

CSF Notebook

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IN THIS ISSUE

News from the APSA Section on Federalism and Intergovernmental Relations.....	2
News and Notes.....	3
Recent and Forthcoming Publications.....	4
PUBLIUS: Forthcoming Issue.....	5
Bicentennial Leadership Workshops.....	6
"The Contractive Phase of Intergovernmental Relations: Problems, Perspectives and Policies During the 1980's" By Deil S. Wright.....	7

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NEWS FROM THE APSA SECTION ON FEDERALISM AND INTERGOVERNMENTAL RELATIONS

1988 Program

The 1988 American Political Science Association Meeting will be held at the Washington Hilton Hotel in Washington, D.C. In past years, the Federalism and Intergovernmental Relations Section has been allotted 14 time slots, and typically we have used but 10 of these to insure optimal times and quality panels. For the 1988 APSA Meeting, sections will be allotted fewer time slots because of available rooms at the Washington Hilton. At the present time, we are uncertain exactly how many time slots will be allotted to our Section, but we are hopeful it will be about the same as the total used in past years. Also, a new policy limits panel participation for both the regular APSA program and section programs to two panels.

Ellis Katz Selected as Program Chair

Ellis Katz of Temple University's Center for the Study of Federalism has been appointed to chair the program of the APSA Section on Federalism and Intergovernmental Relations at the 1988 Annual Meeting.

According to Katz, there will be no specific theme to this year's program. However, he is especially interested in proposals on the role of the states of the Formative Era of the American Republic and, in light of the International Political Science Association Meeting, proposals on Comparative Federalism.

Proposals for panels, papers, workshops and/or other forms of participation should be sent to:

Ellis Katz
Center for the Study of Federalism
Temple University #025-25
Philadelphia, PA 19122
(215) 787-1482

Section Officers

The present slate of officers for the Section are:

Section Chair: Robert D. Thomas, University of Houston
1988 Program Chair: Ellis Katz, Temple University
Section Treasurer: E. Lester Levine, Empire State College
Executive Council: Diane Blair, University of Arkansas (1985-1988)
Elinor Ostrom, University of Indiana (1985-1988)
Robert D. Thomas, University of Houston (1985-1988)
John Kincaid, ACIR (on leave from N. Texas State) (1986-1989)
Beverly Cigler, North Carolina State University (1986-1989)
Ellis Katz, Temple University (1986-1989)
Dale Krane, N. Texas State University (1987-1990)
Don Lutz, University of Houston (1987-1990)
Margaret Wriggison, Georgetown University (1987-1990)

Other Section News

At the 1987 Business Meeting of the APSA Section on Federalism and Intergovernmental Relations, an Awards Committee was established to pursue the creation of an annual award for the best student paper on federalism and intergovernmental relations. The membership felt that a monetary award should be made. Therefore, to fund the award, Section dues were increased from \$3.00 to \$5.00. The three-member committee consists of:

John Kincaid, ACIR (Chair)
Beverly Cigler, North Carolina State University
Elinor Ostrom, Indiana University

NEW AND NOTES

New York State Bicentennial Commission Celebrated Federalism Day

October 27, 1987 was the 200th Anniversary of the publication of the first of The Federalist Papers. The Federalist, written by Alexander Hamilton, John Jay and James Madison, was designed to convince the voters of New York to support the Constitution. The publication signaled the beginning of the ratification debate.

The New York State Bicentennial Commission hosted a major program in celebration of this event. Highlights of the program included presentations by Edward Koch, Fred Friendly and Floyd Abrams. It was held at the New York County Courthouse, 60 Centre Street, New York City, 11 a.m. The program was hosted by the chair of the commission, Chief Judge Sol Wachtler.

For more information on the activities of the Commission, contact:

Stephen Schechter
New York State Bicentennial Commission
CEC - Room 9 D 30
Empire State Plaza
Albany, New York 12230
(518) 473-6191

RECENT AND FORTHCOMING PUBLICATIONS

The latest work available from the Center for the Study of Federalism is The Political Theory of a Compound Republic by Vincent Ostrom, at \$8.95 a copy.

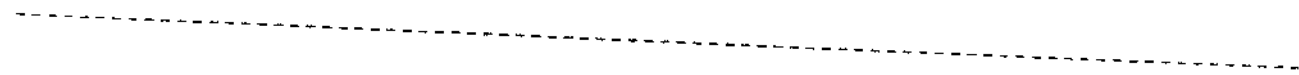
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Forthcoming

The Government and Politics of Alabama, by William Stewart and James Thomas.

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PUBLIUS: FORTHCOMING ISSUE

Volume 17, Number 4
(Fall 1987)

Articles

- "Introduction: Small Governments as Newcomers to American Federalism"
by Alvin D. Sokolow
- "Rural Development Policy: Rationale and Reality"
by Richard W. Long
- "Targeting Federal Assistance to Local Governments in Rural and Low Income Areas, 1972-1983"
by William F. Fox and J. Norman Reid
- "Federal Aid and Economic Development in Nonmetropolitan Communities: The UDAG Program"
by Beth Walter Honadle
- "The Consequences of Shifting Control: Federal and State Distribution of Small Cities CDBG Funds in Four Southern States"
by James W. Fossett
- "Devolution of the Small Cities CDBF Program in Mississippi"
by Dale Krane
- "Federal Aid and Afro-American Political Power in Three Mississippi Towns"
by Minion K. C. Morrison
- "Rural Community Responses to a National Mandate: An Assessment of Floodplain Land Use Management"
by Beverly A. Cigler, Bruce Stiftel, and Raymond J. Burby
- "Mandates as Both Hardship and Benefit: The Clean Water Program in Small Communities"
by Priscilla L. Hanford and Alvin D. Sokolow
- "Rural Government Management and the New Federalism: Local Attitudes in Southwestern Ohio"
by Philip A. Russo, Jr., Herbert Waltzer, and W. Robert Gump
- "The New Federalism and Substate Regionalism: Changing Perceptions of Rural Officials"
by Lewis G. Bander, William P. Browne, and Thaddeus C. Zolty
- "The Farm Crisis and the Future of Rural Local Governments"
by Thomas F. Stinson
- "The Fiscal Consequences of Changing Federal and State Revenue Policies: The Case of Small Oregon Cities"
by Bryan T. Downes

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1724 Massachusetts Avenue, NW, Suite 300
Washington, DC 20036

TABLE 1
Phases of Intergovernmental Relations (IGR)

Phase Description	Main Problems	Participants Perceptions	IGR Mechanisms	Federalism Metaphor	Approximate Climax Period
Conflictive	Defining Boundaries Proper Spheres	Antagonistic Adversary Exclusiveness	Statutes Courts Regulations	Layer Cake Federalism	19th Century- 1930s
Cooperative	Economic Distress International Threat	Collaboration Complementary Mutuality Supportive	National Planning Formula Grants Tax Credits	Marble Cake Federalism	1930s-1950s
Concentrated	Service Needs Physical Development	Professionalism Objectivity Neutrality Functionalism	Categorical Grants Service Standards	Water Taps (Focused or Channelled)	1940s-1960s
Creative	Urban-Metropolitan Disadvantaged Clients	National Goals Great Society Grantsmanship	Program Planning Project Grants Participation	Flowering (Proliferated and Pused)	1950s-1960s
Competitive	Coordination Program Effectiveness Delivery Systems Citizen Access	Disagreement Tensions Rivalry	Grant Consolidation Revenue Sharing Reorganization	Picket Fence (Fragmented) Federalism	1960s-1970s
Calculative	Accountability Bankruptcy Constraints Dependency Federal Role Public Conference	Gamesmanship Fungibility Overload	General Aid- Entitlements Bypassing Loans Crosscutting Regulations	Facade Federalism (Confrontational)	1970s-1980s
Contractive	Borrowing Budget Balancing Federal Aid Cuts/Changes Juridical Decision Making	Aggressiveness Contentiousness Defensiveness Litigiousness	Congressional Statutes Court Decisions Information Sources Negotiated Dispute Settlement Privatization	Defacto Federalism Telescope (d) Federalism Whiplash Federalism	1980s-1990s

THE CONTRACTIVE PHASE OF INTERGOVERNMENTAL RELATIONS:
PROBLEMS, PERSPECTIVES, AND POLICIES DURING THE 1980s*

Deil S. Wright
University of North Carolina at Chapel Hill

One approach to where we are and whether we are trending in Intergovernmental Relations is to look at recent developments in terms of "phases." Elsewhere, I have suggested and elaborated on the presence of six IGR phases in the twentieth century--conflictive, cooperative, concentrated, creative, competitive, and calculative.¹ There are, of course, numerous other approaches to classifying recent and longer-term developments in IGR. My purpose here is to indicate and explicate the advent of a seventh phase of IGR--the "contractive" phase. For summary and comparison purposes the features of all seven phases are provided in Table 1.

After describing the multiple meanings of the word "contractive" as it applies to contemporary IGR, I identify and discuss some of the main problems or issues that seem to dominate this present phase. I then turn my attention to the perceptions held by national, state, and local participants. In addition to mere description, this approach produces a set of prescriptive actions, especially by state and local officials.

The contractive phase of IGR has also produced a new mix of implementation mechanisms. The courts and negotiated dispute settlement are two of the more noteworthy, and these are strongly supplemented by movements in the direction of privatization. The discussion of the seventh phase concludes with an examination of three different federalism metaphors applicable to the period.

The choice of a one-word description for the current phase of IGR is not a simple matter. A case could be made for calling this the "constructive" phase of IGR because of the significant proposed and actual structural changes in the nature of national-state-local relations. Efforts to build new and remodel old patterns have certainly been evident in presidential, congressional, and judicial decisions/actions during the 1980s. It could also be argued that "convoluted" might be an apt term for the complex, strained, and warped character of IGR. Perhaps the metaphor, "spaghetti federalism" would fit such a description of how some observers and participants would describe the real world of IGR.

Instead of these or other more judgmental descriptions of contemporary IGR, the term "contractive" seems more apt. The word contractive is defined by Webster's New Universal Dictionary as "producing or tending to produce contraction." There are four possible interpretations of the manner in which this term applies to IGR in the 1980s. These are specified with only modest elaboration.

* Draft portion of a chapter for prospective inclusion in Understanding Intergovernmental Relations (3rd). Please do not quote without permission.

Types of Contraction

1. Federal aid is shrinking, sometimes in actual or current dollars, as in 1982 when aid declined to \$88 billion from \$95 billion in fiscal 1981. Furthermore, federal aid is dropping quite regularly when measured in constant dollars, as a percent of the Gross National Product, or as a percent of state and local revenues. There is the added prospect that changes in the Internal Revenue Code (known as "tax reform") may lessen the so-called tax-expenditure advantages enjoyed by state and local governments. One example would be the abolition of the tax deductibility of selected state and local taxes.

2. A second contraction has occurred in the area of state-local relations. An article by Professor G. Ross Stephens in 1974 documented what he termed "The Erosion of Local Autonomy."² Using a variety of financial, employment, and service measures for each of the fifty states, Stephens found a long-term trend toward the greater concentration of resources, services, and personnel at the state rather than the local levels. These multiple measures were used to form a composite index of state centralization which was recently updated. Stephen's trend results are reported below.

	Aggregate Centralization Index (%)	Number of States in Centralized Category (above 60%)
1957	47	4
1969	52	6
1972	53	8
1977	54	9
1982	57	16

In short, there has been a coalescence or tightening of the multiple connections between state governments and their respective local jurisdictions.

3. In the arena of court decisions and congressional statutes the intergovernmental system has tightened or contracted to the point that expert legal advice is among the most valued information resource needed by public administrators, elected officials, and governing bodies/boards at the state-local levels. The Garcia decision with regard to the scope of the commerce power, the FERC vs. Mississippi case concerning preemption and mandating, and the plethora of problems precipitated by other litigation have significantly constricted the range of action by state and local governments.

Federal courts have intervened to review, modify, limit, and mandate state/local actions in ways that seem to have few antecedents, precedents, or consistent patterns. James Carroll has labelled this new phenomenon "juridical federalism."³ Another way to describe these changes, metaphorically, is to suggest that the intergovernmental system has been telescoped to an unprecedented extent and degree. The federal courts are looking through a telescope that focuses on detailed, specific, judgmental/policy actions in states and localities.

4. The fourth IGR meaning attached to the word contractive is not associated with shrinking or restrictions. Instead, it refers to the increasing tendency of governmental agencies, at all levels, to enter into negotiated contracts. These contracts are normally for the purchase or delivery of services. In many instances, contracts may be for the provision of "hardware" services such as sanitation/refuse collection, transportation, etc. But increasingly, these patterns have developed in human/social service program areas that are extensively intergovernmental in character (e.g., employment training and community development).⁴ One writer, Professor Donald Kettl, termed this trend "The Fourth Face of Federalism."⁵ His broad observations were drawn from a detailed and thoughtful analysis of patterns and practices in Richmond, Virginia, where the city manager acknowledged that "the more you get involved and try to play the federal game, the more you have to go outside of city agencies."⁶

The manager's comment about "outside" links raises one of two aspects associated with this fourth meaning of contractive. It refers to the active involvement of private entities, both nonprofit and for-profit, in IGR decisions, actions, and impacts. This aspect is part of the larger movement or policy theme in the 1980s called privatization. An early and prominent statement of this policy thrust was the book, Privatization the Public Sector: How to Shrink Government, by E.S. Savas, a high-ranking official in HUD for a brief period during the first Reagan administration.⁷

The second feature extrapolated from this meaning of contractive centers on the operation or management of the contracting process. The term intergovernmental management (IGM) has been used with increasing frequency to describe the extensive, varied, and specific problem-solving efforts of persons involved in implementation activities. We will not try here to assess the growing body literature on IGM.⁸ Instead, we only reference the use of negotiated agreements (contracts) as an IGM technique to settle, at least temporarily, many IGR disputes.⁹

This dispute resolution process involves settlement by a formal agreement. Similarly, the contracting-out process operates on the basis of explicit provisions about the obligations of participants. The complexity of implementing IGR programs, both regulatory and service delivery, however, pushes the negotiation and dispute resolution process into the laps (or onto the desks) of less prominent intergovernmental actors than in previous phases. Kettl expressed the point well when he noted that grant programs had shifted local governments (and officials) from the

. . . direct provision of services to the management of contracted services. This not only means a change in some of what local governments do but also a shift in who does it. Accountants, contract specialists, environmental engineers, and equal opportunity experts have moved into a key role in helping to govern urban America.¹⁰

Main IGR Problems

With the four meanings of "contractive" in mind, we can identify and describe the main IGR problems confronting public officials in the 1980s. Each writer, researcher, observer, and participant could construct a list of IGR problems that might look somewhat different than the four mentioned below and shown in Table 1. These serve as an initial list for discussion, debate and revision, based on an end-of-the-decade assessment.

1. Borrowing. The federal deficit comes first and foremost to mind as a problem that exerts an omnipresent influence on IGR. The presence of huge annual federal deficits casts a shadow that darkens the current as well as the long-term IGR fiscal scene. Interest paid on the national debt of about \$2 trillion in 1985 was \$130 billion out of \$220 billion deficit. In a pattern somewhat like New York City, the national government is increasingly borrowing funds to pay interest on its debt.

Borrowing problems are by no means confined to the national government, however. State/local debt is at an all-time high, reaching \$505 billion or roughly double what it was in 1977. At the same time there has been a very real threat, under the guise of tax reform, to eliminate some or most of the exemption advantages enjoyed by state/local bonds. The exclusion of interest income on state/local bonds from federal income taxation resulted in a tax expenditure (revenue loss) to the U.S. Treasury of \$11 billion in 1985. The precise dollar advantage(s) accruing to state/local governments in the form of lower interest rates is not easily determined. It is not equal to the revenue lost by the national government, but the state/local gain is a substantial proportion of that figure, resulting from reduced interest rates on the state/local bonds.

2. Budget Balancing. Closely associated with the hue and cry over the federal deficit is the pressure to balance the federal budget. From Gramm-Rudman-Hollings to the controversy over a "revenue-neutral" tax reform package, with or without the deductibility of some state/local taxes, the pressure for budget balancing is potent but unpredictable. Congress labored hard to pass a law in 1985 which, according to one of its sponsors (Rudman), is "a bad idea whose time has come." The potential intergovernmental fallout, in fiscal as well as attitudinal terms, is immense. General revenue sharing for local governments seems unlikely to be renewed. Personnel freezes in some states, property tax increases in hundreds of localities, and other impacts too numerous to mention, may trace their origin(s) to simultaneous budget-balancing actions at national, state, and local levels.

The reverse side of the national budget-balancing effort is the budget condition of states and localities. National actions may unbalance many state/local budgets. Non-renewal of general revenue sharing will affect the budget calculations of over 30,000 cities, counties, and townships. With 49 states required to balance their budgets, state governments face unwelcome choices between tax increases and/or service reductions. Regardless of national actions, the dramatic turnabout in oil prices has created fiscal havoc in some previously "energy-rich" states (e.g., Alaska, Louisiana, Oklahoma, Texas, and Wyoming).

3. Federal Aid Cuts/Changes. The problems precipitated by actual and proposed federal aid reductions and reorientations have been enormous. The 1981 omnibus legislation was profound in terms of polity shifts: reducing federal aid by \$6 billion, consolidating nearly 60 categoricals into seven block grants, and eliminating more than 60 other categoricals. These changes and the continued efforts, with selective successes, by the Reagan Administration to alter the fundamental character of IGR, prompted Professor Harry Scheiber to use the term "Whiplash Federalism" for the sudden rear-end policy impacts on federal aid recipients.¹¹ Every budget submitted by the president since entering office in 1981 has proposed a significant cut (in actual dollars) in federal aid. Only one major reduction (in 1981-1982) actually occurred, but the regular rise in federal aid has clearly been contained.

The state/local impacts of the cuts have varied significantly among the states and localities, as might be expected. But one clear theme emerges from the in-depth studies of 14 states and selected localities pursued by Professor Richard Nathan.¹² A major finding of that 1981-1984 field research was the important institutional changes that occurred at the state governments in the policy-making process in relation to both the national government and localities within each state. More specifically, governors, state legislators, and state administrators assumed more active and influential roles. This point confirms, in an institutional sense, the statistical and quantifiable findings by Stephens about the contraction (centralization) of state/local relationships.

4. Juridical Federalism. Who has an answer for a "problem" that federal court decisions pose for state and local governments? The "problem," of course, is that there is no one single problem. There are nearly as many "problems" as there are cases at the federal bar.

James Carroll perceptively analyzed the IGR legal-juridical circumstances in 1982.¹³ He identified three major types of legal issues: federal grants law, the liability of state/local officials and governments, and court-ordered remedies for constitutional and statutory wrongs committed by state/local actions. In all three areas the federal courts have become intimately and intensely involved, leading Carroll to conclude that juridical federalism represents the "alienation of public policy." The courts have focused their high-resolution telescopes (or microscopes) on decisions made by state/local elected officials and found numerous faults, both substantively and procedurally.

The courts, according to Carroll, have singled out public administrators as "the weakest" institutional actors and required them to serve as mediators, conciliators, activists, and catalysts to resolve IGR conflicts and contentiousness. The public administrator, according to Carroll (and apparently the courts), is in the unique position of leading from weakness. As non-elected, non-constitutional actors, public administrative officials are the least threatening, least legitimate, and least powerful of state/local institutions. These "weak" administrators are expected to convene, cajole, and convince popularly elected officials and other actors into following the best courses of action in resolving disputes.

The administrator's role is, of course, strengthened when court proceedings or a court order are heavy-hanging threats over the heads of parties to the intergovernmental dispute. The amicable (or at least acceptable) settlement of IGR disputes is now approaching a high art. The National Institute of Dispute Resolution (in Washington, D.C.) has been active in stimulating research projects, conferences, and course/instructional strategies that have important and direct relevance to resolving IGR disputes.¹⁴ The institute and similarly oriented efforts are part of a growing search for non-judicial settlement of conflicts in our increasingly litigious society.

Participants' Perceptions

Discussion of IGR conflicts and the various means to resolve them is closely tied to the perceptions and preferences of IGR actors. One condition for the successful settlement of disputes is the alteration of perceptions and the reordering of preferences. This approach to IGR problem solving from the participants' perspectives attempts to describe accurately the prevailing views of IGR actors.

As previously noted, there is the risk of oversimplification in any attempt to summarize the IGR views of national, state, and local actors. The difficulty of the task is compounded by the variety of the participants, the changing character of the issues, and the variable intensity of the views expressed.

At the national level, the president has been aggressive, articulate, and persistent in his efforts to reshape, reform, or restore national-state relationships. One among several new features of the Reagan New Federalism has been its state-oriented focus.¹⁵ The U.S. Congress, while responding positively but selectively to a few of the president's proposals, has generally adopted a cautious, often defensive posture in response to many Reagan "restoration" efforts. Several studies reveal the dampening and moderating effects that congressional actions had on the 1981 "shock" delivered by the omnibus legislation.¹⁶

A logical question arises at this point in the discussion of the contractive phase. Are the effects induced by the Reagan New Federalism strategies a revolution, a reaction, or a reform?

Arguments could be marshalled for each of these alternatives, just as a case could be made that the constitutional framers at Philadelphia were revolutionaries, reactionaries, or reformers. The central point about the Reagan aims and results is that they do not fit really nor fully into any one of the three categories.

There is no doubt that significant changes have occurred in IGR as the result of Reagan's election in 1980 (as well as his reelection in 1984).¹⁷ That event importantly contributes to our identifying the 1980s as a new phase in IGR. But to call these changes "revolutionary" is to stretch the meaning of that term beyond its normal bounds. It escalates the notable shifts that did occur into changes that departed drastically or completely from past patterns--as in the case of a revolution. The Reagan-induced changes were a departure from trend, not a revolt from or a reversal of preceding IGR phases.

The reform and reaction aspects of the Reagan New Federalism have commanded the attention of many students, analysts, and observers of IGR. The system had reached a stage where numerous and varied reforms had been proposed to deal with significant problems. A reaction had set in to the size, scope, complexity, competition, and calculations required of many key participants. The Reagan proposals had reform markings writ large upon them, but they were imprinted with strong and clear ideological branding irons. Nathan Glazer expresses those signs in an essay on the social policies of the Reagan Administration.¹⁸

Glazer noted that the first dominant ideological theme was a rejection of "social engineering," that is, the use of governmental actions and instructions to affect human behavior and improve the human condition. The specific intent of this strategy was "to reverse the course of social policy that had been set for almost 20 years."¹⁹ The second ideological theme, closely related to the first, was the New Federalism strategy of returning programs to the states and restricting federal controls."²⁰ According to Glazer, however, the Administration's reform intentions greatly exceeded the actual results in these interconnected areas of social policy and federalism.

If the Reagan efforts do not fit the reform, reaction, or revolutionary categories, how can we identify or designate the changes that emerged in the early part (1981-1985) of this contractive phase? The word redirection probably best describes the policy shift that occurred. The 1980s, and perhaps beyond, are likely to be viewed as a departure from trend, a reorientation of IGR in fiscal and political terms. From the 1930s through the 1970s the long term trend was, with only minor and incidental exceptions, "a bias for centralization" at the national government.²¹ That bias has been blunted in important ways in some significant policy areas. But it is too early to tell whether the fiscal, programmatic, and political results of the Reagan efforts will in the longer run achieve a reversal, that is, a bias toward decentralization.

State-Local Participants' Perceptions

How might the views of the numerous state-local participants best be described in the current phase of IGR? Their views can be summarized with four imperative-exclamatory assertions: Don't look back! Don't look up! Look out! Look around!

The ageless black baseball pitcher, Satchel Paige, expressed the one motto of his lengthy and distinctive career: "Don't look back, something may be gaining on you." His observation is both a description of and a prescription for state-local officials in the contractive phase IGR. It says, in effect, do not look backwards in time for the "good old days" of the 1960s and 1970s. Those times of grantsmanship and gamesmanship are past and, by and large, should be forgotten. While lessons may be learned from recent IGR experiences, they should be forward-oriented rather than nostalgic reflections on "How we did it when"

Don't look up! This describes the prominent and even dramatic shift (away from Washington) in the views of state and local officials, generally, but most particularly among local actors. Looking "up" to Washington, D.C. for assistance in time of fiscal crisis was an accepted fact of life in the 1960s and 1970s. This "Potomac Pipeline" pattern has undergone a turnabout in the 1980s. Speaking in metaphoric and semi-jesting terms, one wag expressed it as follows: "Mayors, managers, and other local folks have thrown away their airline schedules to D.C. and gotten out their road maps to find their way to the state capitol."

To some degree state and local officials have been "turned off" by Washington, D.C. and by national officials in varied ways--from federal aid cuts to Supreme Court decisions. One result has been the questioning more broadly of the "federal role" issue of the calculative phase. Washington-originated or Washington-based "solutions" are less looked for and less welcomed than at any time in the recent past. A local-level outcropping of this attitude stratum is the statement of the North Carolina League of Cities Executive Director, ". . . the beginning of the end of the relationship between the federal government and the cities and towns across the country."

The third description prescription is "Look Out!" this warning is subject to multiple interpretations, but mainly it describes how state and local officials feel in the wake of sudden, sharp, and unanticipated actions by national actors/actions. (For local officials it also describes their shock at similar precipitous state actions.) This feature was captured by Scheiber's phrase, "Whiplash Federalism." But it is broader in scope than merely a pain in the neck, or other parts of the anatomy. This outlook is one that expects an accident--an unanticipated event with negative consequences. It might be described as hoping for the best but preparing for the worst. This position or posture of defensiveness is combined with an element of contentiousness. In other words, give in only grudgingly; don't give up without a fight.

A major avenue to pursue such strategies is, of course, the courts. The rise of federal grant law has been mentioned as a legacy from the calculative phase. But this is only a small and, in some respects, relatively insignificant part of IGR legal issues. Currently, the legal dimensions of IGR are multiple, varied, and complex. They range from federal preemption and tort liability to zoning policies and discriminatory (or procedures). The arena of tort liability, for example, has produced havoc in the insurance field, resulting in insurance premiums for local governments (and their officials).

The tendency to use the courts to settle differences (litigiousness) has received wide press coverage. One article ventured that "America's Favorite Word" is "sue." The pattern has undoubtedly been overemphasized by the media, but that misemphasis should not obscure the presence of a very basic set of IGR issues. It is a reaction to those fundamental problems that contribute to the multiple perspectives identified in Table 1: contentiousness, defensiveness, litigiousness. The aggressive outlook, as noted earlier, prevailed predominantly among national actors, particularly the president and the Supreme Court.

One more viewpoint among state and local officials needs to be noted--"Look around." In some ways this outlook derives from the seemingly contradictory features of aggressiveness and defensiveness. This view describes the lateral linkages and support that some state and many local officials strongly seek. These support networks based on mutual interests are not new, of course. The Big Seven Public Interest Groups are one long-standing example. But these support networks have taken on new vigor and variety. Furthermore, they tend not to focus on or be restricted to fiscal issues. Two illustrations follow.

One is the State and Local Legal Advocacy Center, an entity which is officially housed within the Academy for State and Local Government in Washington, D.C.²² This Center has a brief history and, as Washington influence goes, it is definitely on the periphery of power. It is, nevertheless, emblematic of the novel and varied ways in which positive efforts are necessary for state/local officials to mount a better defense. The Center for State and Local Legal Advocacy exists for one explicit purpose: to improve the character, content, and caliber of legal advocacy before the federal courts in those cases of major significance where the states and/or localities are a party to the suit(s).

The center came into being as the result of multiple forces and influence. The need for better state/local representation before the high court had been informal knowledge for a considerable period of time. It surfaced explicitly, however, in a 1974 speech by Justice Lewis Powell to the Fifth Circuit Judicial Conference. Some of the "weakest briefs and arguments come from the state's lawyer," he lamented.²³

The need for improved legal representation is apparent when some data about state/local governments in the federal courts are cited:

- In any one term of the Supreme Court, from one-third to one-half of the cases involve states or localities at bar.
- Between 1970 and 1978 the Supreme Court held state/local law(s) unconstitutional in 180 cases (contrasted to 18 cases involving U.S. statutes).
- When state/local governments are parties to suit before the Supreme Court and the U.S. Solicitor General argues in opposition, states and localities win less than one-third of the cases.
- When the Solicitor General sides with the state/local government, the state/local position prevails in over two-thirds of the cases.
- Suits against state/local governments for alleged civil rights violations, especially under Sec. 1983 (Chapter 42) of the U.S. Code, have reached "epic proportions" (E.g., 15-20,000 cases filed each year).
- The number of civil rights petitions filed in federal courts by state prisoners against correctional officials rose from 218 in 1966, to 2,030 in 1970, and to 12,397 in 1980.²⁴

The State and Local Legal Advocacy Center may or may not produce the desired results in many (or even a few) federal court cases. It is, however, a small but noteworthy development in the way that state/local officials "look around" for strength and support in a changing and uncertain IGR environment.

The second example of looking around is more administrative and less targeted than Supreme Court advocacy. It comes from the information technology "revolution" where computer-based data can be easily shared through a network of users. Two illustrations are LINUS and LOGIN (Local Information Network for Universal Service and Local Government Information Network). The former is jointly sponsored by the National League of Cities (NLC) and the International City Management Association (ICMA). LOGIN is supported solely by NLC.

LINUS began in August 1985 and by early 1986 it had over 300 users. It offers six electronic communication types of services, but a primary one is the dissemination of news and information from NLC and ICMA. Current "briefs" on various topics automatically appear when the service is accessed. There is also a system of twelve information bulletin boards (e.g., job listings, current research inquiries, and Urban Action Update--a status report on bills in Congress of interest to municipal governments). The specifics of these information systems need not be recited; their actual and potential value are immense. Furthermore, analogous networks are being actively organized and expanded within many states, where commonality and immediacy of interests seen even greater than on a nationwide basis. These single-state networks also reflect the shift toward what some observers have called "state-oriented" federalism.

The main problems and the varied perspectives of participants reflect the distinctiveness of the contractive phase of IGR. The cluster of words used to describe this present period may be too broad and imprecise to capture the many specific nuances. But the terms and the illustrations should be sufficient to convey the existence of significant shifts in IGR.

IGR Mechanisms

The instruments by which IGR activities are implemented in the contractive phase also reveal some novel elements as well as some links to prior IGR phases. Table 1 indicates five mechanisms that are prominent in this phase. Statutes and court decisions, it should be noted, were of particular significance in the first phase of IGR which extended to the 1930s. This partial "rerun" of the conflict phase should not be surprising for at least two reasons.

One is the presence of somewhat similar participants' perceptions prevailing in both the contractive and conflict phases. There seems to be in the 1980s, as in the pre-1930s, a strong sense of "we" against "them." This polarization often emerges from renewed and strengthened attachment to one's "turf," jurisdiction, or "policy space."²⁵

A second reason for a link between the 1980s and the 1930s is the Reagan "restoration" theme. One way of viewing Reagan's strategy is to see it aimed at modifying, if not repealing, many of the features found in the five phases from cooperative to calculative. Historians in particular have been intrigued by the Reagan-Roosevelt (FDR) connections.²⁶ Some see Reagan's policies as an effort to repeal most social/domestic policy legislation passed since the New Deal.

Three IGR mechanisms appear to be new to the contractive phase. Two of these are information sources and negotiated dispute settlement. Changes in computer technology, in the former instance, and in social technology (mediation), in the latter, have brought these instruments of problem solving to greater prominence in the contractive phase.

Privatization is the third mechanism. Two examples of privatizing were provided in the contracting of human services (specifically in Richmond) and in HUD's UDAG grant to Newark for waterfront revitalization. But another side of privatization has become an important part of the "look around" strategy of state and local officials. At the state level, the aim of attracting private industries, especially high-technology ones, has fostered interstate and even international competition. The Wall Street Journal, a few years ago, captured the core of this idea when it mentioned the idea that "state governments are increasingly acting like sovereign nations" in both domestic and international arenas.²⁷

One example of the high-tech IGR "wars" waged to attract commerce and industry appeared in December 1980 when Governor James B. Hunt, Jr. went on an industrial recruitment excursion to the Bay Area of California. The governor was visiting "Silicon Valley" to encourage microelectronics firms to relocate to North Carolina. The governor had placed top priority on economic growth and development. This policy became more specific when the governor presented a 1981-1982 budget to the legislature in January. It included \$24 million to establish a microelectronics research center in a large research park near the state capital to attract out-of-state microchip firms to the area.

The governor's incursion into the West Coast's microchip center did not go unnoticed. Governor Jerry Brown's budget to the California legislature contained a response to the North Carolina overtures. His budget called for \$10 million in funds for microelectronics research. According to one source, "Brown explained the proposal as a measure designed to help a key California industry fend off competition from outside the state."²⁸ A further episode in the tug of war over the "industry of the future" occurred in late January. The North Carolina Department of Commerce recommended to the governor that a full-time recruiter be hired and stationed permanently in Santa Clara County. This out-of-state recruiter would join two other "remote" recruiters--one in Tokyo and the other Brussels. Whether the competition is for exotic industries of the future or for the more conventional "car wars" over a huge auto facility such as General Motors' Saturn \$3.5 billion plant in Tennessee, this type of IGR competition for private "goodies" is likely to continue.

The other side of the coin in this pursuit of the private sector is what has been called "competition in laxity." Instead of trying to be a leading or innovative state in a policy sense, state decision makers choose to compete in a "downward" direction. This pattern has been formalized as an IGR game called "Beggar Thy Neighbor." Justice Brandeis termed it "competition in laxity," a phrase to describe the frequent rivalry among the states to find the lowest common denominator.²⁹ We offer three examples of undercutting the competition.

South Dakota has become one of the nation's financial centers. Citicorp moved all its credit card operations to South Dakota from New York in 1981. The move was prompted by changes in South Dakota's finance laws, one of which eliminates interest rate ceilings and allows banks to charge fees on credit cards.

Delaware followed South Dakota with legislation called the Financial Center Development Act. Two New York bank holding companies, J.P. Morgan and Chase Manhattan, transferred some commercial banking and credit card operations to Delaware. An important and attractive part of the Delaware location, to banks at least, was a larger banking profit, based on a lower tax rate. Nathan Hayward, Delaware's Secretary of Commercial Affairs and Economic Development, was quoted as saying that the legislation made the state "the Luxembourg of the U.S. for banking and financing."

A classic, costly, and continuing example of competition in laxity involves different states' taxation of cigarettes. State taxes on cigarettes in North Carolina are only \$.02 per pack compared to \$.30 per pack (combined state/local rates) in New York City. Rates in surrounding northeastern states are nearly as high. This large tax differential makes it highly attractive to criminals to transport North Carolina cigarettes to northeastern states and feed untaxed cartons into normal wholesale or retail distribution channels. This influx of millions of North Carolina cigarettes has given a literal meaning to "tobacco road" for some of the routes travelled by cigarette bootleggers, also known as "buttleggers." Cigarettes selling in New York for over \$12.00 per carton and in North Carolina for less than \$6.00 provide a powerful profit incentive to the smugglers. A large truckload of smuggled smokes is estimated to turn more than a \$100,000 "profit" on a single run.

Federalism Metaphors

The contrasting and even contradictory aspects of the contractive phase of IGR makes it unlikely that a single federalism metaphor will convey adequately the nature of relationships in this period. Table 1 lists three terms as very crude descriptions of the present phase.

Defactor federalism is, strictly speaking, not a metaphor but a manner of denoting, with a legal term, the presence of federalism in fact, that is, the reality of a formal federal relationship. The term was used in 1984 by the ACIR to signify a degree of disengagement (or movement toward separation) between the national government and the state/local sector.³⁰ The Reagan redirection results were a part of the justification for indicating federalism in fact, but they were not the single nor complete basis of support for the term.

Dr. John Shannon, Assistant Director of ACIR for Finance and Taxation, was particularly persuasive in arguing that a slow but steady secular shift was in process in IGR finances.³¹ The trend was toward more state/local self sufficiency in fiscal affairs. The other side of this coin was the major and severe fiscal constraints at the national level which would command that level's intense attention. The national constraints were the defense build-up, social security financing problems, reduced tax revenues from the 1981 tax cut, the ballooning federal deficits, and skyrocketing debt. The central point of defacto federalism is that national-level problems, especially fiscal ones, dominate the Washington, D.C. stage. That dominance is so extensive that state-level concerns are unable to get on state, much less steal a small scene during the "play" of national public policy. There has been a distinct move toward fiscal disengagement, one that actually started before the onset of the Reagan New Federalism

The telescope metaphor in Table 1 expresses the legal dimension of the contractive phase. The adjective "telescoped" conveys the idea of being in a collapsed, condensed, or compact state. This condition is roughly analogous to the present legal/juridical circumstances in IGR. Gaining standing to sue, identifying a federal question, invoking precedents, and finding responsive judges (in federal courts) have produced telescoped (tightly compact) legal relationships.

The telescope as a view-piece is also referenced in Table 1. It represents the magnifying power and resolution capacity of the federal courts to provide intense scrutiny of state/local activities. Two major eye-pieces employed in this scanning/oversight effort are the due process and equal protection clauses of the Fourteenth Amendment. There is a paradox in this court review process, however. The focus of the telescope and the critical eyes seem more intent on and questioning of state/local actions. National (congressional) actions impinging on IGR appear to enjoy less rigorous restraint (e.g., Garcia and FERC v. Mississippi cases).

The whiplash federalism phrase has been used previously and needs little further elaboration. It comes from an essay by a highly regarded legal historian who referenced the sudden IGR financial shift.³² It is applicable much more broadly, however, and this leads to a concluding observation about the contractive phase.

The metaphors, the mechanisms, and the participants' perspectives are not centrally linked to and concerned with fiscal matters. Apart from the four main problems in this phase, three of which are fiscally-related, the other components largely omit mention of monetary matters. This is an indication of the rise of non-monetary matters to greater prominence in IGR. Financial exchanges, especially involving federal and state aid, were once the "stuff" of IGR in preceding phases. Their ascendancy and primacy have receded with the rise to prominence of non-fiscal IGR concerns.

In the third edition of his book, American Federalism: A View From the States (1984), Daniel Elazar indicates that "the American federal system may be passing into a new phase."³³ He notes that in this new phase "federal grants, while remaining important, will no longer set the tone in intergovernmental relations." In place of the fiscal focus, Elazar observes that, "now the move seems to be in the direction of new relationships in the field of government regulation."³⁴ This view is congruent with the non-fiscal aspects that are noteworthy features of the "contractive" character of contemporary IGR.

FOOTNOTES

1. Deil S. Wright, "New Federalism: Recent Varieties of an Older Species," American Review of Public Administration 16 (1982): 56-73.
2. G. Ross Stephens, "States Centralization and the Erosion of Local Autonomy," Journal of Politics 36 (1874): 44-76. For an update of his original research extending into the 1980s, see: G. Ross Stephens, "State Centralization Revisited" Paper prepared for presentation at the annual meeting of the American Political Science Association, New Orleans, LA, August, 1985.
3. James D. Carroll, "The New Juridical Federalism and the Alienation of Public Policy and Administration," American Journal of Public Administration 16 (1982): 89-105.
4. The literature on "contracting-out" is extensive. It has exploded recently as the phrase has become associated with, if not a subset of the idea of "privatization." See Ruth H. DeHoog, Contracting Out for Human Service (Albany, NY: SUNY Albany Press, 1984); Ted Kolderie, "The Two Different Concepts of Privatization," Public Administration Review 46 (July/August 1986): 285-291.
5. Donald F. Kettl, "The Fourth Face of Federalism," Public Administration Review 41 (1981): 366-371.
6. Ibid, p. 367.
7. E. S. Savas, Privatizing the Public Sector: How To Shrink Government (Chatham, NJ: Chatham House, 1982).
8. For two contrasting approaches that emerge from similar if not identical definitions of IGM see: Robert Agranoff, iNtergovernmental Management (Albany, NY: SUNY Albany Press, 1985); and Deil S. Wright, "Managing the Intergovernmental Scene: The Changing Dramas of Federalism, Intergovernmental Relations, and Intergovernmental Management," in Handbook of Organization Management ed. William B. Eddy (New York: Marcel Dekker, 1983), pp. 219-254.
9. Nancy A. Huesberg and William F. Lincoln, Successful Negotiation in Local Government (Washington, D.C.: International City
10. Kettle, "The Fourth Face of Federalism," p. 371.
11. Harry E. Scheiber, "Some Realism About Federalism: Historical Complexities and Current Challenges," in Emerging Issues in American Federalism: Papers Prepared for ACIR's 25th Anniversary, Advisory Commission on Intergovernmental Relations (Washington, D.C.: GPO, 1985), pp. 45-63.
12. Richard P. Nathan, Reagan and the States (Princeton, NJ: Princeton University Press, 1987). See also his broader institutional analysis, Richard P. Nathan, "Institutional Change Under Reagan," in Perspectives on the Reagan Years ed. John L. Palmer (Washington, D.C.: The Urban Institute Press, 1986),

pp. 121-145. For a complimentary institutional/economic analysis focusing on cities see George E. Peterson and Carol W. Lewis, eds., Reagan and the Cities (Washington, D.C.: The Urban Institute Press, 1986).

13. Carroll, "The New Juridical Federalism."
14. National Institute of Dispute Resolution, 1901 L. St., N.W., Washington, D.C. 20026.
15. Nathan, Reagan and the States; Wright, "New Federalism: Recent Varieties."
16. Nathan, Reagan and the States; see also Richard P. Nathan and Fred C. Doolittle, The Consequences of Cuts: The Effects of the Reagan Domestic Program on State and Local Governments (Princeton, NJ: Princeton Urban and Regional Research Center, 1983), p. 186.
17. John E. Chubb and Paul E. Peterson, eds., The New Direction in American Politics (Washington, D.C.: Brookings, 1985).
18. Nathan Glazer, "Reagan's Social Policy--A review," The Public Interest 75 (Spring 1984): 76-98. A more sweeping review of the Reagan Administration's social policies is offered by Glazer in, "The 'Social Agenda,'" in Perspectives on the Reagan Years ed. John L. Palmer, pp. 5-30
19. Glazer, "Reagan's Social Policy," p. 77.
20. Ibid., p. 91.
21. John Chubb., "Federalism and the Bias for Centralization," in The New Direction in American Politics ed. John E. Chubb and Paul E. Peterson (Washington, D.C.: Brookings, 1985), pp. 273-306.
22. State and Local Legal Center, The Academy for State and Local Government, 444 North Capitol St., N.W., Washington, D.C., 20001; see "Memorandum: State and Local Legal Center," 10 1986, 4 pp.
23. Stuart Baker and James R. Asperger, "Foreward: Toward a Center for State-Local Legal Advocacy," Catholic University Law Review 31 (Spring 1982): 367-373.
24. A. E. Dick Howard, "The States and the Supreme Court," Catholic University Law Review 31 (Spring 1982): 375-438.
25. Anthony Downs, Inside Bureaucracy. (Boston: Little, Brown, 1967).
26. William E. Leuchtenberg, In the Shadow of FDR: From Harry Truman to Ronald Reagan (Ithaca, NY: Cornell University Press, 1983).

27. Roger Ricklefs, "Manager's Journal--Early Warning System," Wall Street Journal, 30 April 1979, p. 16.
28. "Governor Brown Boosts Microelectronics," Science 211 (13 February 1981): 688. Governor Hunt's trip and North Carolina's recruitment strategy was described by Margaret Knox, "Micros Could Get Us 'In the Chips,'" The Leader Research Triangle (N.C.) Newsweekly, 1981 Outlook and Review (January 1981).
29. Quoted in Harry N. Scheiber, "American Federalism and The Diffusion of Power: Historical and Contemporary Perspectives," University of Toledo Law Review 9 (Summer 1978): 621
30. S. Kenneth Howard, "De Facto New Federalism," Intergovernmental Perspective 10 (1984): 4
31. John Shannon, "Dealing with Deficits--Striking a New Fiscal Balance?" Intergovernmental Perspective 10 (1984): 5-9.
32. Scheiber, "Some Realism About Federalism."
33. Daniel J. Elazar, American Federalism: A View From the States (New York: Harper and Row (1984).
34. Ibid.