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The U S Advisory Commission on Intergovernmental Relations: Some Personal Observations

by John Shannon

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THE U.S. ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS: SOME PERSONAL OBSERVATIONS

John Shannon *

INTRODUCTION

It is perhaps significant that it took Congress almost 170 years to give explicit institutional recognition to federalism. In 1959, the Congress established the Advisory Commission on Intergovernmental Relations (ACIR) to monitor the federal system and to recommend improvements.

There were some formidable obstacles to the creation of an agency whose only stock in trade is advice. Congress tends to view itself as the ultimate commission on intergovernmental relations and insisted that the label *Advisory* be tacked onto our Commission on intergovernmental relations. The idea of creating a commission on intergovernmental relations also met with some opposition from the Bureau of the Budget - now the Office of Management and Budget. One group within the Bureau of the Budget urged President Eisenhower to veto the legislation on the grounds that the Federal Government did not need yet another commission to clutter up the policy landscape; they argued that the Bureau of the Budget was perfectly capable of handling intergovernmental issues.

COMPOSITION OF THE COMMISSION

The composition of the ACIR stands out as a classic example of a studied and successful attempt to capture the pluralistic character of American federalism.

The ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, State, and local government and the public. The Commission is composed of 26 members - nine representing the Federal Government, 14 representing State and local government, and three representing the public. The President appoints 20 members - three private citizens and three Federal Cabinet Officers directly. The President also appoints four governors, three State legislators, four mayors, and three elected county officials from slates nominated by their respective organizations - the National Governors Conference, the Council of State Governments, and the National League of Cities/U.S. Conference

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of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House. Each Commission member serves a two-year term and may be reappointed.

This diverse intergovernmental representation, coupled with the bipartisan character of the appointment process, has enabled the Commission to maintain a remarkable degree of independence and objectivity. To be more specific, if a Republican White House leaned too heavily on the Commission staff, such action would be stoutly resisted by the Democrat members of the Commission, especially our Congressional members.

COMPOSITION OF STAFF

The staff of ACIR has two unique characteristics. First, in comparison with the typical Federal agency, the size of the staff is miniscule - approximately 20 professional and 20 clerical employees. We are just slightly larger than the Civil War Battles Monuments Commission. Second, unlike the great majority of Federal employees, we do not have Civil Service job protection.

The hiring arrangement is simple. The Executive Director of the Commission serves at the pleasure of the Commission and the other employees serve at the pleasure of the Executive Director.

Despite the absence of "Civil Service protection", the ACIR is probably one of the most professional staffs in Washington. In the 11 years of my association with the Commission I have never detected any hiring or firing decisions made on the basis of partisan politics. Undoubtedly, the bipartisan character of the Commission has helped to keep things on an even keel.

One further note about the professional staff - it is fairly evenly divided between economists and political scientists. Some observers would put it differently - that the staff is evenly divided between realists and idealists.

WORK AGENDA

In actual practice the staff's workload is largely determined by the Commission's selection of study projects. Because it is difficult to find any major domestic issue that does not have a significant intergovernmental dimension, the Commission's charter is very broad. The staff maintains a laundry list of major intergovernmental issues and the Commission decides which study project should be selected for research and recommendations.

In recent years the Commission has also approved some requests of Federal agencies to conduct special studies. These requests have come despite the fact that the Federal agencies have no assurance that the "ACIR seal of good housekeeping" will be stamped on their pet policy objectives. In the past two years, the Congress has directed the Commission to undertake special studies in the public finance field.

RESEARCH PROCEDURES

Because the ACIR research staff is composed essentially of "general practitioners" it is necessary for us to rely on the experts in order to give the Commission a comprehensive and balanced view of the issues involved in each new study project. Shortly after launching a new research effort, the staff invites knowledgeable persons representing all points of view to a "thinkers' session". At this meeting the invited guests are encouraged to point out the omissions or weaknesses in the proposed study outline. Before the study is sent on to the Commission for final resolution, the experts are invited back for a "critics' session" and are further encouraged to point out any sins of omission or commission.

As a further policy safeguard, the staff is instructed to "argue with itself" and to present the Commission's alternative recommendations on all controverted issues. As you might expect, those alternatives range from pabulum (the status quo) to castor oil (radical departure from the status quo).

In some cases the Commission's final policy decision does not always neatly conform to the staff findings. Our recent report, *General Revenue Sharing: An ACIR Re-Evaluation*, serves as a case in point. While the staff found the distribution formula had certain weaknesses, the Commission took the position that these shortcomings were not so severe as to justify recommending basic alterations in the formula. The Commission was concerned that any attempt to "perfect" the distribution formula was bound to create a great deal of controversy and perhaps jeopardize the renewal of the program itself. Thus, this report has been used by both the friends and the foe of the general revenue sharing program.

While most of the Commission's research work is done in-house, we do find it necessary to "farm out" certain projects under contract research arrangements.

IMPLEMENTATION

There is a very strong aversion among Commission members to the practice of churning out "still another report to gather dust on the bookshelves". As a result, the Commission has instructed the staff to translate their recommendations into law whenever possible. The staff, with the help of outside consultants, drafts "model" State legislation and proposed Federal legislation. For example, after the Commission recommended Federal revenue sharing with State and local governments, the staff, in consultation with all interested parties, drafted a revenue-sharing proposal that was subsequently introduced as a bill by our Commission member, Senator Muskie. It was the first revenue-sharing bill to receive a hearing in the Congress.

The final revenue-sharing bill signed into law by President Nixon was a direct legislative descendant (albeit with certain mutations) of the Muskie-Goodell bill.

Most of our implementation effort is directed at the States. We have chalked up our biggest implementation success in the property tax relief area. Twenty-five States have adopted the ACIR circuit-breaker plan designed to shield low income homeowners and renters from residential property tax overload situations. There is nothing as satisfying as being in the vanguard of a *popular* reform.

GENERAL PHILOSOPHY

Probably the best way to describe the overall policy thrust of the Commission is that of "leaning against the wind" and, in the light of our recent history, opposing the trend toward centralization of authority in the National Government.

The Commission's basic philosophy is that federalism is strong only when all three levels of government are strong. In more practical terms this means that the States and the local governments should have a considerable degree of fiscal independence. ACIR has promoted the idea of balanced State use of income and sales taxes. It has recently endorsed local use of income and sales taxes under certain safeguard conditions.

It would be a mistake, however, to characterize the ACIR's general philosophy as completely decentralist in character. Equity and fiscal considerations have prompted the Commission to urge the States to relieve local government of most of the cost of elementary and secondary education. It has also urged the Congress to assume complete responsibility for the financing of public welfare and medical care for the poor.

The Commission has repeatedly stressed the need to construct a well rounded Federal aid system. Such a system calls for (a) categorical aid programs to stimulate State and local action in areas of specific national interest, (b) block grants to help States and localities meet national needs in broad functional areas, and (c) general support grants (revenue sharing) to reduce intergovernmental fiscal disparities and to enhance the ability of States and localities to meet their own diverse budgetary needs.

ACIR - FIVE MAJOR FUNCTIONS

Abstracting from my experiences I would say that the Commission performs at least five major functions - negotiation, innovation promotion, consensus formation, information dissemination, and, in at least one notable case, the exercise of a veto.

Negotiation Function

Perhaps the most dramatic example of the negotiation function performed by the Commission occurred at the time that it was considering Federal revenue sharing back in 1966. When it came to that all-important issue of dividing up the Federal revenue-sharing pie, there was a head-on clash between the governors on the one hand and the representatives of local government on the other.

The governors took the classic view of federalism (also the one expounded by Professor Heller in those days) that all of the Federal funds should go to the States and the States would then decide how much would be kept at the State level and how much would be passed on to local governments. After all, the governors argued, the cities and counties were creatures of the States and therefore it would be entirely inappropriate for the National Government to bypass the States by sending funds directly to local governments. As can be expected the representatives of local governments, especially the big-city mayors, took the opposite position. They observed that the cities of the nation were experiencing the most acute fiscal distress - so local governments should be entitled to most, if not all, of the Federal revenue-sharing funds and the funds should be untouched by State hands.

After this debate had gone on for a considerable period of time, Governor Nelson Rockefeller of New York emerged as the great compromiser. He prefaced his remarks with the observation that "What I am about to say I probably should not say as a governor. However, if we expect to get revenue sharing from a hostile Congress we governors are going to have to make peace with the big-city mayors. That means that a good share of the Federal revenue sharing funds will have to be sent through directly to local governments."

This Rockefeller compromise was accepted by the Commission and became the basis of a powerful State-local coalition in support of Federal revenue sharing. This State-local coalition (aided by strong White House support) eventually forced revenue-sharing legislation through a very reluctant Congress.

It should be noted that the Rockefeller compromise clearly underscored the realities of American politics. The big-city mayors had enough clout in the House of Representatives to block any revenue-sharing legislation that earmarked all Federal revenue-sharing funds for the States. On the other hand, the States were strong enough in the United States Senate to veto any revenue-sharing proposal that cut them off at the pockets.[1]

Innovation Function

One of the primary arguments in favor of federalism can be traced to the assertion that State and local governments serve as first-rate laboratories for innovations. Thus, the Commission staff is constantly on the lookout for novel solutions to new and old problems. For example, the State of Minnesota recently passed legislation that attempts to reconcile the strong local desire to maintain community identity with the need for fiscal equalization in the metropolitan area. The new legislation directs that 40 per cent of the value of all new commercial and industrial property be pooled for tax purposes and then redistributed under an equalization formula among all the local governments within the seven county Minneapolis-St. Paul metropolitan area. This legislation in effect answers the question "What price apartheid in a balkanized metropolitan area?" It declares that those communities experiencing above-average growth in their commercial and industrial tax bases must share part of their property tax nuggets with their lesser-endowed neighbors.

Although the Commission has not yet specifically endorsed the share-the-growth concept, it has given widespread publicity to this Minnesota approach for reconciling the conflicting demands for local identity and metropolitan equity.

Consensus-Reform Function

Undoubtedly one of the Commission's most important functions is to push conventional reforms in those areas where there is fairly widespread agreement on the diagnosis and prescription. For example, there is increasing agreement

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[1] This power to exercise a veto serves as still another example to support Calhoun's contention that major Federal decisions require a "concurrent majority".

throughout the country on the proposition that most States need both an income and a sales tax in order to fulfil their fiscal roles in our contemporary federal system. The Commission, therefore, has consistently sought to win agreement for an income tax in the sales tax States and to gain support for a sales tax in the income tax States. Since the creation of the Commission in 1959, the number of States with broad-based income taxes has risen from 31 to 40 and the number of sales tax States has increased from 35 to 45.

Information Dissemination Function

If the truth were known I suspect that the Advisory Commission's good reputation is due in large part to the factual information that it disseminates. To put it another way, our policy recommendations may slay their hundreds, but our factual data slay their thousands. The biennial edition of *Significant Features of Fiscal Federalism* is one of our best sellers. The latest version had approximately 180 tables containing interstate and, in some cases, interlocal comparisons of tax trends, revenue effort, expenditure patterns, and debt trends. I am convinced that the quickest way to build credibility is to provide the public with the facts they need to draw policy inferences.

Veto Function

On at least one occasion the Commission has exercised a veto function. In January of 1972 President Nixon referred to our Commission a proposal that called for the adoption of a major Federal program of local residential property tax relief, conditioned on expanding State financing of local schools and underpinned by a proposed new Federal value-added tax. Out study caused us to conclude that, despite the seriousness of the property tax relief issue and the need for greater State participation in the funding of local schools, a massive new Federal program to bring about property tax relief was neither necessary nor desirable. The Commission also turned thumbs down on a more modest proposal that called for Federally-financed property tax relief for elderly homeowners, on the grounds that this was a State responsibility and that the States were making rapid progress in the property tax relief area.[2]

These negative decisions by the Commission certainly erected a substantial barrier to quick legislative adoption of a Federally-financed property tax relief program, be it

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2 ACIR, *Financing Schools and Property Tax Relief - A State Responsibility*, A-40, January 1973.

large or small. Perhaps the use of the word "veto" to describe our function in this particular case is too sweeping. Nevertheless, the Commission's action certainly dampened growing Congressional and Administration interest in this issue. This experience has convinced me that there is a need for a commission to serve as the testing place for prescriptions that appear to have great political popularity but could create adverse side-effects for our federal system.

SUMMARY

Let me conclude my remarks with a strong caveat - my remarks in this paper represent the impressions of one "insider". They have to be weighed in that light. Nevertheless, I do believe that even the more objective "outsider" would agree that over the years the Advisory Commission has taken on considerable policy stature. This is a rather impressive accomplishment when it is noted that, according to law, our only stock in trade is handing out advice.