

CSF Notebook

THE CENTER FOR THE STUDY OF FEDERALISM

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Summer 1990

IN THIS ISSUE

From the Editor	1
News from the Center for the Study of Federalism	2
News from the International Association of Centers for Federal Studies	3
News from the APSA	3
News from the New York Bicentennial Commission	6
Conferences	7
Recent Publications	8
PUBLIUS: Current and Forthcoming Issues	9
A Federalism Research Agenda	12

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FROM THE EDITOR

It is with mixed emotions that the CSF Notebook must announce an editorial change. As many of the Notebook's readers know, Ellis Katz, longtime Resident Scholar at the Center for the Study of Federalism and the most recent editor of this newsletter, will be leaving the Center to assume new duties within Temple University's Political Science Department. The new editor would like to take this opportunity to express his deeply held appreciation and gratitude to Ellis Katz for his dedication and service to the Center and the CSF Notebook.

The current CSF Notebook and future issues will continue to disseminate information about federalism and intergovernmental relations in an organized and timely fashion. Readers are encouraged to contribute appropriate news items on research designs, teaching techniques, new publications or upcoming conferences to be included in future issues. Such information should be sent to Joseph Marbach, Center for the Study of Federalism, Temple University (025-25), Philadelphia, PA 19122.



NEWS FROM THE CENTER FOR THE STUDY OF FEDERALISM

Upcoming Center Sponsored Conferences

The Center will convene three invitational conferences during the 1990-91 academic year. While all three are currently in the planning stages, the theme of each has been determined.

In December, 1990, conferees will discuss "Federalism and the Turn to Democracy," focusing on the federalist revolutions taking place in Eastern Europe and Latin America. Topics such as strengthening existing systems, transforming current systems into federal ones and other varieties of responding to ethnic problems will be explored.

In February, 1991, "Confederation as a Renewed Federal Option" will be the theme. Sessions at this meeting will include: The European Community as a New Model; The Transformation from Federalism to Confederalism: the case of Yugoslavia; Formal Confederal Experiments; and Confederation and International Organization.

The final colloquium in April, 1991, will address Aboriginal and Indian questions. Central to this conference will be the status, laws governing and provision of services to domestic dependent nations, as well as the nature of Indian demands and appropriate federal solutions.

Upcoming Liberty Fund Conference

The Center for the Study of Federalism is pleased to be the host institution for an upcoming invitational conference, sponsored by the Liberty Fund. This colloquium scheduled for November 10-12, 1990 will focus on the "Politics of Johannes Althusius", a political scientist and political philosopher of the late sixteenth and early seventeenth centuries. While much neglected in the mainstream of modern political thought, his work entitles him to be considered at least the "godfather" of modern federalism. Participants will read Frederick Carney's The Politics of Johannes Althusius along with two specially commissioned papers by Daniel J. Elazar and Thomas Hueglin.

Earhart Fellowship

Once again, the Earhart Foundation has generously agreed to support a graduate research assistant at the Center. The recipient of the 1990-91 Earhart Fellowship is Steven J. D'Aguanno, who will be entering Temple University's Political Science Graduate Program in Fall 1990. Mr. D'Aguanno received his B.A. from Temple University in May, 1990.

**NEWS FROM THE INTERNATIONAL ASSOCIATION OF
CENTERS FOR FEDERAL STUDIES**

The Centre for Federal Studies at Liecester University will host three major events in the federal studies calendar this year.

Among these are the Annual General Meeting of the International Association of Centers for Federal Studies. This meeting will be held on Thursday afternoon, September 13, 1990.

Prior to this meeting, the Centre is sponsoring a conference titled "Soviet Federalism: The Nationality Question and Economic Decentralization". This conference will run September 11-13, 1990.

Finally, the Comparative Federalism and Federation Research Committee of the International Political Studies Association will hold its Sixth Annual Conference on September 13-14, 1990. The theme of this conference is "Ethnicity and Federalism".

If you have any questions or require further details on the above events, please contact:

The Centre for Federal Studies
University of Leicester
University Road
Leicester LE1 7RH
Phone: 0533 522702
Fax: 0572 821 873

NEWS FROM THE APSA

Section Business Meeting

The Business Meeting is scheduled for Thursday, August 30 at 5:30 p.m. The precise location will be announced in the final program. Our most important and pleasant piece of business will be the Section's first award to a scholar or practitioner for his or her distinguished contribution to the field. Ken Palmer (chair), Ron Watts and Deil Wright are serving as our Award Committee but will keep the name of the recipient a secret from us until the meeting.

Other agenda items include:

- election of Section Chair for 1990-91
- election of Secretary-Treasurer for 1990-91
- election of three Council members for 3-year terms
- Selection of Program Chair for 1991 Annual Meetings
- Selection of Award Committee for 1991

Please make every attempt to join us both at the Business Meeting and at the panels. The vitality of our section depends on your participation.

PRELIMINARY PROGRAM AT THE APSA ANNUAL MEETING

Thursday, 1:30 p.m.

FEDERALISM AND POLICY ISSUES FOR THE 1990s

Chair: Donald S. Lutz, University of Houston
Papers:

"The New Politics of Abortion" Malcolm Goggin, University of Houston

"State Health Policy Innovations: Stimulus or Constraint on Federal Action?" William W. Lammers, University of Southern California

"Nuclear Waste Politics: Siting the High Level Nuclear Waste Facility" Eric B. Herzik, University of Nevada, Reno

"Decentralization of Control: The U.S. Nuclear Power Controversy Since Three Mile Island" Christine Joppke, University of California, Berkeley

Disc.: Greg Weiher, University of Houston
Regina Axelrod, Adelphi University

Friday, 8:45 a.m.

A ROUNDTABLE ON FEDERALISM AND THE BICENTENNIAL: LESSONS LEARNED

Chair: Stephen L. Schechter, New York State Commission on the Bicentennial of the United States Constitution and Russell Sage College

Participants:

Richard B. Bernstein, New York City Commission on the Bicentennial of the United States Constitution and New York University

Kenneth Gladish, Indiana Humanities Council and Butler University

Donald S. Lutz, University of Houston

Sheila K. Mann, American Political Association

Malcolm L. Richardson, National Endowment for the Humanities

Duane E. Smith, Center for Civic Education and University of California, Los Angeles

Friday, 10:45 a.m.

A ROUNDTABLE ON COMPARING CAREER PATHS FOR WOMEN AND MEN IN STATE CIVIL SERVICE SYSTEMS: A COMPARISON OF DATA GATHERED IN ALABAMA, WISCONSIN, TEXAS, ARIZONA, UTAH AND CALIFORNIA

Co-chairs: Rita Mae Kelly, Arizona State University
Lois L. Duke, University of Alabama, Tuscaloosa

Participants:

Mary E. Guy, University of Alabama, Birmingham

Mary Hale, Texas Tech University

Jeannie R. Stanley, University of Texas-Tyler

Amal Kwar, Utah State University

Georgia Duerst-Lahti, Beloit College

Cathy M. Johnson, University of Wisconsin

Jane H. Bayes, California State University, Northridge

Friday, 3:30 p.m.

A ROUNDTABLE ON COMPARATIVE FEDERALISM: INTERGOVERNMENTAL RELATIONS IN THE U.S. AND CANADA

Chair: Robert D. Thomas, University of Houston

Participants:

David M. Olson, University of North Carolina at Greensboro

Victor Jones, University of California at Berkeley

H. Peter Oberlander, University of British Columbia

Frances Frisken, York University

C.E.S. Franks, Queen's University

Saturday, 8:45 a.m.

FEDERALISM AND ENVIRONMENTAL POLICY

Chair: Charles Davis, Colorado State University

Papers: "Federalism and New Environmental Problems" David J. Webber, University of Missouri

"Metro Politics in the Denver Region: The Denver Airport EIS as a Vortex for Regional Change" Scott T. Moore, Colorado State University; Steven Rhodes, National Center for Atmospheric Research

"Scratching the Surface: Understanding Interstate Variations in the Implementation of the Surface Mining Control and Reclamation Act of 1977" Denise Scheberle, Colorado State University

"The States and Devolution: Implementing Federal Mandates" David M. Hedge, West Virginia University; Charles Davis, Colorado State University; Michael J. Schicchitano, University of Florida

Disc: Ann O'M. Bowman, University of South Carolina
C.K. Rowland, University of Kansas

Saturday, 10:45 a.m.

A ROUNDTABLE ON SETTING A RESEARCH AGENDA FOR THE STUDY OF THE AMERICAN COUNTY.

Chair: Donald C. Menzel University of South Florida

Papers: "Counties as Units of Analysis: Differences and Similarities with Cities" Vincent L. Marando and Mavis M. Reeves, University of Maryland

"Size and Structure as Determinants of County Service Delivery: The Case of Florida" Donald C. Menzel and J. Edwin Benton, University of South Florida

"The County as a Forum for Local Self Governance" Roger Parks, Indiana University

"Leadership in Cities and Counties: Comparing Chairpersons and Mayors of Council-Manager Governments" James H. Svava, North Carolina State University

"Assessing County Officials Perspectives on Intergovernmental Relations and Local Capacity" William L. Waugh, Jr. and Gregory Streib, Georgia State University

Participants:
John Thomas, National Association of

Counties

Mark Schneider, SUNY at Stony Brook

Beverly Cigler, Penn. State, Harrisburg

Robert D. Thomas, University of Houston

Tanis J. Salant, University of Arizona

Saturday, 1:30 p.m.

FEDERAL PREEMPTION AND STATE RESPONSE: THE POLITICS OF HAZARDOUS WASTE REGULATION

Chair: Robert F. Pecorella St. John's University

Papers: "Land Use and Hazardous Waste: Siting Issues in New York State" Robert F. Pecorella, St. John's University

"Federal Mandates and Hazardous Waste Management in Pennsylvania" Robert E. O'Connor, Pennsylvania State University

"Administrative Preemption and State Authority: Revisiting the Middle Ground Thesis", Cheryl Wilf, Kutztown University

"Regulating Underground Storage Tanks: A New Model for Federal-State Relations", Steven Cohen, Columbia University and Sheldon Kamieniecki, University of Southern California

Disc: Daniel Mazmanian, Claremont Graduate School

Saturday, 3:30 p.m.

PRELIMINARY FINDINGS OF THE CENTER FOR THE STUDY OF FEDERALISM--UNIVERSITY OF NEBRASKA PRESS SERIES ON THE GOVERNMENT AND POLITICS OF THE FIFTY AMERICAN STATES

Chair: John Kincaid, ACIR

Papers: "Arkansas", Diane Blair, University of Arkansas

"Illinois", Samuel K. Gove, University of Illinois; James D. Nowlan, Knox College

"Louisiana", Charles D. Hadley, University of New Orleans

"Pennsylvania", D. Grier Stephenson, Jr., Franklin and Marshall

Disc: Daniel J. Elazar, Temple University and Bar Ilan University

**New York State Bicentennial Commission
Leaves Lasting Legacy**

On March 31, 1990, the New York State Bicentennial Commission expired after a brief three-year history of achievements under the direction of Dr. Stephen L. Schechter. Prior to its expiration, the Commission established three legacy projects.

The first legacy project is the Commission's publication program. Of special interest to Notebook readers might be: Contexts of the Bill of Rights, containing extensive chapters detailing the origins, adoption, and historiography of the federal Bill of Rights; Roots of the Republic, containing interpretive commentaries and original texts of nearly twenty American founding documents from the Mayflower Compact to the Bill of Rights; Well Begun, a beautifully illustrated history of the establishment of the national government in 1789; and World of the Founders, a collection of case studies of New York communities in the federal period. For order information, please write to: Madison House, 2016 Winnebago Street, Madison, WI 53704.

The Commission also co-produced an Emmy-award winning film, "An Empire of Reason," with the New York State Bar Foundation. This one-hour film, available on video cassette, places the constitutional ratification debate in today's electronic age. Chronicled by Walter Cronkite, report by Fred Graham and Forest Sawyer, commentated by John Chancellor, and hosted by Governors Mario Cuomo and Tom Kean, with guest appearances by Alexander Hamilton and others on William F. Buckley's Firing Line and the Phil Donahue show, the ratification battle in New York unfolds in a way familiar to most high school and college students. For order information, please write to: Dr. Eric Mondschein, LYC Program, New York State Education Department, Education Building--Room 228, Albany, NY 12234. A teacher guide is also available for secondary-school teachers.

Finally, the Commission has recognized the Council for Citizenship Education as a legacy project to continue the work of the Commission. Directed by Dr. Schechter, the council will serve as a resource for citizenship education and constitutional studies in New State. For more information, please write: Dr. Stephen L. Schechter, Council for Citizenship Education, Russell Sage College, Troy, NY 12180.

CONFERENCES

52nd Annual Pennsylvania
Political Science Association Meeting
April 12, and 13, 1991
Dickinson College
Carlisle, Pennsylvania

The Pennsylvania Political Science Association invites proposals for papers to present at its 1991 meeting. Proposals must be received no later than November 1, 1990. Questions of a general nature concerning the program or regarding proposals should be directed to: Professor Thomas J. Baldino, Department of Political Science, Juniata College, Huntingdon, PA 16652, (814) 643-4310.

Forthcoming Symposium

The Politics of Abortion Rights

The *American Politics Quarterly* invites submissions for its upcoming symposium issue on *The Politics of Abortion Rights* to be published late in 1992. The debate over abortion has had an impact on many elements of American politics at all levels of government, including voting behavior, interest group and party activity, legislative and judicial behavior, and executive action. Any of these aspects, and others related to abortion politics and policy, would be appropriate subjects for the symposium we are planning. Papers comparing the U.S. to other nations are appropriate as long as the U.S. is a major focus. By sponsoring a symposium on this controversial issue, the editors of APQ hope to draw together the diverse literature on the politics of abortion policy, stimulate new research, and in so doing to shed light on several aspects of American politics.

The deadline for submission of manuscripts is November 1, 1991. Obviously, we are looking for scholarly manuscripts, not advocacy tracts. All papers will be sent for anonymous review to three referees, APQ's regular review process.

Recent Publications

John Kincaid had edited an issue of *The Annals* of the American Academy of Political and Social Science (Vol. 509, May 1990) entitled "American Federalism: The Third Century." The contents of the volume are as follows:

Preface	9
<u>John Kincaid</u>	
Opening the Third Century of American Federalism: Issues and Prospects	11
<u>Daniel J. Elazar</u>	
Financing Federal, State, and Local Governments in the 1990s	22
<u>Susan A. MacManus</u>	
Intergovernmental Fiscal Roles and Relations	36
<u>Richard P. Nathan and John R. Lago</u>	
Regulating Intergovernmental Relations in the 1990s	48
<u>Joseph F. Zimmerman</u>	
Policy Shifts in the Politics and Administration of Intergovernmental Relations, 1930s-1990s	60
<u>Deil S. Wright</u>	
Federalism's Future before the U.S. Supreme Court	73
<u>Eugene W. Hickok, Jr.</u>	
The States as Polities: Reformed, Reinvigorated, Resourceful	83
<u>Mavis Mann Reeves</u>	
State-Local Relations in the 1990s	94
<u>Michael A. Pagano</u>	
National-Local Relations and the City's Dilemma	106
<u>Robert D. Thomas</u>	
State and Local Governments in the International Arena	118
<u>Earl H. Fry</u>	
Politics and Governance: Conflicting Trends in the 1990s	128
<u>Timothy J. Conlan</u>	
From Cooperative to Coercive Federalism	139
<u>John Kincaid</u>	

Single copies are available at \$9.95 (paper) and \$17.95 (cloth) from Sage Publications; P.O. Box 5084; Newbury Park, CA 91359.

PUBLIUS: The Journal of Federalism
Volume 20, Number 1

Articles

Managing Federalism Through Metropolitan Human Services Intergovernmental Bodies	1
by <u>Robert Agranoff</u>	
The Politics of Innovation in State Courts: The Merit Plan of Judicial Selection	23
by <u>Philip L. Dubois</u>	
The Correlates of Life Quality in U.S. Metropolitan Area	43
by <u>Joel Lieske</u>	
The Articles of Confederation as the Background to the Federal Republic	55
by <u>Donald S. Lutz</u>	
Diversity in the American States: Updating the Sullivan Index	71
by <u>David R. Morgan and Laura Ann Wilson</u>	
A Reassessment of Federalism as a Degree of Decentralization	83
by <u>Eghosa E. Osaghae</u>	
More Than Just a Line on the Map: The Political Culture of the Nova Scotia-New Brunswick Boundary	99
by <u>Ian Stewart</u>	
Is Federalism a Political Question? An Application of the Marshallian Framework to Garcia	113
by <u>Carol Lynn Tebben</u>	
Bullfrog County: A Nevada Response to Federal Nuclear-Waste Disposal Policy	123
by <u>A. Costandina Titus</u>	
Contributors	137
Book Reviews	
Valelly, <u>Radicalism in the States, the Minnesota Farmer-Labor Party and the American Political Economy</u>	139
by <u>Diane D. Blair</u>	
Chandler and Zollner, <u>Challenges to Federalism: Policy-Making in Canada and the Federal Republic of Germany</u>	140
by <u>Howard Cody</u>	
Eisinger, <u>The Rise of the Entrepreneurial State</u>	142
by <u>Susan B. Hansen</u>	
Jacob, <u>Silent Revolution: The Transformation of Divorce Law in the United States</u>	144
by <u>Eugene A. Mawhinney</u>	
Van Horn, <u>The State of the States</u>	146
by <u>Kenneth T. Palmer</u>	
Frenkel, <u>Federal Theory</u>	148
by <u>Ulf Zimmerman</u>	
Briefly Noted	149
Reviewer Acknowledgement	153
Publius Index	161

PUBLIUS: The Journal of Federalism
Volume 20, Number 2

ARTICLES

"To Secure the Blessings of Liberty": Liberty and American Federal Democracy 1
by Daniel J. Elazar

"The Form Most Eligible": Liberty in the Constitutional Convention 15
by Glen E. Thurow

An Inquiry Concerning Liberty and Equality in the American
Constitutional System 33
by Vincent Ostrom

Eighteenth Century Objections to Commerce: A Modern Economic
Analysis 53
by Jennifer Roback

Federalism and Community in the American Context 69
by John Kincaid

Tocqueville on the Good of American Federalism 89
by Ralph C. Hancock

Additional Feature

Permitting States to Rescind Ratifications of Pending
Amendments to the U.S. Constitution 109
by John R. Vile

Contributors 123

Book Reviews

Provizer and Pederson, Grassroots Constitutionalism-Shreveport, the
South, and the Supreme Law of the Land and Warren, The Legacy of
Judicial Policy-Making: Gautreaux v. Chicago Housing Authority 125
by Robert a Carp

Watts and Brown, Canada: The State of the Federation 1989 127
by Howard Cody

Scheiber and Feeley, Power Divided: Essays on the Theory and Practice of Federalism 129
by E. Lester Levine

Hahn and Kamieniecki, Referendum Voting: Social Status and Policy Preferences 130
by David B. Magleby

Reid, The Concept of Liberty in the Age of the American Revolution 132
by James R. Stoner, Jr.

Briefly Noted 134

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Editorial Board Meeting

Members of the Publius Editorial Board are reminded that the annual Publius Breakfast will be held at 7 a.m. on Friday, August 31, 1990 in San Francisco. The breakfast will be held in conjunction with the APSA's Annual meeting. The room location will be announced in the APSA's final program.

Forthcoming Issues

**PUBLIUS: The Journal of Federalism
Volume 20, Number 3**

Articles

- "The State of American Federalism--1989-1990"
by Ann O'M. Bowman and Michael A. Pagano
- "Abortion Policy in the Post-Webster Age"
by Glen Halva-Neubauer
- "Federal Judicial Remedial Power: The Yonkers Case"
by Joseph F. Zimmerman
- "Minority Set-Aside Programs in the States after
City of Richmond v. J.A. Croson
by Gregg Ivers and Karen O'Connor
- "Intergovernmental Growth Management: A Partnership Framework
for State-Local Relations
by Robyne S. Turner
- "FEMA, Federalism, Hugo, and 'Frisco"
by Saundra K. Schneider
- "The FIRRE Act and Housing for Low-Income Families"
by John P. Ross
- "State Health Policies, Federalism, and the Elderly"
by William W. Lammers and Phoebe S. Liebig
- "The National Interest and the Federal Role in Education"
by Richard F. Elmore and Susan Fuhrman

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The Editor of *PUBLIUS: The Journal of Federalism* is pleased to announce that Volume 20, Number 4 (Fall 1990) will be a special issue examining various aspects of federalism in Australia.

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A FEDERALISM RESEARCH AGENDA

Note: In the course of attempting to put together an issue of PUBLIUS devoted to post-Garcia federalism scholarship, I came across what was to me an intriguing fact, namely, the relative absence of commentary in the major political science journals. Further reflection and conversations with colleagues have convinced me that this state of affair has several roots; (1) the generally liberal and hence pro-Washington attitudes of the political science fraternity; (2) the conviction, even on the part of those not so inclined, that federalism (as a constitutional matter) has been a dead issue since the Supreme Court decisions validating key measures of the New Deal; and (3) the infatuation of younger political scientists with number-crunching, not generally very useful to the study of federalism.

Hoping to "stir the pot," I have sketched out some "Hints for a Federalism Research Agenda," in the copy attached. The first section suggests four topics for theoretical analysis; the second section, a slightly longer list of topics for empirical research. Some of these are aimed at undermining Blackmun's thesis about the "political safeguards of federalism," while others are more pertinent to preemption, spending power or other branches of federalism jurisprudence.

Since I am essentially a country squire masquerading as a law professor, I lack the competence to tackle most of these issues. I aim rather to be a catalyst, and accordingly invite your suggestions about (1) topics -- are some of my suggestions witless? Are there other more important inquiries? and (2) people -- who might be recruited to tackle one or more of these issues? You? If not, who?

John C. Pittenger
Rutgers University
School of Law - Camden
Fifth and Penn Streets
Camden, NJ 08102

I. Theoretical Studies

A. The Madisonian Psychology

The Founding Fathers were not naive; they knew that people tend to abuse power, and saw their task as one of constructing a government strong enough to do what had to be done but not so strong as to be able to abuse its powers. The Court has been faithful to that understanding in its separation-of-powers jurisprudence (cf. the recurring metaphor about the "hydraulic pressures" exerted by each branch) but faithless to that understanding in the federalism context. Why? (Harry Scheiber suggests it is because separation of powers was a "principled" feature of the Constitution of 1787, whereas Federalism represented merely a political compromise; but why should that fact, if it is a fact, make a difference?)

B. Accountability

Somebody taught me, forty years ago, that a central thesis of democratic polity was that whoever had the fun of spending public money ought to have the pain of raising it. Congress has managed to repeal, or at least evade, that principle: by massive deficit spending and by devices (conditional grants and lawsuits against the states) which put the burden on other people. Where the education of handicapped children is concerned, Congress is now footing nine percent of the bill but calling the entire tune. Shouldn't somebody write an essay explaining why this is bad public policy, even if it's constitutional?

C. Federalism in Voting

A much-neglected feature of federalism, in my judgment, is its tendency to maximize satisfaction (or, more accurately, minimize dissatisfaction) by ensuring (because people vote for offices at many levels of government simultaneously) that voters are seldom total winners or total losers, especially over time. It ought to be possible to construct empirical proof of this fact, and dilate upon its significance.

D. The Agenda Problem

Lou Kaden in his thoughtful Columbia essay of ten years ago estimated that half of Brendan Byrne's agenda as governor of New Jersey was dictated by the feds; my own guess is that one-third of my time as Secretary of Education in Pennsylvania was so occupied. In FERC v. Mississippi the Supreme Court sanctioned this practice without batting an eyelid. If I am right, that the most precious asset of a Governor or Mayor is the ability to pick and choose the issues she wants to deal with, this is a serious problem. Is there a way of persuading the Court that it is unconstitutional, as well as unwise?

II. Empirical Studies

A. Composition of Congress

A declining proportion of the members of Congress have any prior experience in state or local government, a fact which would not be hard to document, especially with respect to the Senate. Whether this is an important fact is another question; Alan Rosenthal thinks not, but I am less certain. My forthcoming Publius colloquy with two Governors-turned-Senators may shed some light on the point, but a separate study might be worthwhile.

B. Campaign Contributions

An increasing proportion of every member's campaign war chest come from outside the state or the district. A study of the changes in the sources of contributions to Senators who were first elected in '76, then reelected in '82 and '88 might yield some interesting evidence on this point (Herb Alexander tells me he knows of no such studies.) A Senator who is raising 50 percent of his contributions from outside sources is, I suggest, less likely to be attentive to the concerns of his own state than one who is raising only 10 percent that way.

C. Federal Grants-in-Aid

Blackmun suggest in Garcia that the success of the states in obtaining federal grants-in-aid is proof of the continuing vitality of the "political safeguards" theory. But he was writing in 1985, relying on evidence not later in most cases than 1982. A study of federal grants-in-aid during the period 1980-90, both as a percent of total federal expenditures and as a percent of state and local government revenues, would suggest how dependent federal largesse is on (1) the political affiliations of the President and the Congress and (2) the state of the national treasury.

D. State Revenues

At the same time Washington has been turning down the spigot of grants-in-aid, it has been making it more difficult for the states to raise their own revenues and/or borrow money for capital expenditures. Three developments come immediately to mind: (1) limitations on tax-exempt bonds; (2) elimination of the deductibility of the state sales taxes from federally taxable income; and (3) increases in federal taxes on gasoline, cigarettes, etc. To be fair, I should concede that the tax reductions of 1981 mostly point in the other direction. A study of these and other impacts would be useful.

E. Case Study-State Influence

Carol Lee has done a nice study of four incidents of post-Garcia lobbying by the states in Congress, with equivocal result (two partial wins, two losses.) A more in-depth analysis of major current issues - I would suggest the child-care bill and the amendment to the Clean Air Act - might yield some pertinent evidence on the current clout of the states with Congress.

F. Suits Against the States

As Congress has run out of money (and the political will to raise taxes,) it has resorted increasingly to a relatively new strategy for pleasing various supplicant groups without damage to the federal fisc, i.e., suits against state and local governments. A study of this phenomenon could document its extent as well as its cost, the latter measured both in terms of awards of damages and the time and energy expended in defending these lawsuits.

G. The Incompetence of Congress

I have the impression that stasis is the dominant feature of the Washington political scene these days. In many areas of public policy one of three things happens: (1) it takes Congress an inordinately long time getting up its courage to act (Immigration Act of 1986; Amendments to Clean Air Act) or (2) the administration of a measure is badly botched (Surface Mining Act of 1977) or (3) the Act, though faithfully carried out, has negative or counter-productive outcomes (Handicapped Act of 1975). Traditionally, defenders of federalism have talked in terms of the virtues of state and local government. Is it perhaps time to take the offensive, and discuss the increasing incompetence of our national government?

CSF Notebook

THE CENTER FOR THE STUDY OF FEDERALISM

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