legislation involving special interest groups or issues of minor significance, while major policy matters (e.g., tax reform, land use planning, pollution controls) are either suppressed, bottled up, or inadequately studied.\(^{27}\) Such ineptitude, while acknowledged,


\(^{25}\) Ronald D. Hedlund and Wilder Crane, Jr., The Job of the Wisconsin Legislator (1971), p. II.


\(^{27}\) See, for example, the comments of Richard Neuberger in Citizens Conference on State Legislatures, supra note 8, at 37-38.
has been thought by many to be associated with certain outmoded structures and procedures of the states' legislative processes. Archaic constitutions, insufficient staff assistance, inadequate facilities, cumbersome committee systems, part-time legislative sessions, and low salaries are commonly cited as the major factors preventing state legislatures from acting more decisively and knowledgeably on the prominent issues of public concern.\textsuperscript{28}

**THE STATES AND THE CITIES**

Even after *Baker v. Carr*, perhaps the most bitter condemnations of state governments have been reserved for their relationships with the cities and other units of local government. Every legislative session seems to be marked by some sharp denunciations by urban leaders and newspapers. State legislatures have frequently been charged with being insensitive—often hostile—to the multitude of urban problems, and many municipal officials have openly referred to the states as being "roadblocks" to the solution of their problems. State constitutions and charters are commonly thought to place unfair restrictions upon the revenue-raising and legal authority of the cities.\textsuperscript{29} Local leaders are allegedly looking more and more to the national government for assistance in dealing with problems of crime, pollution, transportation, poverty, and urban sprawl; and numerous spokesmen have called for a direct federal-local axis essentially eliminating the role of the state governments.\textsuperscript{30}

**INTER-STATE RELATIONS**

The increasing number of problems which extend beyond state lines have also been thought to reveal a major weakness of state government. Pollution, poverty, and transportation are frequently cited examples of such problems. While there are inter-state compacts and regional agreements which are designed to deal with some of these problems, they are felt to be atypical instances of cooperative effort, or such arrangements are criticized as being generally unproductive. Lockard has even suggested that state-to-state relationships are more commonly characterized by conflict, and cites,

\begin{footnotes}
\textsuperscript{28} Supra note 8, at chs. 1-2.
\textsuperscript{29} Grad, *The State's Capacity to Respond to Urban Problems: The State Constitution*, supra note 6, at ch. 2.
\textsuperscript{30} See supra note 5.
\end{footnotes}
for instance, the case of many jurisdictions vying with each other in attracting industry by granting tax breaks, subsidizing the construction of buildings, and relaxing labor laws and other forms of regulatory activity.31

THE END OF CULTURAL AND REGIONAL DIVERSITY

A major argument for a federal-type system of government is that—with its multiple levels—it is able to adapt to numerous cultural and geographical differences. Yet, several scholars have emphasized that many of the distinguishing characteristics of certain regions are gradually disappearing, owing to a composite of forces at work within America—e.g., increased societal mobility, urbanization and suburbanization, and the impact of nationwide communications media.32 Numerous indirect indicators seem to support the contention that the United States is becoming more and more homogeneous. Public opinion polls, for example, have revealed a general weakening in the previous patterns of regional diversity, and this has been particularly observable in the South, where two-party competition and more "liberal" policies have recently shown signs of emerging.

OTHER CRITICISMS OF STATE GOVERNMENT

Several other arguments against state government might also be mentioned, although these claims, in the opinion of the author, are not quite as well-founded. Roscoe Martin, for example, has asserted that the states have been "reluctant partners" in the federal system because they have been dominated by a "state mind," which consists of a "rural orientation, provincial outlook, commitment to a strict moral code, [and] a philosophy of individualism," which therefore constrain the state governments from assuming a more active role.33 Martin does not, however, provide any data to support his contention that this frame of mind is prevalent among the majority of state legislators, governors, administrators, or judicial officials.

William Riker, on the other hand, has taken an even more drastic view of state government, in claiming that:

31. Supra note 24, at 107-08.
32. Supra note 13; see also, ROSENBERG AND WHITE, MASS CULTURE (1957); and STEIN, THE ECLIPSE OF COMMUNITY: AN INTERPRETATION OF AMERICAN STUDIES (1960).
33. Supra note 5, at 76-79.
The main beneficiaries [of federalism and state government] throughout American history have been the southern whites, who have been given the freedom to oppress Negroes, first as slaves and later as a depressed caste. Other minorities have from time to time also managed to obtain some of these benefits: e.g., special business interests have been allowed to regulate themselves. This thesis, however, seems grossly overstated, especially since Riker does not fully explain the degree of domination exerted by these various interests; nor does he consider whether or not such oppression might still have occurred in the absence of state government.

THE CASE FOR THE STATES

It would perhaps be foolish to maintain that the previously stated criticisms are without validity, as the “prophets of doom” must obviously have had some bases for their contentions. It is the position of this paper, however, that those who have strongly lashed out against state government have been remiss in three respects: First, they have failed to consider the wide variation among state governments (i.e., many, if not all of the allegations cited do not apply equally to all states). Second, those who have so readily berated the states have frequently overlooked the full scope of state activities and have neglected to adequately examine the states’ capacity for fulfilling these functions. Finally, recent developments in state government have not been sufficiently evaluated by students of state government in order to determine the increasing responsiveness of the states to the problems of the 1970’s. Rather than directly refuting each of the previously elaborated “standard” criticisms of state government, the ensuing discussion will focus on certain major areas of concern which are felt to be the likely determinants of the future role of the states and which will demonstrate the increasing vitality of the states.

PUBLIC ATTITUDES TOWARD STATE GOVERNMENT

There can be little doubt that the states receive “the short end of the stick” from the communications media, as national networks and wire services focus much of their reporting on the international and domestic activities of Washington. It therefore follows that public attention

would tend to be oriented either to Washington, or to the city council which deals with many of the day-to-day problems of the citizenry. The position of the states would thus be thought to be one of minimum visibility, with a subsequent lack of concern with the activities taking place in the statehouse.

Yet, attitudes toward state government are not as unfavorable or apathetic as one might think; besides a general absence of outcries to abolish the states, there is little evidence to support the view that the American public is allowing them to wither away through either indifference or neglect. A recent study has provided some rather interesting findings related to the attitudes of the electorate toward state government. Using data from the Survey Research Center of the University of Michigan, an attempt was made to determine the degree of salience of activities taking place at international, national, state, and local levels. Although the majority of those questioned indicated primary interest in the activities of the national government, the states fared quite well when the first and second choices of those sampled were combined, as shown in Table I below.

<table>
<thead>
<tr>
<th>Level of Governmental Affairs</th>
<th>Rank of How Closely Followed</th>
<th>Avg. of 1st &amp; 2nd Choices</th>
</tr>
</thead>
<tbody>
<tr>
<td>International</td>
<td>20</td>
<td>16</td>
</tr>
<tr>
<td>National</td>
<td>32</td>
<td>31</td>
</tr>
<tr>
<td>State</td>
<td>17</td>
<td>33</td>
</tr>
<tr>
<td>Local</td>
<td>30</td>
<td>20</td>
</tr>
<tr>
<td>N=983</td>
<td>99%</td>
<td>100%</td>
</tr>
</tbody>
</table>


These figures reveal the expected prominent interest in the national government, but the activities of state and local governments were—on the average—followed equally closely by those questioned and received more interest than international matters did. The two authors who conducted the study concluded that:

Whatever the correlates of state-level salience, it is apparent that the states still loom large in the perspectives of the American public. Any attempted juggling of political units involving the states would probably confront a reservoir of mass attachments to the states as political entities. Coupled with the historic traditions, legal preserves, and political utility of the states, this salience helps assure the continued prominence of the several states within the federal system.\(^{37}\)

THE FISCAL CAPACITY OF STATE GOVERNMENTS

Any study attempting to evaluate the viability of a unit of government must ultimately consider that body's capacity for raising revenue to support the performance of its functions. This section will examine the relative fiscal capacity of the states.

It is interesting to note that one prominent political scientist has entitled a chapter of his most recent book *The Financial Muscle of State Government*.\(^{38}\) Although relative to the federal government, the states are certainly not all-powerful instruments of taxing and spending, there are several features of state governments' fiscal capacities which warrant recognition. Although it was noted earlier that a state's wealth was perhaps the foremost determinant of its spending levels,\(^{39}\) there is evidence to suggest that the states are far less restricted by their economic conditions than they were in the past. Campbell and Sacks noted in their book, *Metropolitan America: Fiscal Pattern and Governmental Systems*, a change in the relationship between state wealth and state expenditures. At the start of the Twentieth Century, there was almost a one to one relationship between per capita state and local government expenditures and per capita personal income. In the 1960's, only slightly more than half of the variation in expenditure levels could be explained by the variations in per capita income.\(^{40}\) While there may be several reasons for this change, two major reasons would be increased federal aid to the states and localities and the adoption by the states of broader taxes, such as the income tax and the

\(^{37}\) Id. at 535.

\(^{38}\) Sharkansky, *The Maligned States: Policy Accomplishments, Problems, and Opportunities*, ch. 3 (1972). Much of this section is based upon this author's presentation.

\(^{39}\) Id. at 9.

general sales tax. This dramatically lessened relationship clearly demonstrates that state and local governments have been able to overcome at least some of the constraints imposed by their economic base.

Other scholars have been able to provide more specific observations concerning the fiscal capacity of the various levels of government. It has been noted, for example, that the level of economic development most seriously constrains the policy-making of local units of government; the state and federal governments, on the other hand, are considerably less affected by such influences, and officials in Washington are in the enviable position of almost being masters, and not slaves of such economic influences.41

Another indicator of the fiscal capacity of the states is their share of the total spending for common-function (i.e., functions such as welfare, education, etc., for which all governmental levels make expenditures) governmental activities. When intergovernmental transfers are taken into account, for example, Sharkansky has shown that the states have assumed a very significant role in domestic spending in the Twentieth Century (Table II below).

**TABLE II**

<table>
<thead>
<tr>
<th>Year</th>
<th>National</th>
<th>State</th>
<th>Local</th>
</tr>
</thead>
<tbody>
<tr>
<td>1902</td>
<td>9.9</td>
<td>16.7</td>
<td>78.7</td>
</tr>
<tr>
<td>1913</td>
<td>10.9</td>
<td>16.9</td>
<td>76.8</td>
</tr>
<tr>
<td>1922</td>
<td>15.2</td>
<td>22.3</td>
<td>69.6</td>
</tr>
<tr>
<td>1932</td>
<td>13.6</td>
<td>31.7</td>
<td>66.5</td>
</tr>
<tr>
<td>1940</td>
<td>41.8</td>
<td>30.6</td>
<td>45.4</td>
</tr>
<tr>
<td>1946</td>
<td>41.5</td>
<td>30.2</td>
<td>52.4</td>
</tr>
<tr>
<td>1950</td>
<td>38.0</td>
<td>37.3</td>
<td>44.9</td>
</tr>
<tr>
<td>1954</td>
<td>32.0</td>
<td>38.6</td>
<td>58.3</td>
</tr>
<tr>
<td>1965</td>
<td>30.8</td>
<td>43.9</td>
<td>60.3</td>
</tr>
<tr>
<td>1969</td>
<td>31.4</td>
<td>47.9</td>
<td>52.1</td>
</tr>
</tbody>
</table>


* Percentages sum to more than 100 because intergovernmental expenditures were counted twice: once for the granting level and once for the level of final expenditures. Presumably, each level acquires some control over the final product of the spending and thus should be credited with some of its support. The table was intended not so much to show the position of national, state and local governments in any one year, but their changes relative to one another from one year to another.

41. *SHARKANSKY (ED.) POLICY ANALYSIS IN POLITICAL SCIENCE 8 (1970).*
These figures also reveal the pivotal position of the states, both as recipients of federal monies, and as major distributors to local government. Indeed, even if one examines the source of domestic spending, the states continue to play a major fiscal role. Table III below indicates the general expenditures of the three levels of government, excluding duplicative transactions between levels of government for the major domestic functions, in the year 1969.

**TABLE III**

Governmental General Expenditures for Major Domestic Activities
(Direct and Intergovernmental): 1969*
(Amounts Spent—Millions of Dollars)

<table>
<thead>
<tr>
<th></th>
<th>Federal</th>
<th>State</th>
<th>Local</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Postal</td>
<td>$6,993</td>
<td>$27,162</td>
<td>$34,967</td>
<td>$70,044</td>
</tr>
<tr>
<td>Education</td>
<td>7,915</td>
<td>12,522</td>
<td>5,045</td>
<td>22,240</td>
</tr>
<tr>
<td>Highways</td>
<td>4,673</td>
<td>2,096</td>
<td>524</td>
<td>10,397</td>
</tr>
<tr>
<td>Natural Resources</td>
<td>7,777</td>
<td>4,703</td>
<td>4,375</td>
<td>13,142</td>
</tr>
<tr>
<td>Health and Hospitals</td>
<td>4,064</td>
<td>10,866</td>
<td>25,686</td>
<td>35,817</td>
</tr>
<tr>
<td>Public Welfare</td>
<td>8,979</td>
<td>1,524</td>
<td>1,889</td>
<td>2,212</td>
</tr>
<tr>
<td>Housing and Urban Renewal</td>
<td>1,524</td>
<td>107</td>
<td>3,520</td>
<td>152,022</td>
</tr>
<tr>
<td>Total</td>
<td>$41,925</td>
<td>$57,456</td>
<td>$52,641</td>
<td>$152,022</td>
</tr>
</tbody>
</table>


* Local government amounts are estimates subject to sampling variation.

Other equally impressive statistics reveal that state spending has steadily increased as a percentage of the Gross National Product and in per capita expenditures, as shown in Table IV below:

**TABLE IV**

State Government Expenditures, 1932-1967

<table>
<thead>
<tr>
<th>Year</th>
<th>Total expenditures per capita, constant dollars</th>
<th>As percentage of GNP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1967</td>
<td>$202.10</td>
<td>6.7%</td>
</tr>
<tr>
<td>1965</td>
<td>168.97</td>
<td>5.9</td>
</tr>
<tr>
<td>1954</td>
<td>113.98</td>
<td>4.3</td>
</tr>
<tr>
<td>1950</td>
<td>114.06</td>
<td>4.3</td>
</tr>
<tr>
<td>1946</td>
<td>69.73</td>
<td>2.5</td>
</tr>
<tr>
<td>1940</td>
<td>88.96</td>
<td>4.3</td>
</tr>
<tr>
<td>1932</td>
<td>65.49</td>
<td>4.7</td>
</tr>
</tbody>
</table>


One cannot help but conclude that state government has become a major fiscal force at work in the total American economic picture.

What has been responsible for this improved fiscal condition and role of state government? In part, this increase must be attributed to federal grants-in-aid, which have provided the states with addi-
tional revenue, promoted state spending, and lessened the gap between poorer and richer ones. Moreover, the states themselves have adopted flexible policies of taxation, which have allowed them to tap a variety of different sources of revenue, while local governments have had to continually rely on the property tax, which has become notoriously rigid, burdensome, and inequitable.

As of January 1, 1970, 37 states imposed broad-based personal income taxes, while 45 states had adopted some form of sales tax.42 These two devices have proven themselves to be quite responsive to changes in the economy, as well as improving the states' financial situation. The states have also exhibited a remarkable willingness to experiment with different revenue-raising tools. Table V below reveals the number of changes in existing tax policies promulgated by the states.

**TABLE V**

States Increasing Tax Rates and Enacting New Taxes, Selected Taxes  
(January 1, 1959 through January 1, 1971)

<table>
<thead>
<tr>
<th>State</th>
<th>Sales</th>
<th>Personal income</th>
<th>Corporation income</th>
<th>Motor fuel</th>
<th>Cigarette</th>
<th>Alcoholic beverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>x</td>
<td>—</td>
<td>x</td>
<td>—</td>
<td>xxxxxx</td>
<td>x</td>
</tr>
<tr>
<td>Alaska</td>
<td>—</td>
<td>x</td>
<td>—</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Arizona</td>
<td>xx</td>
<td>xx</td>
<td>xxx1</td>
<td>xx</td>
<td>xx</td>
<td>xx</td>
</tr>
<tr>
<td>Arkansas</td>
<td>—</td>
<td>—</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>California</td>
<td>x</td>
<td>xx</td>
<td>xx</td>
<td>xx</td>
<td>Nx2</td>
<td>xx</td>
</tr>
<tr>
<td>Colorado</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>Nx</td>
<td>x</td>
</tr>
<tr>
<td>Connecticut</td>
<td>xx</td>
<td>N3</td>
<td>xx</td>
<td>x</td>
<td>xxxxx</td>
<td>xx</td>
</tr>
<tr>
<td>Delaware</td>
<td>—</td>
<td>x</td>
<td>x</td>
<td>xx</td>
<td>xxx</td>
<td>xx</td>
</tr>
<tr>
<td>Florida</td>
<td>x</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>xx</td>
<td>xxxxx</td>
</tr>
<tr>
<td>Georgia</td>
<td>—</td>
<td>—</td>
<td>xx</td>
<td>—</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Hawaii</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>—</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Idaho</td>
<td>N</td>
<td>xx</td>
<td>xx</td>
<td>x</td>
<td>xxx</td>
<td>xxx</td>
</tr>
<tr>
<td>Illinois</td>
<td>xxx</td>
<td>N</td>
<td>N</td>
<td>xx</td>
<td>xxx</td>
<td>xx</td>
</tr>
<tr>
<td>Indiana</td>
<td>N4</td>
<td>N4</td>
<td>N4</td>
<td>x</td>
<td>xx</td>
<td>—</td>
</tr>
<tr>
<td>Iowa</td>
<td>x</td>
<td>xx</td>
<td>xxx1</td>
<td>x</td>
<td>xxxxx</td>
<td>xx</td>
</tr>
<tr>
<td>Kansas</td>
<td>x</td>
<td>x</td>
<td>xx</td>
<td>x</td>
<td>xxx</td>
<td>xxx</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Nx</td>
<td>—</td>
<td>—</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Louisiana</td>
<td>x</td>
<td>x5</td>
<td>x5</td>
<td>—</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Maine</td>
<td>xxx</td>
<td>N</td>
<td>N</td>
<td>x</td>
<td>xxxxx</td>
<td>xx</td>
</tr>
<tr>
<td>Maryland</td>
<td>x</td>
<td>x</td>
<td>xx</td>
<td>x</td>
<td>x</td>
<td>—</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>N</td>
<td>xx5</td>
<td>xx</td>
<td>x</td>
<td>xx</td>
<td>xx</td>
</tr>
<tr>
<td>Michigan</td>
<td>x</td>
<td>N</td>
<td>N</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

HAVE STATES BECOME AN ANACHRONISM

<table>
<thead>
<tr>
<th>State</th>
<th>Rate Increases</th>
<th>New tax enactments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>N</td>
<td>xxx</td>
</tr>
<tr>
<td>Mississippi</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>Missouri</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>Montana</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>Nebraska</td>
<td>N</td>
<td>xx</td>
</tr>
<tr>
<td>Nevada</td>
<td>x</td>
<td>N</td>
</tr>
<tr>
<td>N. Hampshire</td>
<td>N</td>
<td>xx</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Nx</td>
<td>N</td>
</tr>
<tr>
<td>N. Mexico</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>New York</td>
<td>Nx</td>
<td>xx</td>
</tr>
<tr>
<td>N. Carolina</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>N. Dakota</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>x</td>
<td>xx</td>
</tr>
<tr>
<td>Oregon</td>
<td>x</td>
<td>N</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>xxx</td>
<td>x</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>xxx</td>
<td>N</td>
</tr>
<tr>
<td>S. Carolina</td>
<td>x</td>
<td>xx</td>
</tr>
<tr>
<td>S. Dakota</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>Tennessee</td>
<td>xx</td>
<td>x</td>
</tr>
<tr>
<td>Texas</td>
<td>N</td>
<td>xx</td>
</tr>
<tr>
<td>Utah</td>
<td>xxx</td>
<td>x</td>
</tr>
<tr>
<td>Vermont</td>
<td>N</td>
<td>x</td>
</tr>
<tr>
<td>Virginia</td>
<td>N</td>
<td>xx</td>
</tr>
<tr>
<td>Washington</td>
<td>xxx</td>
<td>x</td>
</tr>
<tr>
<td>W. Virginia</td>
<td>Nx</td>
<td>N</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>xxx</td>
<td>x</td>
</tr>
<tr>
<td>Wyoming</td>
<td>xx</td>
<td>xx</td>
</tr>
<tr>
<td>Dist. of Col.</td>
<td>xxx</td>
<td>x</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rate Increases</th>
<th>58</th>
<th>44</th>
<th>7</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>New tax</td>
<td>12</td>
<td>10</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>70</td>
<td>54</td>
<td>59</td>
<td>61</td>
</tr>
</tbody>
</table>

Note: Each x indicates a tax increase enactment, and each N indicates a new tax; 1970 enactments are underlined.

1 Financial institutions.
2 California enacted a two-step cigarette tax increase, from 3¢ to 7¢ a package eff. 8/1/67 and a further increase from 7¢ to 10¢ eff. 10/1/67.
3 New tax on capital gains only.
4 Partly replaces the gross income tax.
5 Repealed the deduction allowed for federal income tax.
6 Increase in diesel fuel tax rate only.
7 "Commuter income" tax.
8 New tax on investment income only.
9 Beer tax increase declared unconstitutional (1963).


The fiscal capacity and viability of the states may further be demonstrated in several ways. While federal aid now comprises a significant portion of most state budgets, local governments similarly depend increasingly upon the states for sharing their revenues, as may be seen from Table VI below.
Property tax relief has been a major and increasing concern of the state legislatures in recent years, and a good deal of action has been taken to provide such assistance. It is interesting to note that the "poorer" states (e.g., Mississippi, Louisiana, South Carolina, Vermont, and North Dakota) in particular have assumed a greater share than would be expected of combined state-local financing.\footnote{Supra note 38, at 59-62.}

This is not to say, however, that the state governments are adequately funded and without need of further financial assistance. The adoption of new revenue-raising devices and the increases in tax rates have resulted from the expansion of governmental services. New demands and needs will further challenge the fiscal capacity of the states, and these fifty governments still cannot match the federal government's ability to raise revenue. Indeed, the possibility of revenue-sharing can only improve the financial condition of the states and reduce some of the state-to-state disparities which presently exist, since the fiscal superiority of the federal government remains unquestioned. The return of federal monies to the states "without strings attached" would enable the states to allocate funds for their individual needs and demands, although it is this particular point—the fiscal integrity of the states—that has provoked the most heated controversy on the subject of revenue-sharing.\footnote{For rather thorough analyses of the controversy surrounding revenue sharing, see Reuss, Revenue Sharing: Crutch or Catalyst for State and Local Governments? (1970) supra note 38, at 115-16, 160-64.}

<table>
<thead>
<tr>
<th>City size</th>
<th>1960</th>
<th>1969-1970</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Per capita state aid</td>
<td>State aid as percentage of city revenue</td>
</tr>
<tr>
<td>1,000,000 plus</td>
<td>$35.95</td>
<td>17.8%</td>
</tr>
</tbody>
</table>
| 500,000-999,999   | 23.48 | 16.4%     | 54.17   | 18.6%
| 300,000-499,999   | 14.11 | 13.2%     | 37.44   | 16.9%
| 200,000-299,999   | 12.28 | 11.4%     | 33.97   | 16.7%
| 100,000-199,999   | 14.77 | 14.2%     | 34.08   | 17.6%
| 50,000-99,999     | 13.91 | 15.0%     | 27.06   | 16.8%
| 25,000-49,999     | 11.27 | 14.3%     | 17.98   | 17.0%
| less than 25,000  | 8.62  | 17.0%     | 17.98   | 17.0%

THE PERSONNEL OF STATE GOVERNMENT

One of the longstanding arguments favoring the centralization of power at the national level has been that, by and large, it has been able to recruit superior personnel to the public service. State officials and administrators, on the other hand, have too often been stereotyped in the manner suggested by Roscoe Martin—rustic, less educated, and parochially-oriented. The validity of such beliefs, however, may be questioned and such statements demand further investigation if one is to generalize about the employees of state government, and some limited preliminary data are very encouraging. An article in the New York Times, for example, revealed some striking insights into the caliber of individuals presently being attracted to run for state office. Possibly owing to the effects of reapportionment, the study noted that the quality of individuals seeking seats in the state legislatures has substantially improved; the new legislators, as a whole, are younger, better educated, and have demonstrated a deeper involvement in the affairs of the states. Moreover, state governments have been able to attract better qualified individuals to administrative positions in recent years. An increasing number of college graduates are selecting the public services as their first choice of employment and an increasing number are selecting state government as the arena where the action—and opportunities—are. And the much improved salary and benefit levels in state government should strengthen the ability of the states to recruit and maintain highly competent personnel.

REFORM

So many criticisms of state governments have focused upon the purportedly archaic constitutions, procedures, and facilities of state government that one cannot readily dismiss them, although considerable skepticism has been voiced in recent years concerning the overall impact of such conditions. Reapportionment, for example, was once thought to be a panacea for the state-cities

45. Supra note 5, at ch. 3.
47. See, for example, Jacob, Dimensions of State Politics, supra note 7, at 5-36.
relationship, but the aftermath of *Baker v. Carr* has caused many reformers to readjust their expectations in a downward direction. Nonetheless, a recently published work has made a strong plea for the reform of state legislatures on the basis that

It [the state legislature] . . . should have the staff, time, salaries, and other resources it needs, to enable its members to concentrate on the public's business with the care and attention it deserves, and to understand the implications of different issues and courses of action better than can the average citizen preoccupied with the ins and outs of daily living.

This same study conducted a state-by-state evaluation of the legislative bodies, employing a somewhat ideal model for comparative purposes. Despite the generally foreboding tone of the book, there were some rather encouraging signs.

In the past decade, for example, a number of states have enacted entirely new constitutions or made substantial revisions in their old ones. Illinois, Michigan and Florida, for example, whose constitutions were once exhibited in state government textbooks as the epitome of anachronistic documents, have now scraped their old constitutions entirely in favor of revitalized new ones. Other jurisdictions have introduced or adapted measures intended to streamline their frameworks of government. In the period 1966-1970, for instance, more than half of the states enacted such proposals for reform. Moreover, there have been other indicators pointing toward significant reforms in the process of state government. Legislatures of 36 states are now able to meet on a full-time basis; many have improved their staffing and physical facilities; and a large number have substantially modified obsolete rules and procedures. Median salaries rose from $9,933 to $13,256 per biennium in the five year period ending in 1970. A recent article also observed that a number of states have enlisted the assistance of prominent business leaders in efforts to improve their capacity for dealing with contemporary problems.


49. *Supra* note 8, at 36.

50. *Id.*

51. *Supra* note 8, at 5.

52. *Id.*

The Citizen's Conference on State Legislatures' study was also quick to point out how several states have made dramatic progress in renovating their governmental machinery. The legislatures of Florida and Illinois, for example, were formerly rather inconspicuous bodies, but they are now ranked among the most prominent and modernized governing bodies in the country.\textsuperscript{54} It is, therefore, apparent that at least some of the states have independently re-examined and attempted to prepare themselves for the problems of the years to come.

\textbf{INNOVATION}

The innovation role of the states has never been lost, and countless examples can be cited of landmark actions taken by state governments. Indeed, it is interesting to note that many of the major pieces of legislation being considered by the federal government have had their predecessors (and perhaps their models) among the states. A few prominent examples might be helpful for the purposes of this discussion.

\textit{Revenue Sharing}

The fifty states have had lengthy experience in returning revenue to units of local government without any restrictive conditions attached; indeed, a major portion of the revenues available to municipalities are raised and distributed by the states. In recent years, a number of states have deliberately attempted to overcome the financial disparities among communities by devising more fiscally equitable systems of revenue distribution.

\textit{Reorganization}

The pending legislation for drastically overhauling and reorganizing the federal government's complex system of departments and agencies along more functional lines is strikingly similar to reforms effected by several states. Indeed, with but a few modifications, the present proposal of the Administration in Washington is quite comparable to that formulated and adopted as a result of the Kellett

\textsuperscript{54} Supra note 8, at ch. 4.
Commission's work in Wisconsin. This commission—initially titled the Temporary Commission on the Reorganization of the Administrative Branch and later called simply the Reorganization Committee—was headed by William R. Kellett and had 8 legislators, 8 citizen members, and the Secretary of Administration. As a result of this Committee's studies and recommendations, 84 independent units of Wisconsin state government were streamlined into a new structure of 4 constitutional offices, 14 departments, and 14 independent agencies.

**Anti-pollution activities**

Judging from recent state legislation, there is little reason to believe that it is the federal government which has led the fight for preserving the environment. Several specific contributions of the states deserve recognition. In 1968, the California legislature passed its Pure Air Act, which represents one of the most comprehensive attempts at controlling and setting standards for motor vehicle exhaust emission. A recent conference of midwestern states was able to formulate a pact recognizing potential dangers of thermal pollution in the Great Lakes. And in a somewhat startling episode, a Minnesota law dealing with the discharge of nuclear material into waterways was fought by the federal government because the state statute exceeded the nationally-set standards.

A large number of other innovations have been introduced by the states in the past few years. Massachusetts received national acclaim for its adoption of no-fault automobile insurance, while other states have experimented in such diverse areas as mental health, penal reform, consumer affairs, and even snowmobile regulation. Indeed, one analysis of the innovative role of the states was led to conclude that the states have done "more pioneering in civil rights legislation, housing, urban and regional planning, transportation, and water resources development [than the federal government]."

55. See, supra note 8, at 8-11, for a vivid account of the active role assumed by the legislature in formulating the statutes.

56. Supra note 24, at 103-04.
The problems confronting the cities of this country have taken on major importance in recent years, and the role of the states in dealing with the urban crisis has too often been attacked or ignored. It is widely presumed that municipal leaders have long since lost faith in the states and have looked to Washington for solutions to their problems. A recent study by the International City Managers Association observed that, in general, local officials have looked more to Washington than to the state capitol for assistance, but several interesting trends were noted. For one thing, it was found that a substantial number of those questioned felt that the states had become more responsive to urban needs in the wake of reapportionment. Second, a large number of municipal leaders acknowledged that they received valuable assistance from the states, and that they were frequently led to seek out aid from the state governments. Third, of those reporting, 38% said that they found the federal government more helpful, while 21% thought the states were more so. In general, the financial resources of the federal government were cited as the major factor causing them to favor the assistance of Washington.57

Although the attitudes of city leaders have tended to favor Washington over the states, there are still several reasons why a strong national-local axis is unlikely to emerge. Besides the continued supremacy of the states over municipalities stemming from the "Dillon Rule," the federal government has also encountered serious difficulties in attempting to deal with the urban crisis. As former director of the Bureau of the Budget, Charles Schultze, noted:

As a control center, the [federal] government can handle defense and space, hand out checks, and regulate industry. But when it comes to aid to programs in education, pollution, manpower, poverty, health, and urban renewal, it is no longer possible to sit in Washington and operate them effectively.59

Former presidential advisor Daniel P. Moynihan phrased the problem somewhat differently when he said that Washington is "rather

58. Judge John F. Dillon, in an 1868 Iowa court decision, ruled that municipalities are legally creatures of the states.
good at collecting revenues and rather bad at disbursing services."

What, however, would suggest that the states are viable instruments for dealing with the problems of the nation's cities especially since the past record of state government vis-a-vis the cities might lead one to believe that they have neglected or even complicated the affairs of local government? Much of the literature on the urban crisis has consistently emphasized two aspects of the dilemma: first, local units of government are financially weak; and, second, many of the foremost problems of the cities—pollution, mass transit, poverty, and urban sprawl—must be dealt with on an area-wide basis. In as much as the fiscal capacities of the three levels of government were examined earlier, this discussion shall focus on the latter point. Several commentators have strongly advocated the adoption of metropolitan government (such as that in Toronto, Canada) as a means of dealing with the problems of urban areas, since this new layer of government would be able to confront many of the major issues on an area-wide basis. Locally initiated attempts at establishing such intermediate levels of government have been notably unsuccessful, and the proliferation of special-purpose districts (e.g., sanitary, park, and mosquito abatement districts) has only complicated the existing situation, as these units must also compete for the same scarce revenues. The states possess both the legal authority and at least some of the fiscal capacity for dealing with metropolitan problems, and some states have demonstrated a willingness to confront them. The Indiana legislature, for example, recently created a metropolitan governing body for Indianapolis and Marion County, and other states are presently considering such an approach for their own urban areas.

In the meantime, many states have assumed an active role in coordinating activities and mediating disputes among units of local government. One report has observed that the states have assumed

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60. Moynihan, quoted in Citizen's Conference on State Legislatures, supra note 8, at 19.
61. See, for example, COMMITTEE FOR ECONOMIC DEVELOPMENT, RESHAPING GOVERNMENT IN METROPOLITAN AREAS (1970).
63. WOOD, 1400 GOVERNMENTS (1961).
some of the powers traditionally ascribed to local governments by regulating land use and reviewing (and, on occasion, overruling) local regulatory policies. Such state action has been necessary because many local units have ignored the area-wide effect of their self-serving decisions on zoning, industrial development, and housing. The increasing interest in urban affairs has been demonstrated in several ways. Prior to 1960, for example, only two states maintained offices of urban affairs; by September, 1969, there were twenty-five such departments and agencies as shown in Table VII below. These offices have performed several valuable functions for local governments, including the coordination of grant programs, the provision for technical assistance, the land-use planning of undeveloped areas, and the mediation of disputes among municipalities.

### TABLE VII

| States Providing Offices of Urban Affairs as of 1969 and Years in Which Established |
|---------------------------------|------------------|
| Alaska                          | 1959             | N. Carolina | 1969 |
| California                      | 1964 & 1969      | Ohio        | 1967 |
| Colorado                        | 1966             | Oregon      | 1969 |
| Connecticut                     | 1967             | Pennsylvania| 1966 |
| Florida                         | 1969             | Rhode Island| 1968 |
| Illinois                        | 1969             | S. Carolina | 1967 |
| Iowa                            | 1969             | Tennessee   | 1963 & 1969 |
| Massachusetts                   | 1968             | Texas       | 1969 |
| Minnesota                       | 1967             | Vermont     | 1968 |
| Missouri                        | 1967             | Virginia    | 1966 |
| Nebraska                        | 1967             | Washington  | 1967 |
| New Jersey                      | 1966             | Wisconsin   | 1967 |
| New York                        | 1959 & 1968      |             |      |


The 1960's was also a period which witnessed a growing interest in the development of urban campuses of state universities. The Universities of California at Los Angeles, Wisconsin at Milwaukee, and Illinois at Chicago Circle have become respected institutions, capable of providing quality education to poor and minority students, and institutions which may ultimately be responsible for devising some of the solutions to the urban dilemma.

Moreover, reapportionment may yet have had some degree of im-

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65. *International City Managers Association, supra* note 58, at 25.
pact upon the state-local government relationship. A study of the Georgia Legislature in the years following reapportionment noted a significant increase in the amount of legislation dealing with the cities, and urban legislators have tended to vote for such bills more cohesively. 66 Another investigation has shown that those states which underwent the greatest degree of legislative reapportionment have shown the largest increases in financial aid to urban areas. 67

Finally, it should be noted that a number of studies have promoted the view that the states may yet prove to be the most capable instruments of government for dealing with crisis-like situations in metropolitan areas. 68 For example, the National Commission on Urban Problems, after an extensive examination of the dilemmas of the cities, concluded that:

We believe the states have tended to become forgotten members of the governmental family. By using powers they already possess, by assuming new authority when necessary, and in providing funds, they occupy a unique position to help bring urban areas out of confusion. State governments are close to the people and to the problems, but bring enough perspective to bear to help release urban areas from the excesses of localism. 69

THE OVERLOOKED FUNCTIONS OF STATE GOVERNMENT

A common conception of the intergovernmental relationship is that the national government has "co-opted" many of the original powers and responsibilities of the states because of a general failure of the latter to perform their designated functions. This conception has some limited validity, but there is evidence to show that this is a serious misrepresentation of the relationship and performance of the two levels of government. The Civil War and a series of Twentieth Century United States Supreme Court decisions have, in effect, allowed the national government to move into and preempt some of

68. See, for example, supra note 8, at ch. 2; Campbell ed., supra note 6; supra note 38, at 131-50, 157-59.
HAVE STATES BECOME AN ANACHRONISM

those policy areas previously within the domain of the states. Since 1900, in particular, Washington has tremendously increased its involvement in arenas previously occupied by the state and local governments. As Morton Grodzins and Daniel Elazar have pointed out, however, the pattern of inter-governmental relations throughout this country's history has been one of "sharing" and not of "monopolizing" specific powers.\textsuperscript{70} Moreover, much of the national government's domestic expansion has been in the form of loans and conditional grants-in-aid, the character of which are frequently misunderstood. As one scholar has noted, grants-in-aid have not reduced state governments to administrative arms of Washington, since these transfers of funds have not entailed an absolute abdication of power (especially in the case of block grants), and they have substantially shored up the financial status of state and local governments.\textsuperscript{71} He further observed that:

It is likely that one of the significant effects of the grant programs has been to strengthen state and local governments in their operations and to further decentralize political power. For the receiving governments do not lose all their autonomy when they enter into such programs. They distribute money, hire personnel, and make key decisions that affect the public and doubtless tend to give these governments much greater visibility than they would otherwise have.\textsuperscript{72}

Indeed, a major development in this century has been the increase in the amount of activity in the states, much of which has been in areas in which the states have assumed the major responsibility for policy formulation and administration. The states, for example, are the primary instruments of government conducting programs in the general policy areas of highways, natural resources, health, and welfare.\textsuperscript{73} State governments are also the major sources of funds for higher education, and a recent survey has shown that three state universities are now ranked among the six foremost schools in this country (the Universities of California at Berkeley, Wisconsin-Madison, and Michigan).\textsuperscript{74} The regulatory functions of the states are quite extensive too, and one study has pointed out

\textsuperscript{71} Supra note 24, at 109-16.
\textsuperscript{72} Id.
\textsuperscript{73} Supra note 24, at 19.
\textsuperscript{74} ROOSE and ANDERSON, A RATING OF GRADUATE PROGRAMS (1970).
that they have the powers to charter corporations, control terms of business contracts, license trades and professions, grant land titles, protect private and civil rights, regulate utilities, and set the legal framework of family organization through marriage, divorce, and adoption legislation. Authority to limit the uses of land and other property in order to abate water and air pollution or other dangers to the public health resides in the states. Building codes and zoning plans rest on state powers.\textsuperscript{75}

One is led to wonder whether or not those critics who have urged the scrapping of state governments have considered the vast range of functions which would have to be transferred.

THE STATES AS ADAPTIVE MECHANISMS

One of the traditional arguments for the existence of the states has been that they have been instruments for adapting to the social, cultural, and economic diversity of American society. Has this need diminished, as some have suggested,\textsuperscript{76} in the face of studies showing the United States moving closer and closer to being a "mass society?"\textsuperscript{77} Judging from recent work by social scientists, there still exists a great deal of diversity among the fifty states. A 1966 analysis by Daniel Elazar, for example, noted the persistence of several different political cultures in this country, which varied quite widely from state to state and from region to region. This study identified the areas of this country in which three different orientations to government—moralistic, individualistic, and traditional—seem to be present.\textsuperscript{78} In Elazar's opinion, a traditionalist attitude is most common in the South and reflects an attitude favoring the status quo in the society. A moralistic orientation, on the other hand, would favor governmental intervention for the purposes of achieving general welfare goals, and is associated with areas of the country such as the Midwest where reform and progressive movements have been strong. Finally, the individualistic culture—which Elazar sees as prevalent in some of the Rocky Mountain areas and New England—favors a minimum of

\textsuperscript{75} Committee on Economic Development, Modernizing State Government 12 (1967).

\textsuperscript{76} Supra note 13. This author has even asserted that this country could more accurately be referred to as the "United State" the 's' being dropped.

\textsuperscript{77} See, for example, Rosenberg and White, supra note 32, and Stein, supra note 32.

\textsuperscript{78} Elazar, supra note 21, at ch. 4.
governmental action and intervention. Indeed, other studies have pointed out the distinct patterns of politics in different states and regions, which seem to have arisen in response to a variety of cultural, economic, and historical factors. State-to-state differences in policy outputs can probably be entirely explained only by taking into account all of the distinctive forces at work within a jurisdiction.

It must also be recognized that the states must deal with a vast array of problems, demands, and needs which are by no means similar. Some of the major issues confronting the legislatures of Kentucky and West Virginia, for example, stand in stark contrast to many of those being dealt with in other parts of the country. The Progressive influence is still quite apparent in the politics and policies of Wisconsin and Minnesota, while Southern states remain affected by traditions and problems dating back to the earliest days of their history. Many states have actively attempted to attract industry and tourism, while Oregon has made it known that it considers both of these forces detrimental to the state. As one analysis of the cultural, economic, and political diversity of the states has noted:

The nationalization of American politics is more often alleged than demonstrated. The nationalizing process has not proceeded so far as to obliterate the regions. Those who perceive homogenization may exaggerate the speed, if not direction, of political change.

INTER-STATE RELATIONSHIPS

Problems extending beyond the borders of state lines have often been thought to represent a major deficiency of the states and a major justification for increasing national action. Yet, interstate cooperation is by no means a rare phenomenon, although it does occur in a variety of forms. Formal agreements and compacts are still important devices for dealing with disputes and major problems

79. Id.
80. See, for example, FENTON, MIDWEST POLITICS (1966); LOCKARD, supra note 26; JONAS, WESTERN POLITICS (1961).
82. FENTON, supra note 81.
83. Supra note 38, at 30.
between states, and recent examples of such cooperative ventures include the Tri-State Transportation Compact (Connecticut, New Jersey, and New York), the Interstate Air Pollution Compact (Illinois and Indiana), and a far-reaching agreement among southern states on higher education programs.

Of perhaps equal significance, however, may be the interaction of elected officials and public administrators from various states. Through a mixture of informal contacts, professional organizations (e.g., the National Association of State Budget Officers and the National Society of State Legislators), and national and regional councils and conferences (e.g., the Council of State Governments, the National Conference of Commissioners on Uniform State Laws, the National Conference of Governors and the National Legislative Conference), ideas and data are extensively exchanged. That this has had an impact upon public policy was demonstrated by Ira Sharkansky, who noted that a common cue for decision-makers was to examine and apply the policies and procedures of neighboring jurisdictions.84

THE FUTURE OF THE STATES

It is difficult to predict the future and this would include predicting the future role of state government in the federal system, but it seems clear that the states demonstrate a clear and present vitality and are not doomed to the anachronistic future some of their critics have predicted. To be sure, there are significant pressures which promote the centralization of power in Washington. As Elazar has pointed out:

The need for managing a national economy, meeting foreign pressures, and securing the constitutional rights of all citizens, as well as the pressures toward elimination of diversity within the country—all these operate to centralize governmental power even when steps to prevent centralization are taken with specific programs. . . . There is another problem in that the public information system, as it is presently constituted, tends to focus public attention on Washington to the exclusion of the states and localities.85

84. Sharkansky, The Routines of Politics ch. 6 (1970); see also Walker, The Diffusion of Innovations Among the American States, 63 AM. POL. SCI. REV. 880-99 (1969).

Even with these forces at work, however, there is no mass disenchantment with state government, nor have there been multitudinous public outcries for reducing the roles of the states. And this has been the case "in a nation that prides itself in being pragmatic—less concerned with form than with function and willing to try anything if it 'works'."  

At the same time, there are numerous indicators—direct and indirect—of the viability of state government and the likelihood of its assumption of an increasingly crucial role in the 1970's. The increasing possibilities of federal revenue sharing may be viewed as signifying an increasing amount of support for state government. As pointed out earlier, the states have assumed an increasingly larger share of domestic expenditures and have extensively expanded their activities, and both of these trends appear likely to continue. An examination of the number of civilian employees of each of the three levels in the federal system reveals that the major personnel increases in recent years have been in the areas of state and local government, as shown in Table VIII below. Moreover, recent federal projections indicate that employment opportunities will be much greater in these two areas in the years to come.

It should also be pointed out that the academic community has shown a renewed interest in the affairs of state government. One recent article began, "State and local politics as a field of political science is no longer a 'lost world' or the site of 'Dullsville,'" and the Advisory Commission on Intergovernmental Relations has pointed out a distinct need for more course offerings in this area. Several different books have also appeared in the past three months which have come out strongly in favor of state government and its role in the federal system.

86. Id. at 22.
87. Supra note 38, at 16-20.
91. See, for example, supra note 38.
<table>
<thead>
<tr>
<th>Year and Function</th>
<th>Employees (1,000)</th>
<th>Payroll (mil. dol.)</th>
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<tr>
<td></td>
<td>Federal (civilian)¹</td>
<td>State and Local</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>State</td>
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<tr>
<td>1950</td>
<td>6,402</td>
<td>4,285</td>
</tr>
<tr>
<td>1960</td>
<td>8,808</td>
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<td>1966</td>
<td>11,479</td>
<td>8,618</td>
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<td>1967</td>
<td>11,867</td>
<td>8,874</td>
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<tr>
<td>1968</td>
<td>12,342</td>
<td>9,358</td>
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<tr>
<td>Total 1970</td>
<td>13,028</td>
<td>10,147</td>
</tr>
</tbody>
</table>

¹ Includes federal civilian employees outside the United States.

The trends and developments pointed out in this paper have suggested that state legislatures and state governments are likely to confront problems of critical dimensions in the 1970's and there are numerous indications that they possess the capacity for dealing with them. The states have shown a willingness to experiment with various revenue sources, and revenue sharing can only improve their fiscal capacity and reduce state-to-state disparities in wealth. The quality of personnel attracted to state service has improved substantially, and a number of efforts have been undertaken in recent years to modernize state governmental machinery. The activities of state government have not diminished in the Twentieth Century, but rather have expanded tremendously, and state expenditures now make up a significant portion of the national economy. The states continue to bear a major responsibility for the provision of essential public services, and an increasing number of legislatures have demonstrated a continuous capacity for formulating innovative public programs. Finally, the states continue to serve as mechanisms capable of adapting to cultural and economic diversity and the variety of demands and needs resulting from such differences. As one observer of state government recently noted:

The federal government can raise money and serve as a banker, but the applied administration has no place to settle except on the shoulders of state and local governments, cast in the role of agencies for carrying out national goals and objectives through local adaptations. State and local government will be big business in the Seventies.92

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