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**The
John C. Bollens
Lecture Series**



*President Franklin D. Roosevelt signs the Social Security Act
August 14, 1935. (AP/WWP)*

**The Welfare State
and Local Government**

Theodore J. Lowi

The John C. Bollens Lecture Series

The aim of the John C. Bollens Lecture Series is to bring together the worlds of academic exploration and practical politics so that the work of those who serve the public will be illuminated by discussion of the broader principles and ideas of representative government. The previous lecturers have been Professor James Q. Wilson, Hale Champion and Dr. William Hamm. John C. Bollens, the distinguished Professor of Political Science at UCLA, was born in 1920 in Pittsburgh, Pennsylvania, earned his bachelor's degree at the College of Wooster, his master's degree at Duke University and his doctorate at the University of Minnesota. He began his association with UCLA in 1950 and became a full professor in 1960. He established himself as a most productive and influential thinker on local government. Not only did he write 26 books, including profiles of Mayor Sam Yorty and Governor Jerry Brown, and inspire hundreds of students, but he also held important positions with Los Angeles County, Los Angeles City and the cities of Seattle and Chicago. These positions included Civil Service Commissioner of Los Angeles County, member of the Los Angeles Citizens Committee on Zoning Practice, and director of the Town Hall Study of the City of Los Angeles' Charter and Governmental organization, which led to many changes in the City's charter.

We who knew and worked with Professor Bollens as students, colleagues and friends began this lecture series as a legacy not only to the man, but to his unique brand of scholarship.



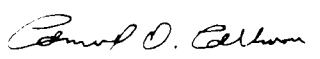
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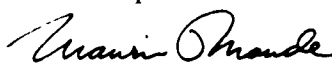
Theodore J. Lowi


The Welfare State and Local Government

It could hardly be more appropriate for such an occasion to be introduced by a professor and two local legislative leaders. Although Jack Bollens and I were not intimate friends, I knew him and, more important, I knew his work. Jack Bollens represented a very significant tradition in political science — the politics of administration. He was part of a postwar group of students of administration, intellectuals with practical experience who took administration seriously as a force in history and a force in politics distinguishable from other social forces. During his own lifetime, the politics of administration barely survived the behavioral revolution. There was, for example, a point in the early 1960s when Jack's colleague, the distinguished Jim Fesler, did not get a single graduate student at Yale enrolled in the graduate seminar that had been such an inspiration to those of us who had been graduate students at Yale in the early and mid 1950s. Public administration in political science was just recovering from the behavioral revolution when it got hit from the blind side by the economics revolution. If the field manages to avoid being numbed by the numbers and crunched by the cost/benefit analyses, the proper study of public administration may survive. I hope the John C. Bollens Lecture Series will be a continual contribution to that survival.

In this context, I consider it a very special privilege to be able to contribute to the discourse to which this series is dedicated. I view it as a discourse between public spirited political scientists


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Supervisor, Los Angeles County
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Los Angeles City Councilman
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and intellectually inclined politicians. I am saddened only by the infrequency of such opportunities. So please let me take this opportunity to thank Professor Wilson, Supervisor Edelman, Councilman Braude, Mrs. John C. Bollens, Virgene, and, in particular, the members of the lecture committee, whose votes, in the immortal words of Yogi Berra, made this lecture necessary.

No inquiry into the welfare state can start or can get very far without placing it in the context of the US Constitution. And in the case of welfare, that means federalism. The Constitution, to start with basics, provides for two levels of government — the national level and the state level. The Constitution provides each a share of sovereignty. Sovereignty is something Rousseau said could not be divided; we proceeded to divide it. In fact, most of the serious governing under the federal constitution was reserved to the states. The Founders were no ignoramuses. They deliberately chose the word state for our second level of government, in preference to words like commonwealth or department or province, precisely because they were aware that the state implies sovereignty. I'll have a lot to say about that in the course of my talk, but it is important to know at the outset that constitutional intent as well as governmental practice for the two hundred years of our constitutional history has reserved the greatest part of the serious and fundamental functions of government to the states.

Now, having said that, our next step is to confront the fact that local government is conspicuously absent from the Constitution. The Constitution makes no mention of local government. Ed Meese could grow thin and short and find no original intent that says, "We want the local governments to do this or that; local governments shall have this or that kind of power; local governments shall be sacred." Nonsense; local government is simply not there, and no amount of priestly interpretation can create it. Local government has no constitutional status.

Local governments — counties, villages, cities — do exist, but they exist as conveniences of the state governments. In fact their importance arises out of the traditional American fear of "the state." Local government was the American way to avoid

bureaucracy: by assigning implementation of state government policies to local, regionally based governments, most importantly the counties. This was the constitutional context and status within which the local governments developed. And the development of local governments was surprisingly uniform throughout the United States.

To provide a starting point as to the character of American local government, let me quote from Arthur Schlesinger's 1986 book, The Cycles of American History:

The [traditional] assumption was that the national authority was too remote from the people and that this very remoteness facilitated its capture by self-seeking business interests. The roots of free government, it was held, were in the community. Decentralization and localism were the safeguard of popular democracy.

Such propositions were plausible enough in a society of agricultural freeholders. But, as the economy diversified and classes solidified, localism played a different role. It turned into the means by which the strongest local interests, whether planters, ranchers, merchants, bankers, industrialists, consolidated private power and escaped public control. In time it appeared an illusion to say that, because local government was closest to the people, it was therefore most responsive to the people. Local government became the government of the locally powerful. . . . [The] locally powerless [would have to] appeal to the national authority.

If I had not revealed that the author was Arthur Schlesinger, many of you might have guessed it was written by Karl Marx. Schlesinger is not a closet Marxist, but maybe I am, because it is my feeling that Schlesinger doesn't go far enough, not by a long shot. Local government did indeed defend the interests of the locally powerful. That's almost a truism. But far beyond that, and far more meaningfully, *local government defended the values and the institutions and the morality of the community.* As it happened, that was in the interest of the powerful; but that is incidental, virtually, to the deeper

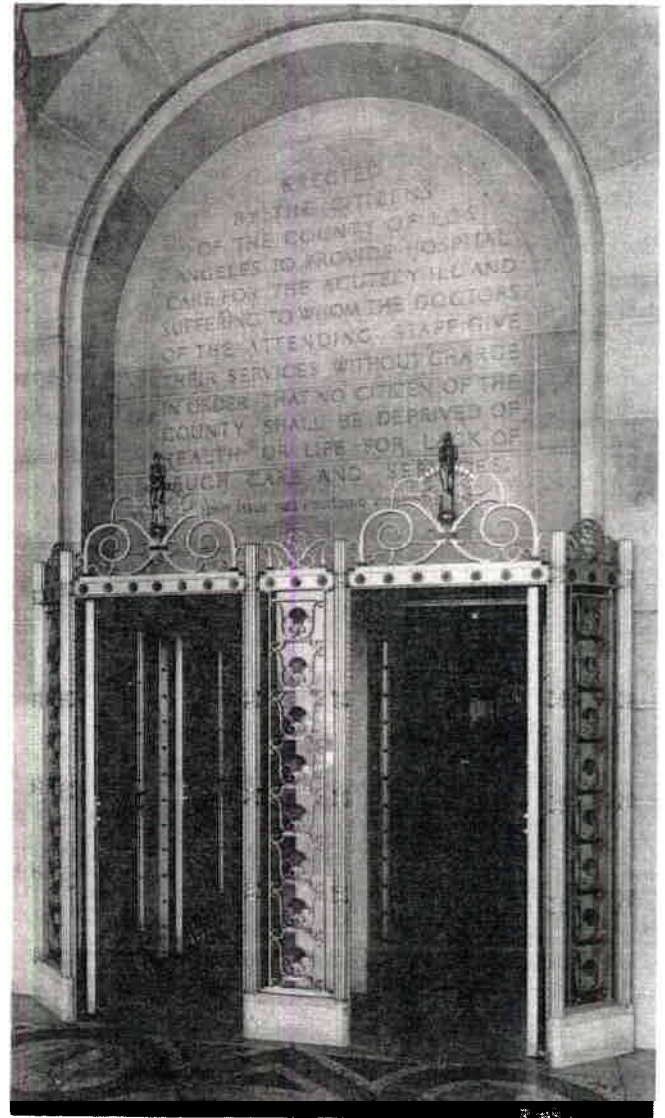
commitment of the ordinances and activities of local governments, throughout the United States, to the defense of the prevailing values, institutions and morality of the community.

Now what I have just said is virtually a definition of police power as Cliff Grant or any other student of constitutional and legal history would define it. Defense of the health, safety and morals of the community is the police power; and that was precisely what was reserved to the states by the Constitution and delegated by the states, as administrative convenience, to the local governments. The police power. So, local governments were conservative in a very fundamental sense; and perhaps, in this sense we are all conservative. That is, we don't wish to experiment altogether with local institutions and morality. We liberals will go a great distance in the name of experimentation and relativism, but eventually a point will be reached where liberals turn out to be not closet Marxists but closet conservatives.

It's true that the state legislatures in the 19th century had a reputation for radicalism, a well-founded reputation. They experimented with the printing of money, with credit, with favoring debtors, supporting speculators, attacking monopolies, and a great deal more. But radicalism was sporadic while conservative defense of property, family and home was constant. Radicalism was a cyclical response of the cycles of the economy; defense of basic values was not cyclical. Let me emphasize, however, that this conservatism knew no capitalism. It knew no free market. If capitalism and free markets happened, OK as long as they knew their place and did not threaten basic traditions and values. I know this is very difficult to grasp, especially in California, where there are so many libertarians. I must tell you libertarians the bad news, that there was never a fully free market, and the advance of markets would not have been permitted if it had posed any serious threat to the community value systems. Examine the annual session laws of the state legislatures — New York, 1820, North Carolina, 1840, California, 1870. Examine the ordinances of local principalities in the 1830s or 1880s. More interesting, examine the case law of the local common law courts. In all these sources, you would find a consistent conservatism, so con-

servative indeed that the common law, the most basic source of governmental authority in the 19th century, was, if anything, *anti-capitalist*. For example, in cases of injury, the presumption in court went against the active party and in favor of the passive party. What is more anti-capitalist than that? The first question in an injury case was likely to be "who set the action in train?" That's where the responsibility would be put. Related questions the early courts asked were: "Who is able to pay?" "Who will care for the widows and orphans?"

We sometimes look with amusement at anthro-



Entrance to the Acute Care Unit at Los Angeles County/University of Southern California Medical Center (note inscription.)

pological accounts of African law and how restitution is the way they deal with injury, even murder. We don't know we are also to a large extent reading about our own past. The extraordinary book by Morton Horwitz, The Transformation of American Law, looks at the American common law system from the late 18th century into the middle 19th century and confirms these patterns. One cannot help but be struck by how anti-capitalist, how anti-innovation, how conservative communities were when basic values were at stake. Local governments in the 19th century even had their own version of a welfare state, but this, too, was very conservative. The general patterns and characteristics of that version of the welfare state I'll provide here and will return to them a bit later. First, a consistent distinction was made between the *deserving* poor and the *undeserving* poor. Liberal welfare systems allow the needy person to be their own judge, or at least to participate in that judgment. Conservative systems like those in the 19th century communities, were welfare oriented, but it was the community and the community authorities that made the judgment as to whether a person was, in the words of William Julius Wilson "truly needy."

A second characteristic of these local, conservative welfare states is that they were stigmatic. Individuals could have their charity, but they would be used as a moral lesson for the goodness of character that comes from hard work. Third, for the undeserving there was ostracism. There was a big void beyond the community to which the undeserving would be sent. Fourth, the connection between welfare and police was intimate. It was virtually impossible to draw a line between the role players and functions you could call welfare and the role players and functions you could call police. Likewise the step between charity and the county poor farm was a short one because everything regarding individuals was connected with the basic police power: maintenance of public order.

Many things have changed in the American federal system, in the functions of the national government and in the place of state and local governments within the system. But local ethics — the ethics that provide the foundation for local government — have amazingly remained very close to what they were before. I will highlight

here those changes in the national system and then return to the local governments within that changed context. The most obvious change is the one to begin with, the change in the U.S. economy, which was nationalized during the 19th century. This amounted to a revolution in scale, that required a number of other changes. To assimilate these, I want to concentrate on two great ethical shifts, because these both guided and reflected the efforts governments made to keep pace with the revolution in scale: (1) The shift from communal values to individualist values. (2) The shift from individualist values to socialized or collectivized values.

(1) Once economic and social life habitually flowed beyond the boundaries of community life, communal values became old fashioned; people found themselves having to rely upon contract and highly individualized and rationalistic considerations because they were dealing increasingly with strangers over large spaces and over large spans of time. In other words, as the social scale increased, values shifted from conservative toward liberal. There was a great shift in the ethical atmosphere in the United States; sociologists termed the shift from status to contract, and from community to society (*Gemeinschaft* to *Gesellschaft*). Those are fundamental shifts, but they were with regard to patterns beyond the boundaries of communities. Communities as such remained steadfast in their own values, even as people within communities adjusted to larger flows that went above and beyond communities, for which contract and more rationalized relationships had to be established. In my research on this formalization, I have found it delightful to look at American values anthropologically, as though we were a primitive society. Many Americans actually believe that individualism — defined as self-interest, contract, individualized responsibility — goes all the way back to the days of Adam instead of Adam Smith. But individualism is really a phenomenon emerging out of the late 18th century revolutions. This doesn't render individualism unimportant; it simply recognizes that individualism arises out of but beyond community ethics and exists actually in contradiction to community ethics. That is precisely why capitalists were thought to be the rev-

olutionists of the 19th century. So, individualism was one great ethical shift, following from the political revolutions of 1776 and 1789 and more from the economic revolution brought about by the capitalists.

(2) The second shift was another deeply important turning of an ethical corner, from individualized values to socialized or collectivized values. This is not to suggest that it is socialism as such, mainly because the ethical corner was turned without abandoning the earlier, individualized values. Before trying to characterize it abstractly, let me give you an insight into it through a famous 1944 California State Supreme Court case, *Escola v. Coca Cola Bottling Company*. The case arises out of an injury sustained by a waitress as she was putting bottles of Coca Cola in the refrigerator, and one of the bottles exploded. The waitress could show no signs of negligence on the part of the Coca Cola Bottling Company, and without negligence she would have had no case under the 19th century system of individualized responsibility under tort law. Nevertheless, she won her case, and the reasoning of the court deserves close scrutiny. The following is an excerpt of the opinion written by the California Chief Justice:

I believe the manufacturer's negligence should no longer be singled out as the basis of a plaintiff's right to recover [It] should now be recognized that a manufacturer incurs an absolute liability when an article that he has placed on the market, knowing that it is to be used without inspection, proves to have a defect that causes injury to human beings Even if there is no negligence . . . public policy demands that responsibility be fixed wherever it will most effectively reduce the hazards to life and health inherent in defective products that reach the market The cost of an injury and the loss of time or health may be an overwhelming misfortune to the person injured, and a needless one, for the risk of injury can be insured by the manufacturer and distributed among the public as a cost of doing business. It is to the public interest to discourage the marketing of products having defects that are a menace to the public. . . . However intermit-

tently such injuries may occur . . . the risk of their occurrence is a constant risk and a general one. Against such a risk there should be a general and constant protection and the manufacturer is best situated to afford such protection.

Since I have pursued the implications of this development in other publications, I will give it a once-over-lightly here. Clearly, the ethical shift was profound. It involved a turning away from, albeit not a complete rejection of, the individual ethics of blame-and-fault, dominant in the nineteenth and into the twentieth century. As can be seen dramatically in the *Escola* case, the direction of development was from private responsibility to public interest, from individual blame to distributional balance, from individual liability to probability and risk, and from negligence defined as "no liability without fault" to the dropping of negligence altogether in favor of ability-to-pay, to be spread through insurance and through price increases toward the concept of "social costs." As I write at length elsewhere, it is because of this important ethical shift that we got our welfare state in the 1930s without any sense of political revolution whatsoever; the ethical revolution had already happened.

But meanwhile, local ethics and local governments had not really changed very much. Federalism had made it possible for the deep conservatism at the local level to coexist with broad, permissive, collectivizing morality and policy at the national level. The coexistence of these two quite distinctive systems of ethics and of policies is a product of federalism. The distinguished intellectual historian Louis Hartz entitled his classic study The Liberal Tradition in America. He was right. There was and is a liberal tradition in America. But he was only half right. The other half of the story is the conservative tradition in America. It escaped our attention because for a very long time our attention has been focused on Washington. It also escaped our attention because the policies and behaviors of local governments in the post-World War II period gave us a false impression of the realities of local government. What happened, as you all know, was the rise of grants-in-aid. Beginning in the field of agriculture, these intergovernmental

transfers eventually focused on housing, urban redevelopment, community facilities, education, unemployment, rehabilitation, welfare and medical services. And local governments became ferocious lobbyists for grants-in-aid in the 1950s and beyond. They joined with each other to support the principle of grants-in-aid, and competed vigorously with each other for larger slices of the pie. But this system of federal aid to cities had a peculiar effect on the ethics and policies of cities that tended to cover up the true nature and historic tendency of local governments.

Let us pursue this study in contrasts. Traditionally, the main source of local government revenue has been the property tax. Many other taxes have been added, but the foundation of most local government revenues has been the property tax. Now, as long as local governments were tied closely to their tax base, and as long as that was a property tax base, then the basic interests of local governments were also tied to property, to those who owned property, and to the values property owners shared. This meant that the financial base of cities was consonant with, indeed strongly reinforced, local, conservative ethics.

Into this traditional context the federal government arrived with "national goals" policies that worked principally through grants-in-aid. The cumulative results of these policies amounted to an average of over 20% of total local government revenues. The federal share of local revenues got as high as 40% in Louisville and Oakland. But the average of 20% is itself quite large, especially when the state government grants-in-aid are added to those. The total local government revenues coming from state and federal sources could in the 1950s and 60s come to as high as 40% of annual local government budgets. And in some programs, the share of local government revenues contributed by federal and state governments got as high as 50% for some welfare programs and 90% for highway programs.

Thus, there is no mystery to the fact that cities, counties and other local governments appeared in the post-war epoch to be liberal participants in the welfare state rather than traditional hold-outs for conservative values. Federal and state grants-in-aid had loosened the relationship between the cities and their tax base. We now know from the Reagan experience that grants-in-aid are



The original Los Angeles County Farm quarters erected in 1885 on the grounds of what is now Rancho Los Amigos Medical Center. Indigent residents of these buildings took care of a dairy cow herd, produced vegetables, poultry, hogs and sheep for wool. Income that was generated went to fund the Department of Charities. By the time of the Great Depression, the growing number of sick, disabled, aging residents forced the farm to become more of a medical institution. These buildings no longer exist.



Supervisor Edelman speaking at a 1985 ceremony marking the 50th anniversary of Social Security and the 20th anniversary of Medicare.

not necessarily a permanent part of the American federal system. But as long as they exist, they loosen the ties to the tax base. And it gives county executives and mayors the incentive to expand into liberal programs; they have to take the attitude of "use it or lose it." Mind you, local officials were not freed from their tax base; but the taxation bonds were certainly loosened.

There came a point even before the election of Ronald Reagan when these outside sources of local revenue ceased to grow. With Reagan, they began to decline, in relative and in absolute terms. In some areas, the decline was drastic. People in this audience don't need much documentation for the downward revision of grants-in-aid to local governments. The point I am trying to make is that as this decline was sustained, the innate conservatism of local governments began to show itself again.

Let me now use the Reagan administration to tie the pieces together and to point them toward the future. President Reagan was sincere about a



Left to right: Dr. Marvin Hoffenberg, Supervisor Edmund D. Edelman, Professor Theodore J. Lowi, Mrs. Virgene Bollens, Councilman Marvin Braude and Professor David Wilson.

lot of things, including his espousal of the welfare state. His promise not to touch the safety net surprised the libertarians in his administration, giving them a sense that they had been betrayed. But their surprise and their sense of betrayal were based upon their misconception of Ronald Reagan as a libertarian when he was actually a conservative. Reagan made common cause with libertarians because they both wanted to reduce the size of the federal government. Reagan also gave more than lip service to the free market. But basically, he is a product of Eureka, Illinois, and a true conservative. Reagan is not a libertarian like David Stockman. He is a conservative like George Will, and conservatives like George Will are in favor of the welfare state. It is just that their welfare state is based on a very different ethic than the liberal welfare state. A welfare state, if I may be permitted to define it, is a systematic, public, authoritative approach to the problem of injury and dependency in society. The welfare state should not be defined to include nearly everything a positive, national government does. The concept should be limited to those policies aimed at assuming a public responsibility for injury and dependency in society and indemnifying that injury and dependency rather than trying to point the finger at the particular individual responsible for it. By this defini-

tion, it is quite logical that there be a conservative as well as a liberal approach to the welfare state.

Thus, the Reagan administration's position was to localize welfare, that is, to favor local government welfare over national government welfare. Let me quote from a 1986 working paper of the Domestic Policy Council, at that time still a rather important policy source for the Reagan administration:

Our centralized welfare system contributes significantly to the persistence of poverty in America. Therefore, Congress should seek legislation that would waive federal welfare rules in order to allow states and communities to experiment.

What a noble experiment that would be.

Even if Congress had gone along with Reagan's noble experiment, it would not necessarily have reduced the total national welfare budget. Its main purpose would have been to switch between two systems of ethics — from the national, liberal, amoral, functional, collective system to the local, conservative, moral stigmatic, communal system. Decentralization was a code designation for conservatism. Indemnification would have been coupled with stigmatization. The system could be generous or stingy, but it would stress research into whether the supplicant were truly needy, truly deserving. It would also stress workfare. In a surplus labor market, workfare mainly means job displacement, but it teaches the appropriate lesson. Local welfare also stresses chiseling and cheating. Department stores also worry about cheating, stealing by customers and by their own clerks. But they recognize the fact that if they try to reduce stealing below a certain level — say 7%, 5%, 3% of gross sales — it would be too costly and most probably self-defeating, considering that extreme surveillance measures would repel honest customers and workers. The same is true in welfare; stress on chiseling merely stigmatizes the 90%, 92%, 95% honest recipients. To move welfare local is to move to another system of ethics, where "regulating the poor," to draw on Piven and Cloward, really means something. Everybody is regulated some of the time, and everybody, including the poor, needs regulating some of the time for some-

thing. But a system that puts regulation and welfare in the same hands is quite different from one in which the two are separate.

Reagan seems to have understood all this better than the rest of us. And there is still more to it. The local welfare system has a private and public component, each is conservative, and each reinforces the other. The private component is, of course, charity, a Christian concept which conservatively stresses the distinction between the deserving and the undeserving. Second, about half of all private giving goes to religious and religious-affiliated groups. And when the lower income people give to charity, they give to religious organizations at an even greater rate than do upper income givers. A third characteristic of private, local welfare is that these organizations contribute far more to quality-of-life services, such as Kiwanis Little League, than to life-support services, such as nutrition and medical care. Thus, even if private welfare expanded one-for-one to meet national welfare cuts, there would be a profound ethical shift in welfare, from liberal to conservative.

Turn now to the public component of local welfare. First, an important part of local public welfare policy is support for private welfare organizations. For over a century there has been a grant-in-aid policy of local governments toward private charitable institutions, from Catholic hospitals and Jewish foundling homes (all probably in violation of the First Amendment) to secular educational and cultural groups. Second, although the local public welfare systems are not religious in affiliation, being rather even-handed among all religious groups, local public agencies also tend to prefer quality-of-life to life-support services when the choice is available. Take the case of Tompkins County, where Cornell is located. Very early in the Reagan administration, when local governments had to cut welfare but had some choice about what to cut, the Tompkins County Board of Representatives, like most other county governments in the United States, cut CETA work training programs. Next, they cut legal services deeply. The County Hospital Board followed suit by increasing per diem hospital charges by 20% to make up for the 18% cut in Medicaid and Medicare reimbursements. In other words, when push came to shove in Tompkins

County, basic services were hit harder than quality-of-life services.

Another tell-tale sign of local ethics is the case of Eddie Koch, Mayor of New York. As a young Member of Congress in the 50s, Koch was a dedicated New Deal/Fair Deal Democrat, a reformer, dedicated to civil rights and national welfare expansion. Koch left Congress to become mayor, and not long afterwards a new Koch emerged — a hard-shell conservative. As the saying goes, where you stand depends on where you sit. The contrast between local and national systems — even when one's residence does not change — is not ephemeral or partisan. It is fundamental, and Reagan appreciated this better than his liberal opponents.

In conclusion, I hope I have opened you up to a different discourse, where the analysis of constitutional and ethical foundations precedes the analysis of costs and benefits. This won't lead to solutions, but there are probably no solutions properly so called. There are only better and worse ways of coping, because positive values deeply held are deeply in conflict, often within the same individual, and these must be balanced rather than maximized. No one could live in a society where policy toward injury and dependency was built exclusively on public no-fault insurance and entitlements. And a society based exclusively on individual responsibility tied to blame and fault would be equally undesirable. I will try to promote the discourse by providing my own personal position.

My starting premise is that we ought to nationalize all welfare. Here Rousseau may very well have been correct; you can't divide a welfare state. Following from that, if a welfare state is a state, then it has citizens, and citizens have rights. Nothing is gained by frightening people with a chimerical painting of "welfare rights." If rights within a welfare state are contradictory to the traditional definition of rights as individual and political, then that can be confronted as a matter of policy rather than by derivation from some absolutist re-interpretation of the original intent of the Constitution. When conservatives are in the majority, they can tilt the system toward the stigmatic; when liberals are in authority, they can tilt the system the other direction. But they can't do it just in Los Angeles

or just in New York. These issues have to be confronted as a matter of national policy: What shall our prevailing ethic be?

A system of nationalized welfare rights is, to follow Rousseau once again, a kind of social contract. We would establish by law the categories for which rights will be granted and the range of benefits which will be available for indemnification of legally recognized injuries and dependencies. The idea of welfare rights does not mean that everybody can simply state a claim based on convenience and call it a right. Determining rights should be the highest level of policy decision making. Every policy maker must be made aware of the fact that public policies establishing categories of benefits convey rights. This is unavoidable and has in fact been recognized as such by the Supreme Court. Once policy makers have recognized this, they can move without too much difficulty to define and restrict these categories of benefits/rights to life-threatening situations. The original 1935 Social Security Act is a good beginning point. Congress established a limited few categories of injury and dependency based upon the understanding at that time of the weaknesses of capitalism and the major sources of injury and dependency within an industrial society. Benefits could be generous or stingy within each category, but the categories themselves were defined in such a way as to minimize administrative discretion. We moved away from that approach in the 1950s and '60s, first by giving administrators more discretion to deal with the categories and second by adding service categories to cash transfer categories, because service categories are inevitably more discretionary than cash transfer categories. Opening up categories to broad discretion makes administrators, legislators and courts vulnerable to indeterminate claims to rights. It's not the claimants who should be blamed for these expanded rights claims; it is the looseness of the definitions of the benefit categories that should be blamed.

This leads to another step in the reasoning, which is that the welfare state should be limited to cash transfers and cash transfers alone. Many welfare categories based on cash transfers have also become discretionary, but that discretion can more easily be delineated and clarified. In contrast, wel-

fare services are inevitably and unavoidably discretionary. And once again, when the categories are open-ended, claims to rights will cascade.

The purpose here is to confront our highly interdependent large-scale industrial society and to deal with its imperfections by policy, not to interfere or "socialize" the economy but to enable it to work to its best without being undermined by its imperfections. These imperfections must be defined with care for maximum clarity and minimum administrative discretion (1) because they produce real life and death situations, (2) because they are regular occurrences and will happen despite due care to avoid negligence, (3) because benefit categories do unavoidably convey rights, and rights must be limited in number or they lose their distinction, and (4) because discretion creates such inconsistent outcomes that rights claims will cascade in order to put benefits out of reach and/or cynicism will grow to the point where the welfare state itself will be in danger. There is no need to introduce the problem of costs and solvency. The welfare state's solvency is no longer much in doubt and can always add taxes, like any state; but, as a state, it must concern itself with questions of justice (as fairness), stability and legitimacy.

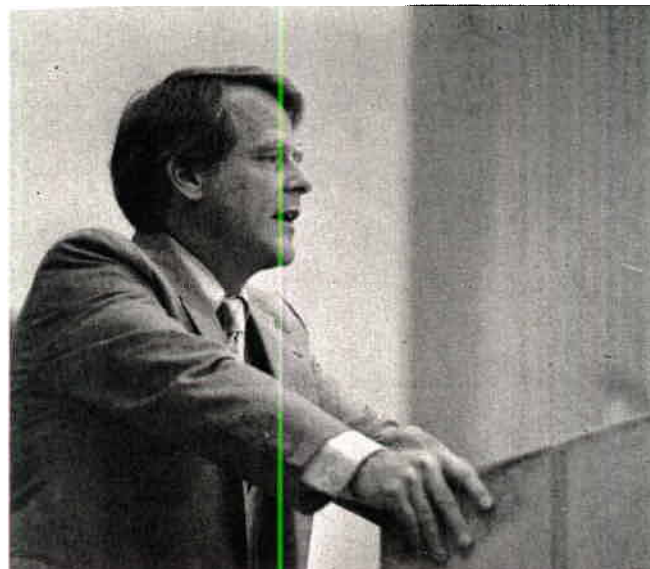
In 1944, Friedrich Hayek, in the well-known book The Road to Serfdom, challenged the liberal state from within, not as a communist or fascist, not as a democratic socialist, but as a liberal. The book was criticized by liberals for all the wrong reasons, because they did not recognize its novelty. Primarily, the critics did not stop and ask themselves what Hayek meant by serfdom, and why the road to serfdom was a particular problem. Serfdom is a condition of dependency in which the individual is dependent upon the goodwill and protection of a rich or powerful person, in return for obedience and loyalty. Serfdom is a status below citizenship but short of slavery. Since it is not a road to dictatorship or totalitarianism, serfdom is a condition against which the west has few defenses. Whatever one could see as virtuous in the social democratic programs of the 1930s, Hayek could already see the dangers in those programs, in which bureaucrats were assuming the position of the wealthy baron over citizens in a temporary state of dependency. I agree with Hayek that this is the soft

underbelly of liberal democracy: Government that is properly conducted can actually strengthen individualism; but government improperly conducted can be its own undoing and in the process can weaken the individual. The key to liberal government is keeping bureaucracy under control, primarily through rule of law within which the range of bureaucratic discretion is kept within some orderly limits. Hayek and I may differ on whether it is possible to keep bureaucratic discretion within orderly limits. My own position, as argued above, is that the original Social Security titles were fairly well designed to keep bureaucratic discretion within limits and therefore were on a high road that was unlikely to lead to serfdom. The later welfare policies, in introducing larger and larger ranges of discretion and local variation, were an unfortunate detour. But the original Social Security titles are a good guide to social security reform. In any event, although I disagree with Hayek on whether it is possible to keep bureaucratic discretion within limits, I do strongly agree with him that bureaucratic discretion is the main threat from within to liberal democracy.

However, what Hayek saw less clearly was that liberal democratic programs were not the only road to serfdom in the United States. A second road to serfdom is the conservatism of local government and the extremely discretionary approach to the individual that morally guided government must take. The best approach to welfare would therefore be one that avoids the discretionary elements of the liberal and the conservative welfare concepts, and that can best be accomplished by nationalizing the whole system with clear, legislated categories of eligibilities, benefits and rights.

That leaves a very limited place for local government in welfare policy in the United States, but does not lead to the conclusion that local government has no place in the modern American governmental scheme. I will not lengthen or burden this lecture with a disquisition on what the place of local government ought to be. I will simply say that this brings us back to one of the most important issues with which the earlier students of public administration concerned themselves, and that is the question of "area and power," or "area and function": In what area, or within what

level of government, will a particular governmental function be best performed? In a federal system that, in my opinion, is the quintessential question of public administration. If the welfare state is a function, or a bundle of functions, that can best be performed at the national level, the exploration of its requirements would reveal the criteria necessary to sustain a lengthy and productive discourse about what can best be performed by local and state governments, regional and metropolitan governments, special district governments, authorities, etc. If I have succeeded at anything tonight, I would be happy if that success were a contribution to a long and sustained discourse about what it is that local government in America ought (and ought not) to be doing. And that would be a great tribute to the memory and the goals of Jack Bollens. ■



Professor Theodore J. Lowi presenting the Fourth Annual John C. Bollens Lecture.

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