On Statutory Obsolescence  
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With the enactment of the Uniform Commercial Code in all states except Louisiana, the problem of how we are going to live with the Code, so-called, over the next half century becomes worth thinking about. To help us with our thinking we have, fortunately, the accumulated experience of living with the Code’s predecessors during the last half century.

It is true that the conditions of the first general codification of commercial law, which followed 1900, were by no means the same as the conditions of the second general codification—that is, the Code. In the intervening half century our legal system had suffered, or at all events undergone, fundamental change. We had traveled a considerable distance along the road which has led us from what was conceived as essentially a common law system, somewhat eroded by statutes, to what we have come to think of as essentially a statutory system in which the few remaining common law enclaves are no doubt destined to be gradually absorbed. Our attitudes toward statutes, as well as our ideas about drafting style, had notably changed. The 1950 codification was, then, a quite different animal from the 1900 codification. Admitting that, there is still profit to be derived from a consideration of the adventures and misadventures, most of them unexpected, which our first batch of codifying statutes experienced during their half-century on, as we say, the books.

A preliminary problem is why what we call “commercial law” was the subject matter of the first large scale experiment in codification in this country, as well

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rupture of Insull Utility Investments, Inc. In the liquidation of that enterprise his acumen and sound practical judgment commanded the respect and admiration of businessmen and lawyers alike, many of whom were much surprised that a professor could master even the most intricate problems of that very complicated business organization.

When Mr. Bigelow reached the University's retirement age in 1939, he relinquished the Deanship, but, though emeritus, continued to teach classes in Conflict of Laws and in Property. In 1947, he was drafted by President Harry S. Truman to be a member of the National Loyalty Review Board and to the work of that agency he devoted much time and energy during the last years of his life. One who does not have access to the files of the Board cannot, of course, know how invaluable to the nation were his services, but no one who knew how preeminent were his qualifications for the difficult and extremely sensitive work of that agency could fail to be thankful that, in spite of his failing health, Mr. Bigelow had accepted the appointment.

The service that he rendered to the nation as a member of the Loyalty Board was a fitting climax to Mr. Bigelow's career, and when added to his contributions to his students, to the Law School to which he had devoted forty-six years, and to the profession at large, will merit eternal gratitude and always inspire those who were privileged to be associated with him.

It is particularly appropriate that the professorship which Mr. Bigelow's bequest sustains should bear his name. For it will serve as a perpetual memorial of a lifetime of eminently distinguished teaching and scholarship that encompassed substantially all of the first half-century of the School's existence, and contributed so brilliantly toward the realization of Mr. Harper's goal that the new Law School of The University of Chicago should be worthy of a place in the great institution he envisaged.

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as Medicare and public housing as embodying major issues of public policy when, in fact, they involved only issues of method and administration. But only politicians, by and large, seemed to take seriously their own continuing debate over the essential necessity for government's assumption of broad responsibility for the general welfare.

Not all the demands of social responsibility, of course, have yet been met. Crime, juvenile delinquency, structural unemployment, bad housing, racial discrimination, the urban ghetto—these are deeply disturbing and stubbornly resistant manifestations of our continuing failures. There is good reason to hope, nevertheless, that they will eventually yield to massive applications of techniques and resources we now know how to use. The problem, essentially, is to find ways—especially in a period of limited but large-scale war—of making such applications massive enough.

Meanwhile, a new crisis has emerged. Compounded of population growth, technological change, mass communications, and big government, it is a crisis of identity—a crisis characterized by the progressive submergence of a sense of individual significance in a gray, featureless sea of homogenized humanity. And though it is a crisis characterized rather by a sense of vague anxiety and unease than by misery and pain, it is serious nonetheless for a society dedicated from its outset to the liberation of human aspirations and the fulfillment of human potential. It is serious because 'it portends the failure of that society in serving these ends. And since the processes which are blurring the individual's belief in himself are progressive and inexorable, it is hard to shake off a sense of impending decay and gathering darkness.

But even the gloomiest forecast can be useful in identifying a challenge—or so, at any rate, "the optimists and chronic hopers of the world," as Mencken called us, are bound to believe. As I see the challenge, it is to maintain, create and, where necessary and possible, to restore, an environment for living which, first, is physically safe; second, provides aesthetic satisfaction; third, encourages the maximum development of human capacities; fourth, gives scope for the development of personal relationships in which the need for affection, mutual respect, and the recognition of individual dignity can be satisfied; and fifth, affords opportunity for the individual to play a meaningful part in the shaping of the policies and programs directed toward the four preceding goals.

Now, if I were giving five lectures instead of one (and, mind you, this is not a complaint because there is no conceivable prospect that I could have prepared more than one), I would cheerfully dilate on all of these themes. Indeed, as you know, my present responsibilities are largely concerned with some of the aspects of public safety. As to aesthetic satisfaction, I have long felt that if I could choose any job in the world it would be that of
eradicating ugliness in Boston—assuming, of course, that I were armed with complete authority to promulgate and enforce zoning ordinances, could exercise the power of domain, and had at my disposal upwards of a billion dollars. The third topic—the maximum development of human capacities—is the central theme of most of my graduation speeches (as it is, I suppose, of everyone else's), and the fourth would give me a welcome excuse to tee off on the tendency to denigrate as the mere product of an adventitious "Protestant ethic" what I am powerfully convinced are moral values rooted in the very subsoil of the human condition.

Regrettfully, however, I shall be obliged to restrict the focus of this lecture to the last of these five objectives—maximum opportunity for the individual to share in shaping the policies and programs which profoundly affect the quality of his life. And although some of the components of our present crisis—population growth and technological change, for example—can only indirectly be modified by the conscious direction of government policy, the same can hardly be said of big government itself. The former, after all, are byproducts of human activity, while government is its conscious creation. Insofar, therefore, as remoteness and impersonality, coupled with imperviousness to the impact or influence of the individual, are characteristics of big government which contribute to the existence of the current crisis, it can be the deliberate and specific objective of government to modify and offset these characteristics.

And yet it will not do to underestimate the power of the thrust toward big and still bigger government. It would be futile, in the first place, even to contemplate a slowdown in the growth of all government, as distinguished from the central government; the expansion of governmental action at some level is an inevitable response to the growing complexity and interdependence of an urban and technological age. We can, however, usefully seek to neutralize and even to reverse the gravitational pull which for decades past has been attracting power toward the center. The first step must be to identify and understand the components of this centripetal force.

One such component, surely, is the characteristic American demand for quick results (I shall have occasion further on to refer to this as "product demand" or "the product"): "End poverty!" "Cure cancer!" "Stop pollution!" In the face of these categorical imperatives, how can we be anything but impatient with the necessity for having to deal with scores of state governments, thousands of local governments, hundreds of thousands of voluntary organizations, and millions of individual people? The ready answer—the direct route—is to exert pressure at a single point, call upon federal funds, enact a new law, set up a new agency. And at the head of the march on Washingt...
shortsighted restrictions on adequate staffing, political interference, and even corruption, have all too widely and too frequently impaired the effectiveness of state and local government. And in no area have these inadequacies been more manifest than in that of planning to meet new needs and to make efficient use of available resources.

Now, if this quick review of the major components of the centripetal process proves anything, it is that none is inherently bad. My own impression, for what it may be worth, is that the pursuit of power for its own sake has been a negligible factor; the process is not motivated by a willfully totalitarian thrust. One might well ask, then, why worry about it? And the fact is, of course, despite Mr. Justice Brandeis' fifty-year-old warning against "The Curse of Bigness," that until very lately only Republican orators have seemed to take the warning seriously. In candor, however, I think it must be acknowledged that bigness in government today, because of its contribution to our current crisis of identity, gives us far greater cause for concern than used to be justified. Inured though we have become to the cry of "Wolf!" even a "liberal" can now admit that the wolf may indeed be in the neighborhood. Just this week, in fact, the senior Senator from Massachusetts denounced the evils of big government in a speech at Amherst College.

But the recognition that a problem exists is only a pre-condition to its solution. Then comes the hard part. And in tackling the hard part, a useful first step is to put aside approaches which, however appealing, cannot possibly work. For one thing, we cannot, as William F. Buckley has said he would like to do, sit astride history screaming "Stop!". Social security and "socialized medicine," like the automobile and automation, are here to stay. Besides, there just isn't room for all of us out there in Marlboro Country with Barry Goldwater. Experience, moreover, has demonstrated the bankruptcy of even such sophisticated approaches as that of President Eisenhower's Federal-State Action Committee which, as you may recall, urged the states to take over the federal grant-in-aid programs for vocational education and waste treatment construction in return for a share of the federal telephone excise tax. And while it may well be that Generals O'Brien and Gavin are right in forecasting that operation of the Post Office by a private corporation would pay dividends in efficiency, the substitution of business bureaucracy for government bureaucracy is obviously not the way to get the citizen into the act.

No, the only conceivable approach that offers any real prospect of success is the same one we followed in establishing the federal system, inventing the regulatory commission, and devising the ingenious arrangements of federal, state, and private functions under which our social security, employment security, and workmen's compensation systems are administered. And what is that approach? Essentially that of a good lawyer: to seek to understand the problem, to grasp the relevant principles, to assemble the essential facts, and to exercise resourcefulness in achieving a constructive solution.

Let me, then, restate the problem: it is to devise ways of giving the individual the opportunity to play a more meaningful part in shaping the governmental policies and programs which affect his physical, aesthetic, occupational, recreational, and human environment.

How are we to go about this? What real opportunity is there to involve individuals in matters affecting them? The first essential, plainly, is the conviction that the goal is important. And this, in turn, has implications for our present attitude toward "the product." If we are really as concerned as I think we should be about the crisis of identity, we must be prepared to accept some sacrifice of the premium we have habitually placed on speed and efficiency and to put in its place an ungrudging preference for citizen participation in collective decisions. Such a fundamental change in attitude, of course, will not easily be achieved. My revered teacher Judge Learned Hand once wrote:

"Life in a great society"—this was in 1929, long before LBJ—"or for that matter in a small, is a web of tangled relations of all sorts, whose adjustment so that it may be endurable is an extraordinarily troublesome matter. Men have indeed in periods of revolution tried to start afresh and contrive a new scheme from the bottom up. The surprising thing about it is that when they finish they have accomplished no very startling changes. The French Revolution shifted the center of political power from one class to another, but the relations of the individual to the government did not very deeply change for long after, if they have ever changed at all. Habit was too strong for any fabric which could be woven from the brain of Jean Jacques Rousseau ... . In ordinary times at any rate men have no time and no capacity to draw new patterns for their society: they must make their living and answer the other problems of their individual lives. Until something in the general frame of things is so irritating as to tease them into action, they go along with what is usual."

In the present crisis, one hopes that just such an irritant is teasing us into action. For there will be required something like a revolution in attitudes to produce the kind of priority for the individual in the context of governmental program development and administration that is already accorded to individual rights in the administration of criminal justice. Indeed, since governmental programs are progressively coming to have greater and greater impact on more and more of us, it is not, I believe, too farfetched to suggest that the constitutional compulsion to respect the claims of individual worth and dignity which is manifested now in the requirements of a procedural due process in criminal cases will someday be extended to the guarantee of procedures whereby individuals are enabled to participate in governmental processes. There is, to be sure, a wide difference in directness
of impact on the individual between the trial of a criminal charge against him and the regulation of billboards along the roadways he uses, but this, arguably, is a difference more appropriately reflected in the degree of strictness of the indicated procedural safeguards than in their general character. Early signs that just such safeguards are in fact developing can perhaps be discerned in recent judicial pronouncements on the "one man—one vote" theme, as well as in the recent decision affirming the right of citizens fighting to preserve the Hudson River Gorge to be heard "on a basic concern, the preservation of natural beauty."

Be that as it may, the task of defining a role for the individual in the policy-determining process requires the development of the very sort of criteria for identifying the functions appropriate for such participation as would have to be applied in determining when the Constitution compels it. Let us grant, for example, that the command of troops in South Viet Nam (or South Carolina) is an obvious example of a function inappropriate for citizen participation. An equally clear example of the opposite is the conduct of a neighborhood rehabilitation program. Most governmental functions, of course, fall somewhere between these extremes, and among the factors which can make them more or less suitable for citizen participation are such variables as the directness of their impact on the individual, his family, or his community; the scope of the geographical area within which, as a matter of practical necessity, the function must be exercised; the importance, again as a practical matter, of uniformity of administration within this area; and the necessity (which should be held to a minimum) of reliance on technical expertise.

Having identified a function which is appropriate for citizen participation, it then becomes necessary to ask:

First, how, without excessive sacrifice of "product," can this function be made accessible to the understanding and impact of the concerned individuals?

Second, who are the individuals—the electorate or constituency, in effect—who should be entitled to participate?

Third, what form should this participation take?

The natural and legitimate concern with school policies shared by the parents of the children attending an elementary school in a slum neighborhood should entitle them to an understanding and respectful hearing by department of education officials, and yet "product" considerations inescapably prevent constituting them in effect as an autonomous school board for that one school. Dwellers in a congested urban neighborhood can effectively band together on a narrow geographical base to secure improvements in municipal services; the urban parents of retarded children, to be comparably effective, are likely to want to draw into their organization similarly concerned suburban parents. For some purposes, a neighborhood action group is the answer; for others, membership on a policymaking board; for still others, the right to vote for elected spokesmen, as in the case of Boston's projected 18-member "Model Neighborhood Board" under the Model Cities program.

In every such situation it is crucial not only to involve the right citizen participants, including the recipients of services (AFDC mothers, for example), but so to define their role that their participation will afford a real and not fictitious opportunity for citizen participation. In every case, moreover, it is essential to consider whether the governmental response should be to encourage citizen participation through their own voluntary organizations or through representation on some official body.

Massachusetts enacted last year a community mental health program which illustrates one approach to the problem of citizen participation. Consistently with the requirements of the federal Community Mental Health Act of 1963, the program establishes a statewide pattern of mental-health service areas embracing somewhere between 75,000 and 200,000 people. Generally speaking, these areas are larger than our cities and towns and smaller than our counties and thus could not be assimilated by any existing governmental structure. There were a number of compelling reasons, moreover, including the fact that no local taxing authority would be contributing any substantial amount to the cost of the program, why its overall direction had to be centered in the state mental health agency.

Within this framework we gave each area, under an area director and a citizen board, a substantial degree of autonomy, vesting in the board the power to approve the selection of the director, to participate in the development of the area budget, to approve contracts and other fee-for-service arrangements with voluntary agencies, and certain other enumerated powers and responsibilities. This answered the question of how to make the overall function to be performed accessible to citizen participation. The question of who should participate—the constituency question—was answered by spelling out various institutions, agencies, interest groups, and professions whose representation on the area board would be required. The means chosen to provide a vehicle for citizen participation was, of course, the area board itself.

This kind of citizen-board is a model I hope to see adapted in Massachusetts to similar programs in public welfare, public health, and vocational rehabilitation administered in areas geographically extensive both with each other and with the mental health areas. Indeed, planning along these lines is already in various stages of progress. In the case of public welfare and public health, this will mean administration on the basis of larger geographical units than at present, since in Massachusetts public welfare and public health have traditionally been municipal functions. The result, nevertheless, should bring about a net gain in citizen involvement, for the
area boards will provide a better vehicle for meaningful citizen participation than the present system of municipal administration.

Similar considerations are, I think, applicable to any problem transcending the municipal boundaries which subdivide a metropolitan area. Our present reliance on the fragmented functions of autonomous local units can clearly be excessive. And yet the fact that such units do so conveniently afford opportunities for citizen participation makes it important to continue to rely on them for those functions that can be handled locally. As it was written in the 1648 edition of the Laws and Liberties of Massachusetts, "The Freemen of every Township ... shall have the power to make such Laws and Constitutions as may concern the welfare of their town ... not repugnant to the public Laws and Orders of the Country." The question is, what functions can only be handled on a metropolitan basis and what functions—or elements thereof—can just as well be handled on a municipal, community, or neighborhood basis?

Among the things most obviously eligible for administration on a metropolitan basis are water and sewage, as was recognized as long ago as 1889 when Greater Boston's pioneering Metropolitan District Commission was given these functions. More recent candidates for metropolitan administration are fire and police services. For these services, however, one can visualize a compromise which would treat training activities, communications, and reciprocal arrangements for the sharing of information and specialized personnel on an area-wide basis while preserving a substantial degree of local responsibility for other activities.

Or again, take land use, one of our most troublesome existing problems and one certain to become more so. We can't for long in any megalopolitan area continue to allow the location of industry and low-income housing to be products of such uncontrolled circumstances as, for example, what community gets there first with the most restrictive zoning by-laws, or, as the case may be, offers the most attractive inducements to the location of new industrial plants. The regulation of land use and occupancy is the key to a host of other problems—social stratification, de facto segregation, tax-revenue distribution, and availability of citizen leadership, not to mention such more obviously land-related matters as access to recreational facilities and open spaces. To solve these problems demands planning—and that means planning with teeth. But this, on the face of it, can be done in broad strokes for the megalopolis as a whole while leaving the intermediate details to specially constituted regional bodies and the ultimate details to the municipalities, with appropriate provision for citizen participation at each level. The hardest question—and in due course it is bound to become urgent—is going to be: how much authority over private decisions must such bodies be allowed to exercise?

This is, perhaps, a good place to pause and look back over the ground we have covered. We began by recognizing a crisis of identity, and enumerated some of the factors contributing to the growth of the central government. Having then defined the problem as that of finding ways of giving the individual a meaningful part in shaping the governmental policies and programs which most directly concern him, we proceeded to consider opportunities of making the individual a direct participant in this process. We come now to alternative means of involving him.

One such alternative offers almost unlimited potential for bringing public functions within reach of the citizen: the utilization of contract and fee-for-service arrangements with private voluntary agencies. Such agencies have a number of advantages over government agencies—flexibility, receptivity to innovation, and so on—but their most important asset is that they seek out and enlist the concern of individuals who care deeply about the agency's social purpose and the needs it is trying to meet. Millions of volunteers give time and energy and deep devotion to Boy Scouts and Boys' Clubs, to community hospitals and community chests, to little theaters and Little Leagues, which would never give to a government program. It is important, therefore, to expand the role of voluntary agencies not alone or even primarily for the sake of the services they perform but for the sake of the opportunity they give so many people to feel that they are making a personal contribution to a worthwhile effort.

Government programs can, of course, be so designed as to displace or to encourage reliance on voluntary agencies and private organizations. Rhode Island's temporary disability insurance program preempt from the field; New York's, through the option on "contracting out," leaves room for voluntary arrangements. Medicare, to the extent of the coverage provided, ousts other forms of insurance (I once spent most of six months trying to work out a health insurance scheme for people over 65 which would have preserved a role for voluntary and commercial carriers); the community action part of the poverty program (Title II of the Economic Opportunity Act) invites the involvement of voluntary agencies.

Certain other recently enacted federal programs, particularly in the health field, confront us with the urgent necessity for a choice between the expansion of direct government services and a partnership between government and private organizations. Medicare, medicaid, the heart-cancer-stroke program, and the expanded maternal and child health services called for by Title V of the Social Security Act, not to mention the community mental health program which has already been discussed, individually and in combination demand the development of better and more accessible health services for low-income people. As I've had occasion from time to time to bring to the attention of medical groups just as
forcefully as I know how, either this demand will be met by cooperation between voluntary health services and public health agencies through various contractual arrangements, or else government will be forced to build and staff its own clinics.

I have elsewhere tried to spell out what I think are the very real human considerations that favor this kind of partnership over the direct purveying of government medicine. For present purposes it will have to suffice to cite on this point Dr. Bertram Brown, former head of the community mental health program in the National Institute of Mental Health, now Deputy Director of the Institute, who has said that the development of community mental health programs throughout the nation demands wherever possible a "coalition of resources"—a coalition, in other words, which draws upon whatever services can be provided by the agencies that have already come into being as an expression of community concern with the problems of mental health.

Another approach toward offsetting the bigness of government and bringing it within reach of the citizen requires the evolution of a number of new kinds of people whose roles would have in common the function of serving as a link between the citizen and government.

One such person would have a role best described, perhaps, as that of "neighborhood counsellor." As matters now stand, all the established categorical disciplines such as public health, public welfare, mental health, and vocational rehabilitation, have to rely on individuals filling roles which in practice draw much more heavily on a basic understanding of human problems and on a general knowledge of the capacities of more specialized fields than on any specific professional training such individuals may once have had. Public health nurses, public welfare caseworkers, psychiatric social workers, and rehabilitation counsellors all, in their day-to-day work, devote a large part of their time to this kind of counselling and referral.

The burgeoning complexities of governmental programs and the continuing subdivision of old professions into new sub-specialties combine to make counselling and referral, at the first point of contact by a government agency with people in need of help, increasingly important. In view of this, it makes sense, I believe, to visualize educational programs designed from the outset to train people for this essential service—people who would become as intimately familiar with the urban neighborhoods in which they serve as an agricultural agent with his own rural area and who could, in addition, help to mobilize the interest and the skills of the "indigenous non-professionals" who should play an increasingly important part in all community-oriented programs.

A second area in which a similar function can be performed is in law enforcement and police protection. Indeed, this would appear to be very much the role visualized by the National Crime Commission for the "community service officers" who, under the Commission's recommendation, would operate out of storefront headquarters in slum areas.

Thirdly, there is a need for lawyers who, in representing the indigent, will not only provide needed assistance in matters that are traditional functions of the lawyer but will also serve as spokesmen for poor people in their dealings with government agencies.

I'm not yet convinced, however, that we should take the additional step of creating an ombudsman whose charge would be to serve as an omniscient champion of the people in their relationships with government because I'm not sure that we can expect a man both to cover such a broad range and to be able to do it effectively. And I see these three—the neighborhood counsellor, the lawyer for the poor, and the community service officer—as between them doing everything that an ombudsman could do and doing it better.

But to make these various approaches toward meaningful citizen participation in government really effective, we must reverse the pull toward the center exerted by present systems of financing governmental functions. To restate a point made earlier, we should realize that the level of government at which money is collected and disbursed has no logical relevance to the question of where any given program should be administered. The fact is, however, that it has often had a decisive influence, and the result is a dilution of citizen participation not offset by any product advantage. It should follow, therefore, as a consistent principle of government, that reliance for financial assistance by a lower level of government on a higher one should never in itself be a reason for giving the higher level administrative jurisdiction over the programs thus assisted.

Recognition of this principle is made all the more important by the explosive growth of demand for governmental services at the lower levels of government, since the combination of inequality in their taxable resources and of competition among them creates entirely legitimate reasons for their seeking assistance from above. Thus, revenue sharing by the federal government with the states is just as necessary and desirable as revenue sharing by the states with local governments. It follows, moreover, that insofar as the justification for revenue sharing depends on inequalities among tax bases, the revenue to be distributed should be shared on a basis favoring the poorest states and communities. To let the volume of income taxes collected within the boundaries of a given state be the measure of the share of federal revenue receivable by that state would be just as wrong as to make the total amount of real-estate taxes collected within a given municipality the measure of the state revenue allocable to that municipality.

For these reasons I favor a revenue-sharing plan along the lines of the bill (S.482) proposed by Senator Javits,
which is based on the principles underlying the Heller Plan. Under Senator Javits' bill, however, only 15% of the funds to be shared would be distributed on a basis favoring the low-income states; my own preference would be to distribute the entire amount, as in the case of many existing grant-in-aid programs, under a formula inversely weighting per capita income. In order, at any rate, to have a significant equalizing effect, the amount of federal funds thus distributable should eventually reach something like 20% of all state and local expenditures, or, at their present rate, about $17.4 billion. This amount, added to present categorical grants of another $10.7 billion, would bring total federal aid expenditures to about one-third of all state and local expenditures—which would seem to me about the right proportion.

A second type of federal assistance (included in the categorical grant total given above) should take the form of block grants for such broad functional purposes as education or public health or mental health, subject to no restriction beyond the requirement that they be expended for these purposes. Some of this money, depending on other pressures on the federal budget, might be new, but much of it, at the outset, could be obtained by cutting the strings on the funds furnished under established grant-in-aid programs whose state-plan requirements no longer serve a necessary purpose. The creation of these block grants, moreover, should be accompanied by the initiation of a regular and continuing procedure for the reappraisal of grant-in-aid programs to determine when their stimulatory or standard-setting purpose has been sufficiently well fulfilled to justify their transfer into the block-grant category. As leading candidates for early transfer, I would nominate the old vocational education programs, the "impacted areas" program, and some of the titles of the National Defense Education Act, in whose drafting I had a considerable share.

Now, I am well aware that this "put-it-on-the-stump-and-run" approach (which is what we used to call it when I was at HEW) has been criticized as involving an abdication of the federal responsibility to see to the wise use of federal funds—a complete abdication in the case of revenue-sharing per se, nearly so in the case of block grants. But the short answer is that the money isn't "federal" money at all; it's just collected through use of the federal taxing power. And the only reason for relying on the federal taxing power to collect this money is to take advantage of the federal tax base for the benefit of the states. The federal government would not otherwise have occasion to collect it at all. There exists, therefore, no more reason for federal supervision over the expenditure of these funds than over the expenditure of funds collected by the states themselves.

In addition to these two types of federal assistance, there should continue to be grant-in-aid programs of the kind now so widely used (a Brandeis University graduate student, before he stopped counting, recently identified more than 200 separate grant programs in HEW alone). But since such programs demand a substantial degree of federal direction and since they evidently cannot be divorced from a built-in tendency to generate cascades of paperwork, they should have to bear—and throughout their existence continue to bear—a substantial burden of proving that their stimulatory and standard-setting function is really necessary.

Finally, there will remain a need for project grants for research and demonstration purposes, subject also to periodic reappraisal to determine when the project-grant program has reached a stage mature enough to be included in the nearest categorical grant-in-aid program, from there moved into the block-grant stage, and, ultimately perhaps, consigned to the revenue-sharing program.

To recapitulate, it is possible to identify a number of potentially useful approaches toward giving the individual a greater influence on the forces which shape his environment: the breakdown of governmental functions into segments that can be adapted to citizen participation; the expanded use of contracts and fee-for-service arrangements with private organizations; the use of people who can serve as a link between the individual, the neighborhood, and governmental agencies; and the development of less restrictive means of federal financial assistance to governmental functions at the state and local levels. Quite plainly, however, none of these approaches is self-executing; they must be consciously pursued. And so it seems to me that one more element is needed, and that is the creation of mechanisms for the planning of decentralization itself.

As coordinator of health, education, and welfare programs in Massachusetts during the last two years, I gradually learned that the greatest need in program development and administration is for joint planning among agencies and across the lines of professional disciplines. And yet the lack of machinery for this purpose is glaringly obvious. On the one side, such planning must be comprehensive and embrace the many points at which programs aimed at meeting human needs overlap or impinge on each other. On the other, it must be finely enough subdivided to be capable of coping with the particular kinds of problems requiring a specific response. And within each of these subdivisions the planning process must concern itself directly with the ways in which citizen participation can be built into the system—a task, essentially, of constitution-making for an enormously wide variety of situations.

I drafted last year a bill which in the present Congress has been sponsored by Senator Hill, the Chairman of the Senate Committee on Labor and Public Welfare, Senator Javits, the ranking Republican on the Committee, and a
number of other Senators, and which would provide federal leadership and funds for just this kind of planning. And while it is true that enactment of this bill would on its face mean a step in the direction of still bigger government, unless state and local governments develop the capacity to plan—and particularly to plan for ways of involving the individual citizen—the forces controlling our lives will continue to become more and more remote and less and less responsive.

Nearly three years ago, looking at the faces of thousands and thousands of people during the course of a long statewide campaign, I suddenly remembered the dedication of a book I once read which goes something like this:

"This book is dedicated to the people who are sometimes called 'the little people.' Well, I want you to know they're just as big as you are, whoever you are."

Our government exists for and because of individual people, and it will have failed in its responsibilities to them if it fails to preserve an environment in which every individual, whoever he is, feels just as big as you are, whoever you are.

Exits and Entrances

George E. Fee, Jr., JD'63, has been appointed Dean of Students in the Law School, succeeding James C. Hormel, JD'58, whose resignation was effective June 30, 1967. Mr. Hormel has been a major source of strength to the School in his six years in that office; he will be greatly missed.

Mr. Fee practiced briefly in Boston following his graduation. He was serving as Associate Editor of the Law Book Department of Little, Brown and Company when he came to the Law School as Director of Placement two years ago. As Dean of Students, he will be responsible for the selection of students in the J.D. program, for student aid in the same area, and such matters as course and examination scheduling and recording of grades. Admissions and fellowship awards for graduate students are handled by Professor Edmund Kitch, JD'65, Chairman of the Graduate Committee. Mr. Fee will continue to oversee the Placement Office.