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ABSTRACT

A SOCIO-STRUCTURAL ANALYSIS OF SELECTED FEDERAL REGULATORY AGENCIES AFFECTING BUSINESS MANAGEMENT

by John H. Trimm

An examination of the processes underlying the complex set of relationships which have developed between the business community and the Federal government was the purpose of this study. To gain new insights and knowledge in regard to these developments, the research applied a structural-functional analysis to a selected group of independent regulatory agencies of the Federal government. The subject of this dissertation, therefore, was an investigation of the development and expansion of these large-scale, independent federal agencies that are regulatory in character and directly related to business enterprise and commercial activity. The aims were to find out how and why these large-scale organizations developed, and to assist the businessman in understanding this interrelationship between government and the business enterprise along with his place and role.

The criterion for the selection of the agencies was the requirement that in the legislation initiating each

agency the originating mandate set forth the responsibility to regulate some type of business enterprise (such as banks) or some functions or activities of the firm (such as labor relations). The following fifteen agencies, currently in existence, qualified and were selected as the group to be studied: (1) Interstate Commerce Commission, (2) Federal Reserve System, (3) Federal Trade Commission, (4) Federal Power Commission, (5) National Mediation Board, (6) Federal Communication Commission, (7) Federal Home Loan Bank Board, (8) Federal Deposit Insurance Corporation, (9) Securities and Exchange Commission, (10) National Labor Relations Board, (11) Railroad Retirement Board, (12) Civil Aeronautics Board, (13) Federal Coal Mine Safety Board of Review, (14) Federal Aviation Agency, and (15) Federal Maritime Commission.

The independent regulatory agency was created to exercise standardized control over the big business firms which were extending themselves nationally and internationally. Local and state government had difficulty and were ineffective in trying to exert control over these transcontinental firms. Fear that these large businesses were not operating in the public interest and that the mechanisms of the marketplace were not sufficient to force them to behave properly; Federal regulatory agencies were sought by the public and created by Congressional acts.

The analysis of these independent regulatory agencies focused on the structural-functional evolution of these organizations. The evidence indicates that they evolve in patterns similar to other types of formal organization. This apparent similarity in development yields meanings which are significant to the understanding of the independent agency form as well as to all other types of nationally structured organizations.

As frequently happens, however, there are intended and unintended results related to the creation of any structure. The intended purposes of these independent agencies are (1) to divide and decentralize federal power and (2) to regulate business firms and their activities on behalf of the public. However, the potential for unintended activities exists. The research suggests that these unintended activities resulting from the autonomy given, overlapping authorities, bureaucratic administration, and the combination of prosecuting and adjudicatory functions limit the usefulness of the independent agency. Future research must explore the more complex set of relationships between structure-function and individual personality.

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CHAPTER I

INTRODUCTION

Preliminary Statement

The business man or the banker may find his board of directors supplemented in fact, if not in name, by the members of the Interstate Commerce Commission, the Federal Reserve Board, . . . the Federal Power Commission, the Federal Trade Commission, the Securities and Exchange Commission, or the Federal Communications Commission.¹

What are the social forces in the United States which have combined to create this system we call a "mixed economy"?² How is it defined?

In this mixed system the health of industries and of the economy as a whole will be dependent not merely on the self-generative and self-corrective operations of a market economy, but also on the wisdom of the decisions made by men in organizational positions in the private sector and in the organizational centers of government.³

¹E. Pendleton Herring, Federal Commissioners (Cambridge, Massachusetts: Harvard University Press, 1936), p. 1.

²Paul A. Samuelson, "Personal Freedoms and Economic Freedoms in the Mixed Economy," The Business Establishment, ed. by Early F. Cheit (New York: John Wiley & Sons, Inc., 1964), pp. 193, 200.

³Emmette S. Redford, The Role of Government in the American Economy (New York: The Macmillan Company, 1966), p. 39.

To gain new insights and knowledge in regard to these developments, the present study concerned a structural-functional analysis of one of the relevant groups which was referred to in the opening statement--the independent regulatory agencies of the Federal government. The subject of this dissertation, therefore, is an investigation of the development and expansion of these large-scale, independent federal agencies that are regulatory in character and directly related to business enterprise and commercial activity. The specific objective is to find out how and why these large-scale organizations developed. The aim is to assist the businessman in understanding this interrelationship between government and the business enterprise along with his place and role.

Research Design and Method

This study was designed to examine selected relationships which have evolved between business and government. The focus is upon the independent regulatory agencies governing business and business affairs as representative of one of the crucial sets of relations existing between government and business. The agencies are examined in terms of structure and functions. The data collection proceeded from a systematic search of government publications of all types. Secondly, histories, statistical analyses, and other such substantiated evidence are utilized whenever appropriate.

Periodicals, newspapers, and such media are searched for useful information to gain impressions of each of the time periods.

Each of the agencies is analyzed and compared using three standard measures: (1) Men, (2) Structure--both horizontally and vertically, and (3) Functions. A fourth variable--Money--is also used whenever it is meaningful to the analysis. The plan of presentation follows.

A summary collection of data concerning the Federal government hierarchy⁴ in general provides the background for the detailed analysis of the independent regulatory agencies. Based on this examination of the overall Federal hierarchy, the analysis focuses upon the structural evolution of each of the agencies. The separation of structure and function is made to see each in perspective. Following these two sections of analysis, structure and function are combined to see the mutual interaction of the two variables upon one another and the resultant. The combining of evidence and theory extracting new sets of generalizations concludes this effort.

The criterion for the selection of the agencies was the requirement that in the legislation initiating the agency the originating mandate set forth the responsibility

⁴W. Lloyd Warner, Darab B. Unwalla, and John H. Trimm (eds.), The Emergent American Society, Vol. I (New Haven: Yale University Press, 1967), p. 560.

to regulate either some type of business enterprise (such as banks) or some functions or activities of the firm (such as labor relations). To determine the sample, the U.S. Organizational Manual for 1964-65 was inspected applying the above criterion. The following fifteen agencies, currently in existence, qualified and were selected as the group to be studied.

1. Interstate Commerce Commission (I.C.C.), 1887
2. Federal Reserve System (F.R.S.), 1913
3. Federal Trade Commission (F.T.C.), 1915
4. Federal Power Commission (F.P.C.), (1920) 1930
5. National Mediation Board (N.M.B.), (1926) 1934
6. Federal Communication Commission (F.C.C.), (1927) 1934
7. Federal Home Loan Bank Board (F.H.L.B.B.), (1932) (1947) 1955
8. Federal Deposit Insurance Corporation (F.D.I.C.) 1933
9. Securities and Exchange Commission (S.E.C.), 1934
10. National Labor Relations Board (N.L.R.B.), 1935
11. Railroad Retirement Board (R.R.B.), 1935
12. Civil Aeronautics Board (C.A.B.), 1938 (1958)
13. Federal Coal Mine Safety Board of Review (F.C.M.S.B.R.), 1952
14. Federal Aviation Agency (F.A.A.), 1958
15. Federal Maritime Commission (F.M.C.), 1961.

The fifteen agencies were further analyzed according to their functions and activities. Upon completion of this analysis, the following three categories were derived and the fifteen agencies were classified accordingly.

Transportation,
Trade-Communication,
and Power

Finance

Labor

Interstate Commerce
Commission
Federal Trade
Commission
Federal Power
Commission
Federal Communica-
tions Commission
Civil Aeronautics
Board
Federal Aviation
Agency
Federal Maritime
Commission

Federal Reserve
System
Federal Home Loan
Bank Board
Federal Deposit
Insurance
Corporation
Securities and
Exchange
Commission

National Mediation
Board
National Labor
Relations Board
Railroad Retire-
ment Board
Federal Coal Mine
Safety Board of
Review

To keep the study in reasonable scope and depth, the following four agencies have been selected for intensive study from each of the three categories. The Interstate Commerce Commission (I.C.C.) was selected because it was the first of these agencies to be established and has had a long and diverse history. From the same category, the Federal Communications Commission (F.C.C.) was also selected because of the important role of communications today and, in particular, the mass impact of first radio, and now, television. The Federal Reserve System (F.R.S.), from the finance section, is of interest because of its unique organization, a government corporation, in contrast to the other agencies, as well as its range of powers in the financial world. From the labor section, the National Labor Relations Board (N.L.R.B.) is the agency to study for its influence and historical position.

Illustrative of how the agencies were selected are the following summary statements regarding the mandates of the four key organizations. Similar information on the remaining agencies will be given in the next chapter.

The Interstate Commerce Commission was established for the general purpose of regulation, in the public interest, of common carriers engaged in transportation in interstate commerce, and in foreign commerce to the extent that it takes place within the United States.⁵

The Federal Reserve System with broad supervisory powers vested in the Board of Governors, was created to provide for the establishment of Federal Reserve Banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, and to establish a more effective supervision of banking in the United States.⁶

Originally known as the Federal Radio Commission, the primary purpose of what is now known as the Federal Communications Commission, is to regulate interstate and foreign commerce in communications by wire and radio, including the licensing function.⁷

The right of employees to self-organization and to bargain collectively through representatives of their own

⁵U.S. Government Organization Manual, 1965-66, p. 455.

⁶Ibid., p. 417.

⁷Ibid., p. 400.

choosing or to refrain from any or all such activities is the major concern of the National Labor Relations Board.⁸

Despite some of the potential inadequacies of functionalism, structural-functional theory and analysis was selected as the most useful approach for this type of study. Additional discussion of these problems will be presented later.

The evidence on the Federal hierarchy as a whole was assembled after a search of government documents, histories, and relevant periodicals for The Emergent American Society,⁹ previously cited. This material was reexamined and introduced to provide the general background for this study, particularly in Chapter II.

For the structural development of each of the agencies, government documents were searched starting with the U.S. Government Organization Manual. The Manual, first published in 1935 and annually since, gives in summary form considerable information on the various units of the Federal government. Included in the Manual summary are a listing of relevant legislation, the purpose, functions, and organization of each of the respective units. In a separate part of the Manual are shown the organization charts for many but not all of the departments and agencies. The Manual provided

⁸Ibid., p. 465.

⁹W. L. Warner, D. B. Unwalla, and J. H. Trimm, op. cit., chap. xiv.

much basic information on each agency. For all the organization charts after 1935, the Manual served as a point of departure. To obtain additional information, particularly prior to 1935 but also for afterwards, the following sources were used: The U.S. Statutes at Large, the Annual Reports of the respective agencies, the Official Register, the Congressional Directory, the Annual Reports of the U.S. Civil Service Commission, the U.S. Budgets (started in 1921), and other material such as charts and directories which were received from the agencies.

The reason for this diverse range of sources is to provide an opportunity to cross-check data. Also the information for some agencies may be more complete from some sources than for others. For the organization charts in the late 19th Century and the early 20th Century, it is necessary to go to the Statutes at Large. The appropriation legislation lists by job title the number of personnel for that title and their salary. The fiftieth anniversary report of the Interstate Commerce Commission included organization charts and was, therefore, helpful in covering the early period of this agency. In more recent years, the Annual Report of the Civil Service Commission lists total number of personnel per agency and frequently with a Washington and field breakdown.

The annual reports of the respective agencies vary considerably as to the material included and the emphasis placed on the different sections in the report. They also vary within each agency over the years and they are not always consistent in what is included and excluded or the method of presentation. However, the Annual Reports provide a substantial amount of information in regard to functions, activities, and organization which was most useful.

The Official Register, which has not been published since 1959, and the Congressional Directory are two sources for obtaining similar information in regard to the titles of the major division heads and other senior administrative personnel. The Statutes at Large and the Budgets are helpful for the same reasons. In the appropriation bills and in the budgets, frequently are listed the senior personnel with totals of numbers in the lower grades. These sources and this kind of information is helpful in developing the structures.

Still other very helpful sources were the various special government publications on certain of the agencies. Frequently these combine historical development of the functions and activities of the agency along with charts and other organizational material in regard to employment, the distribution of personnel within the agency, etc. Examples of these sources are the two anniversary publications on the Interstate Commerce Commission, the fact book

on the Federal Aviation Agency, and the series on the purposes and functions of the Federal Reserve System.

To gain perspective around the social movements within the greater society, general histories were searched to gain evidence in regard to the historical developments surrounding each of the agencies. In addition, periodicals were searched to gain a sense of the feelings of the time. These materials along with the agencies' histories and annual reports provided the material for Chapter V and contributed to Chapter II also.

Combining the information from these various sources resulted in the charts and discussions describing the structural evolution of the regulatory agencies in Chapter III. Once established, the charts and discussion indicate how the respective structures operated from the governing body, through the administrative hierarchy, and on down to the Washington and field group. To illustrate the procedure, the Interstate Commerce Commission will be used. The beginning chart was derived from the Statutes and the fiftieth anniversary report. The second chart was taken from the fiftieth anniversary report supplemented by information from the several other sources. For the 1935 Chart the fiftieth anniversary report was used together with the Organizational Manual and the other supplementary sources. The fourth Chart was taken from the seventy-fifth anniversary report with supplementary material.

As will be evident by the use of the charts in the text, they are not mere heuristic devices, although they are that too; their primary purpose is exactly to represent the elaboration of the number of statuses that develop horizontally and vertically between any two periods. Consequently, the reader can see along with the author exactly what the count is and how much a given structure has been elaborated between any two periods.

The same sources which are cited throughout the document and the bibliography were also searched for functions and activities. Again, using these documents, the enabling legislation was examined to determine what functions and activities were included in the original mandates. Subsequent legislation and reorganization plans by executive order have constantly altered the functions and activities to be performed by each of the respective agencies. This analysis and documentation was necessary to determine the history of assigned functions. This provided the evidence and material for Chapter IV.

For the structural-functional analysis the same sources were used with emphasis upon the historical, both general and specific. The historical sources of a general nature were necessary to trace the historical emergence of each of the agencies. To demonstrate the structural-functional elaboration of the administrative-bureaucratic functions, the evidence in Chapter III was reexamined. Specific

histories, periodicals, and material from the Annual Reports were combined to demonstrate the proliferation and extension of the other functions and activities being performed. By combining the evidence, the crux of the study is met at this point. The similarities and differences between the agencies is shown together with their individual and joint impact on the business community.

Finally, this study is devoted to drawing such inferences as the preceding materials allow with respect to the practical and theoretical implications of structural-functional analysis on regulatory organization, the current meanings in terms of the society, and further areas for research.

Definitions

Several terms which need definition as to their use in this study follow. Each of the terms are given greater treatment as they appear. This is particularly true of the terms structure and function.

Moral Order: organizes the relations of the members of the species into ruled behavior governing man's existence and is characterized by obligations, duties, rights, privileges, and attendant values and sanctions.¹⁰

¹⁰W. Lloyd Warner, The Living and the Dead (New Haven: Yale University Press, 1959), p. 486.

Private: belonging to some particular person or persons, pertaining to or affecting a particular person or a small group of persons or confined to or intended only for the person or persons immediately concerned.¹¹

Public: of, pertaining to, or affecting the people as a whole, or the community, state or nation; done, made, acting for the people or community as a whole, or pertaining to or engaged in the affairs or service of the community or nation.¹²

Power: is the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance.¹³ It is personal in nature.

Authority: is the probability that a command with a given specific content will be obeyed by a given group of persons. That is, one person successfully issuing orders to others.¹⁴

Decentralization: is meant to denote the distribution, through delegation, of decision-making authority within a bureaucracy.¹⁵

¹¹The American College Dictionary.

¹²Ibid.

¹³Max Weber, The Theory of Social and Economic Organization, trans. by A. M. Henderson and Talcott Parsons. (New York: Oxford University Press, 1947), p. 152.

¹⁴Ibid., pp. 152, 153.

¹⁵Bernard H. Baum, Decentralization of Authority in a Bureaucracy (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1961), p. 23.

Structure: the system of relations by which units are related.¹⁶

Function: the function of a social institution is the correspondence between it and the necessary conditions of existence of the social organism.¹⁷

Public Interest: is an ideal standard, a verbal symbol, for the administrator's guidance.¹⁸

Theory and the Problem

The framework within which the investigation will be made is that of The Emergent American Society¹⁹ as posited by W. Lloyd Warner. The nature of the emergent American society is such that change²⁰ is built into it and is an essential part of it; that to be what it is at any moment in time this society must continually change and become something else. According to Warner:

¹⁶ A. R. Radcliffe-Brown, Structure and Function in Primitive Society (Glencoe, Illinois: The Free Press, 1952), pp. 179-180.

¹⁷ Ibid., p. 178.

¹⁸ Avery Leiserson, Administrative Regulation (Chicago: University of Chicago Press, 1942), pp. 11-12.

¹⁹ W. L. Warner, D. B. Unwalla, and J. H. Trimm, op. cit., pp. 1-3.

²⁰ John H. Gaus, "American Society and Public Administration," Ideas and Issues in Public Administration, ed. by Dwight Waldo (New York: McGraw-Hill Book Company, Inc., 1953), p. 28. This is support of but another view of the role of "change" in the American society.

The processes of change are such that, while the forms of the past are being absorbed into the present and losing their identities, the present ones, reformed by the future, are becoming something different from what they are now.²¹

Order is maintained and chaos avoided in the complex American society by the holding influences of the comparatively homogeneous world of the traditional past on the increasing heterogeneity expressed in the innovations and experimentations of the evolving future.²²

. . . moral values grow, expand, and flow through public opinion, law, government, and other institutions to lodge more and more firmly at the national level. Here, the secular part of the moral order through the instruments of federal law and its agencies and through the reinforcements of national opinion and its moral values, confronts the non-moral demands of technology, science, and the market place.²³

"The whole American society is rapidly growing into one primary community, in which corporations along with other complex hierarchical structures play their significant and necessary roles."²⁴ Corporate hierarchies and big government are themselves products of this same emergent process.²⁵

²¹W. Lloyd Warner, The Corporation in the Emergent American Society (New York: Harper and Brothers, 1962), p. 3.

²²Ibid.

²³Ibid., pp. xv-xvi.

²⁴Ibid., p. xv.

²⁵Ibid., p. xvi.

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Davis and Blomstrom also support this concept:

Business systems are a product of beliefs, mores, and customs of the society in which they exist. Indeed, their very existence depends upon social philosophies which condone and support various kinds of business action. Philosophies are important from two points of view. First, businessmen (whether they realize it or not) must have some basic set of philosophies to guide their actions. Beliefs and value systems concerning what is right or wrong are basic to all business activity and serve as a justification for doing or not doing things in a particular way. Second, the society served by business also develops philosophies and value systems against which actions of businessmen are judged. Societal value systems and philosophies evolve from concepts of social well-being or common good, and business actions are always judged by how well they contribute to social well-being.²⁶

A summary of the foregoing ideas is shown in Fig. 1. It is a model representing the interaction of the several subsystems of a society with their several environments. This abbreviated representation provides a perspective for understanding these complex relationships.²⁷

The question as to whether business instead of agriculture was to govern is assumed by many to have been "settled by the election of 1896 which marked the triumph of business over the last great attempt of agriculture to assert its vanished sovereignty."²⁸ Our society during the

²⁶Keith Davis and Robert L. Blomstrom, Business and Its Environment (New York: McGraw-Hill Book Company, 1966), p. 74.

²⁷W. L. Warner, op. cit., p. 486.

²⁸V. O. Key, Jr., Politics, Parties, and Pressure Groups (New York: Thomas Y. Crowell Company, 1958), p. 85.

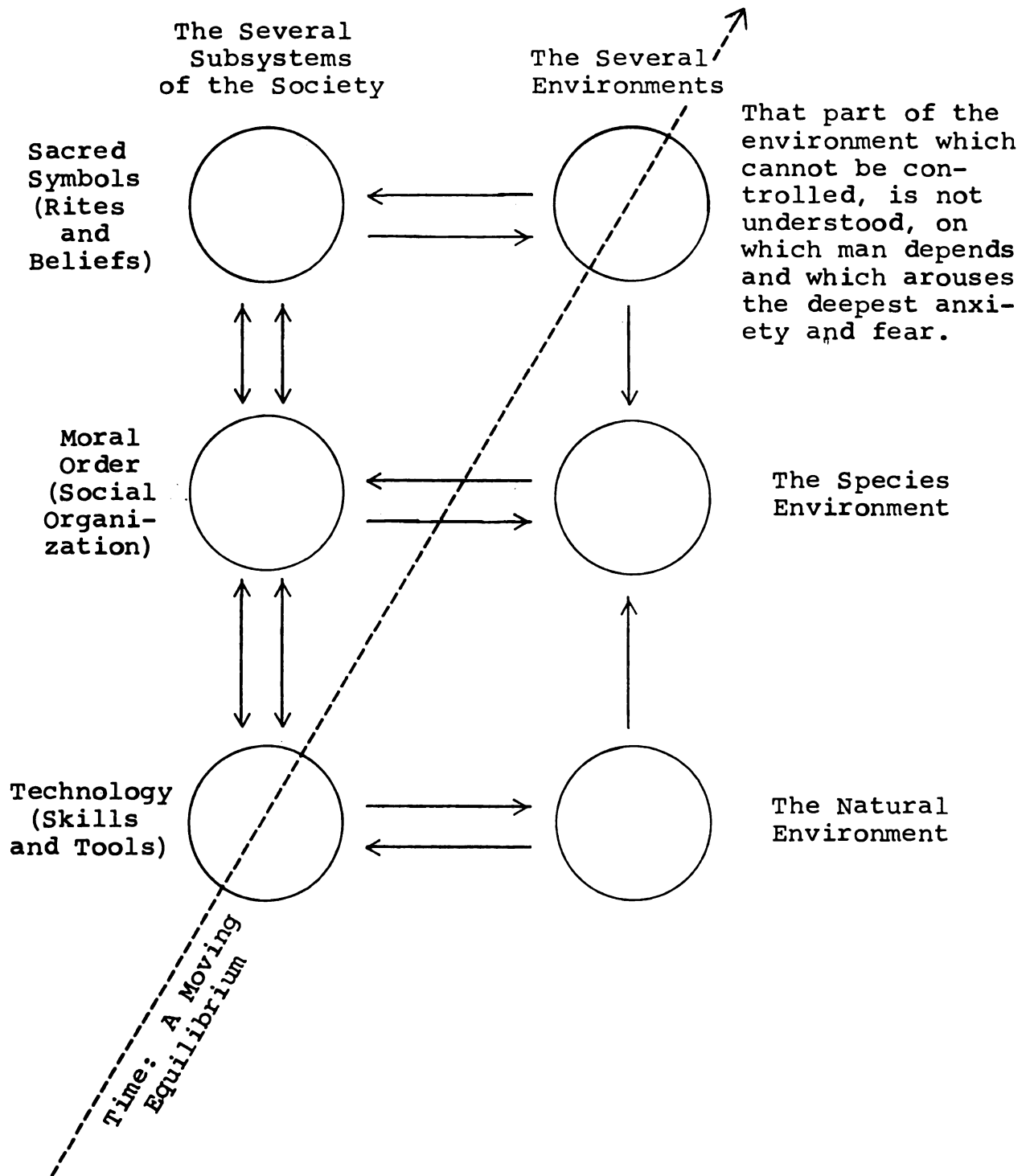


Figure 1. The human environments and the adaptive cultural contexts in which symbols are used.

past seventy years has frequently been referred to as being dominated by business and being business oriented. For example: "Ever heard that business is business? Well, so is politics business, and reporting--journalism, arts, sports--everything is business."²⁹

The organizational revolution³⁰ has brought a radically new business structure. As Key states:

Instead of the atomized economy of many firms revered by the classical economists, an "organizational economy" has come to prevail. In this new economy the great corporation becomes in a sense something of a government in itself. The giant concern gains power over its suppliers and its customers, not necessarily by the attainment of a monopoly position but at times by its size alone. In short, managerial inventiveness created an economic organization the nature of which is both complex and disputed by the specialists.³¹

"Today, bigness is widely, if not unanimously, accepted as an economic necessity, even a social good," according to Cheit.³² However, these large centers of

²⁹Thomas C. Cochran and William Miller, The Age of Enterprise (rev. ed.; New York: Harper Torchbooks, 1961), p. 163. Quotation made by Richard Crocker of Tammany Hall to Lincoln Steffens.

³⁰Kenneth E. Boulding, The Organizational Revolution (New York: Harper and Row, Publishers Inc., 1953).

³¹V. O. Key, op. cit., p. 86.

³²Earl F. Cheit, "The New Place of Business," The Business Establishment, ed. by Earl F. Cheit, p. 176. See, for example, David Lilienthal, Big Business, A New Era (New York: Harper, 1953); John Kenneth Galbraith, American Capitalism (Boston: Houghton Mifflin, 1952); and Leonard Sayles, Individualism and Big Business (New York: McGraw-Hill, 1963).

private power have not gone unchecked. According to Galbraith:

. . . new restraints on private power did appear to replace competition. But they appeared not on the same side of the market but on the opposite side, not with competitors but with customers or suppliers.³³

Private economic power is held in check by the countervailing power of those who are subject to it. The first begets the second.³⁴

As noted, power on one side of a market creates both the need for, and the prospect of reward to, the exercise of countervailing power from the other side.³⁵

. . . the regulatory role of the strong buyer, in relation to the market power of the strong seller, is also self-generating.³⁶

Another major change which has been taking place within the management hierarchy itself and is a problem of considerable concern to many has occurred in corporate ownership and control. Heilbroner states that:

Most scholars would maintain that the majority of large corporations are run by a more or less self-perpetuating oligarchy within the boundaries established by other power groups and by their own ideologies. Although it is undoubtedly true that the oligarchs are not "owners" in the traditional sense of the word, there is ample evidence that they can manipulate the property they are

³³ John Kenneth Galbraith, American Capitalism (Boston: Houghton Mifflin, 1952), p. 118.

³⁴ Ibid., p. 118.

³⁵ Ibid., p. 120.

³⁶ Ibid., p. 120.

"hired" to run for the stockholders in such a way as to yield benefits to themselves similar to those accruing from bona fide ownership.³⁷

Given this set of conditions, the crucial questions are: "To whom are these managers responsible and, in turn, to whom is the corporation responsible." One answer given by one group follows:

In his more recent writing, Mr. Berle contends that the managers of large corporations are restrained by a public consensus, which has required the development of a "corporate conscience" that speaks the language of social responsibility. Mr. Berle and his followers contend that although managers are in the embarrassing position of having (in his happy phrase) power without property, they say that they are responsible, because the force of public consensus makes them so.³⁸

The critics opposing this point of view state that "for the powerful corporation to extend its sphere of influence into social affairs with approval under the guise of social responsibility could be disastrous both for the corporation and society at large."³⁹ Professor Milton Friedman contends that the doctrine of management social responsibility is

³⁷ Robert L. Heilbroner, "The View from the Top," The Business Establishment, ed. by Earl F. Cheit, p. 24. Cf. inter alia, A. A. Berle, Jr., Power Without Property (New York: Harcourt, Brace, 1959); Richard Eells, The Government of Corporations (New York: The Free Press of Glencoe, 1962); and Wilbert Moore, The Conduct of the Corporation (New York: Random House, 1963).

³⁸ E. F. Cheit, op. cit., p. 165.

³⁹ Ibid., p. 163.

fundamentally subversive. . . . Few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible.⁴⁰

Typically, businessmen support a range of theories as to their role and function. This is true to the above discussion as well as the illustrative statements which follow describing the political activity of businessmen. According to Key:

Despite the extraordinary diversity of their political actions, business spokesmen expound more or less uniformly a philosophy of laissez faire; free competition, free enterprise, and the "American way." But this is an orthodoxy of ritual rather than of practice. In their actions businessmen pragmatically advocate state intervention today and restraint of the state tomorrow, a deviation from consistency by no means without its justification.⁴¹

As a result of this inconsistent behavior on the part of businessmen a "tangle of relationships has developed between business and government." Key states that:

these relationships, complex and chaotic though they may be, add up to a working system in which organized groups, private centers of power, play a basic role. When the collisions of free groups produce intolerable damage to the public, the state intervenes to fix the rules of the game.⁴²

⁴⁰Ibid., p. 163 quoting Milton Friedman, Capitalism and Freedom (Chicago: University of Chicago Press, 1962), p. 133.

⁴¹V. O. Key, op. cit., p. 87.

⁴²Ibid., p. 95.

Dickinson, quoted by Key, states that:

the task of government, and hence of democracy as a form of government, is not to express an imaginary popular will, but to effect adjustments among the various special wills and purposes which at any given time are pressing for realization.⁴³

Hayek supports this concept of democracy but also points up the possible dangers and offers suggested limitations that should be placed upon the democratic process:

I have made it clear earlier that I do not regard majority rule as an end but merely as a means, or perhaps even as the least evil of those forms of government from which we have to choose. . . . The chief evil is unlimited government, and nobody is qualified to wield unlimited power. The powers which modern democracy possesses would be even more intolerable in the hands of some small elite.

Admittedly, it was only when power came into the hands of the majority that further limitation of the power of government was thought unnecessary. In this sense democracy and unlimited government are connected. But it is not democracy but unlimited government that is objectionable, and I do not see why the people should not learn to limit the scope of majority rule as well as that of any other form of government. At any rate, the advantages of democracy as method of peaceful change and of political education seem to be so great compared with those of any other system that I can have no sympathy with the anti-democratic strain of conservatism. It is not who governs but what government is entitled to do that seems to me the essential problem.⁴⁴

⁴³Ibid., p. 10. Quoting John Dickinson.

⁴⁴F. A. Hayek, The Constitution of Liberty (Chicago: The University of Chicago Press, 1960), p. 403.

The American has typically been concerned with "bigness." This is borne out in Table 1, and, particularly, the shift from "Big Business" and "Big Labor" over to the fear of "Big Government."

Table 1. Question: In your opinion, which of the following do you think will be the biggest threat to the country in the future - big business, big labor, or big government?*

	Big Business		Big Labor		Big Government	
	1960 (%)	1965 (%)	1960 (%)	1965 (%)	1960 (%)	1965 (%)
East	17	17	43	30	13	27
Midwest	15	20	45	26	15	36
South	11	12	35	24	14	48
West	18	14	42	34	13	36
National	15	16	41	28	14	37

*Leonard Gross, "America's Mood Today," Look, XXIX, No. 13 (June 29, 1965).

Despite this apparent concern over "Big Government," the culmination of the processes which we have been discussing has meant that:

. . . not only has the number of federal functions been augmented, but the nature of these duties is far different from that of those which characterized the national government two generations ago. Federal authority now makes demands

upon the individual farmer and businessman, performs services and enforces requirements in countryside and market place which bring it into contact with the citizen with an intimacy which but recently was unknown even in times of war.⁴⁵

The expansion of the Federal government meant a general predisposition toward hierarchies and centralization in response to the need to be orderly and efficient in accomplishing this increasing array of tasks. However, according to Waldo the American is concerned with:

. . . the reconciliation of democracy, with its beliefs in popular control and participation, with the idea of professional, efficient administration, subject to its own criteria and procedures. The reconciliation was achieved by conceiving of governments as divided between "politics" and "administration." The realm of politics is the proper realm for the exercise of democracy. And politics should have a general superintendency over administration. But administration itself should be free from political "meddling."⁴⁶

This strict distinction between politics and administration is no longer considered realistic by many but the problem still remains.

One method employed in the American Constitution to distribute power and decentralize authority was the creation of the tripartite system--legislative, executive, and judicial--to check on one another.⁴⁷ This was done because,

⁴⁵David B. Truman, "The Problem of Decentralization," Ideas and Issues in Public Administration, ed. by Dwight Waldo, p. 169.

⁴⁶Dwight Waldo (ed.), Ideas and Issues in Public Administration, p. 64.

⁴⁷Ibid., p. 136.

"it has been repeatedly shown that a centralized administration, heaping on itself an intolerable measure of responsibility, invites collapse in periods of stress."⁴⁸

To aid in this program of power distribution and the decentralization of authority in the Federal government, the independent regulatory agency was created. That this creates problems has been asserted by Cushman:

The independent regulatory commissions present a challenging problem in any program of Federal administrative reorganization. They stand actually and potentially for decentralization. Though they do not escape supervision by the courts, they are wholly free from control by the President. Experience has evolved no practical means of making them responsible to the Congress. As someone has said, they are a sort of "fourth department" in the National Government.⁴⁹

In addition to being a part of the decentralization movement in the Federal government, Cushman in his classic study on the regulatory agencies also states that there are four other facts leading to their development:

First, the decline of laissez faire and the growth of governmental regulation of business that followed upon the heels of the Civil War and Reconstruction. Second, the emergence of vitally important economic problems demanding Federal rather than state regulation. Third, the growth of the technique of governmental regulation through the legislative formulation of "standards" of business conduct to be applied in concrete cases by the quasi-judicial

⁴⁸ D. B. Truman, op. cit., p. 169.

⁴⁹ Robert E. Cushman, "The Problem of the Independent Regulatory Commissions," Ideas and Issues in Public Administration, ed. by Dwight Waldo, p. 139.

decisions of administrative agencies. Fourth, the emergence of the idea that governmental regulation of business should not be confined to the enforcement of criminal penalties but should partake of continuous and not unfriendly supervision.⁵⁰

These regulatory agencies once set in motion began to behave like any other formal organization.⁵¹ The theory, it appears, that would be most helpful at this point is that of Weber:

Experience tends universally to show that the purely bureaucratic type of administrative organization--that is, the monocratic variety of bureaucracy--is, from a purely technical point of view, capable of attaining the highest degree of efficiency and is in this sense formally the most rational known means of carrying out imperative control over human beings.

The development of the modern form of the organization of corporate groups in all fields is nothing less than identical with the development and continual spread of bureaucratic administration. For the needs of mass administration today, it is completely indispensable. The choice is only that between bureaucracy and dilettantism in the field of administration.⁵²

The bureaucratic model is neither good nor bad in application. Results of its use vary. As the model is usually presented, "government has no choice but to use bureaucratic management; and government of the proper type

⁵⁰ Ibid., p. 140.

⁵¹ Georg Simmel, "The Persistence of Social Groups," Sociology Theory, ed. by Edgar F. Borgatta and Henry J. Meyer (New York: Alfred A. Knopf, 1956), p. 398.

⁵² Max Weber, op. cit., p. 337.

and in proper and limited areas is better than no government."⁵³

A separate but eventually relevant issue which must be recognized is the argument presented by von Mises⁵⁴ and others, contrary to Weber, that the bureaucratic model applies only to government organizations and not to business organizations. The crux of the argument centers around the point that business management has the profit incentive and also that profit can serve as an objective measure of success or failure.

The importance of the role of profit cannot be denied as a fundamental point. However, there are a number of other criteria in the Weber model of bureaucracy.⁵⁵

⁵³Dwight Waldo (ed.), Ideas and Issues in Public Administration, p. 50.

⁵⁴Ludwig von Mises, Bureaucracy (New Haven: Yale University Press, 1944).

⁵⁵Max Weber, op. cit., pp. 333-334. Officials are appointed to function according to the following criteria (abbreviated form): (1) They are personally free and subject to authority only with respect to their impersonal official obligations. (2) They are organized in a clearly defined hierarchy of offices. (3) Each office has a clearly defined sphere of competence in the legal sense. (4) The office is filled by a free contractual relationship--free selection. (5) Candidates are selected on the basis of technical qualifications. (6) They are remunerated by fixed salaries in money, with a right to pensions. Salaries are scaled and graded. Termination and resignation are possible. (7) The office is treated as the sole or primary occupation of the incumbent. (8) It constitutes a career. (9) The official works entirely separated from ownership of the means of administration and without appropriation of his position. (10) He is subject to strict and systematic discipline and control in the conduct of the office.

Many business managements approximate the model on the basis of these other criteria. For these reasons, our position is that the bureaucratic model is being approximated, intentionally or otherwise, by the managements of all types of formal organizations in accord with the Weber prediction.

Returning now to the main theme of the discussion, "expansion of the role, power and duties of the agencies has continued and despite the absence of effective solution of and increasing concern with their problems they now embrace within their regulatory powers almost every significant aspect of our national being."⁵⁶ "The general problem of the administrative agencies and their role in government has been a subject of consideration for the past twenty-five years by various branches of the government, bar associations and legal and political science scholars."⁵⁷ The problem in general appears to be summarized in the following statement:

If anything has been demonstrated by modern experience in these matters, it is that, once wide coercive powers are given to governmental agencies for particular purposes, such powers cannot be effectively controlled by democratic assemblies. If the latter do not themselves determine the means to be employed, the decisions of their agents will be more or less arbitrary.⁵⁸

⁵⁶James M. Landis, Report on the Regulatory Agencies to the President-Elect (Judiciary Committee, U.S. Senate, December, 1960), p. 1.

⁵⁷Ibid., p. 1.

⁵⁸F. A. Hayek, op. cit., p. 116.

This thesis gains support from a relatively recent series of lectures on this subject:

A prime source of justified dissatisfaction with the type of federal administrative action which I will shortly specify is the failure to develop standards sufficiently definite to permit decisions to be fairly predictable and the reasons for them to be understood; this failure can and must be remedied.⁵⁹

When brought into focus, the problem could be stated with Woll as follows:

There is nothing "unconstitutional" about the present characteristics of bureaucracy; but the constitutional changes which have occurred must be recognized and dealt with in terms of the broad purposes of constitutional government. The primary purpose of a constitutional system is to limit the powers of government; thus, if the original system does not function in limiting bureaucratic power, it is important to determine what, if anything, has replaced it.⁶⁰

The problem is to try and understand how this acquisition and extension of power by the Federal government has come about. The independent agency type of structure was one of the instruments created by the Federal government to help distribute power and decentralize authority. Developments indicate that the intended results have not necessarily occurred, however, apparently a number of unintended results have happened.

⁵⁹Henry J. Friendly, The Federal Administrative Agencies (Cambridge, Massachusetts: Harvard University Press, 1962), pp. 5-6.

⁶⁰Peter Woll, American Bureaucracy (New York: W. W. Norton & Company, Inc., 1963), p. 15.

A structural analysis of these independent regulatory agencies within the context of the emergent American society should yield evidence that would give greater understanding as to why these developments have taken place in the manner that they have.

Questions which need answers are: "How do these structures evolve?" Secondly, "Is there a pattern to this evolution and, if so, what is the significance of such a pattern?" Finally, "Is there an organization multiplier?"⁶¹

Another series of questions is related to the relationship between structure and function. The following three-way breakdown of functions will be tested during the analysis.⁶² Of particular interest is to test the relationship which exists between the administrative-bureaucratic functions and structure.

- a. Assigned functions--Those functions and activities specifically stated in legislative or executive acts and thereby delegated to the department, agency, or bureau. These are the functions we have been discussing in the above section.
- b. Auxiliary functions--Those functions and activities an organization must perform in order to carry out its assigned functions but for which no explicit assignment will ever be made.

⁶¹H. G. Hicks and B. B. Graves, "Is There an Organizational Multiplier?" Academy of Management Journal, March, 1963, p. 70. Also, Georg Simmel, "The Number of Persons as Determining the Form of the Group," Sociological Theory, ed. by Edgar F. Borgatta and Henry J. Meyer (New York: Alfred A. Knopf, 1956).

⁶²W. L. Warner, D. B. Unwalla, and J. H. Trimm, op. cit., p. 642.

- c. Administrative-Bureaucratic functions--Those functions related to the rationalized defining and ordering of functions into positions structured hierarchically and considered necessary for efficient operation as the organization ages and develops.

The relevant question to ask at this point, "Is there a direct relationship between size, structure, and administrative-bureaucratic functions?"

A final set of questions concern the concept of decentralization. Inferences can be drawn in regard to such questions as, "Can the independent regulatory agency be used as an instrument of decentralization as originally intended? Is it possible to employ decentralization within the individual agencies?"

Lastly, speculation as to whether these agencies are operating in the public interest by regulating business can be made.

CHAPTER II

THE FEDERAL HIERARCHY - EXPANSION AND DEVELOPMENT

Disagreement as to the size, strength, and role of the federal government was apparent starting with the Constitutional Convention. This crystalized later into the proverbial separation between the Hamiltonian versus Jeffersonian schools of thought. Simplification has placed the Hamiltonians as supporters of a strong federal government, whereas the Jeffersonians were strong supporters of local and state autonomy.

America had, in the eighteenth century, fought a war with England over government and business relations. No wonder that the men who framed the Constitution were careful to define the role of the new government in terms of laissez faire (the term used here is defined to mean "let business alone").

American political and economic philosophies of the nineteenth century warmly embraced Smithian (Adam Smith) theory as an ideal model. While the model did little to describe the business system as it actually existed, it did provide a philosophical model against which to judge

government-business relations and socioeconomic activities of business.¹

Economic theory of the nineteenth century was linked with political theory to develop a political economy framework which characterized the government role as best when it governed the least. The emphasis was on private property and individual autonomy for the participants in the economic arena. The role of the government was analogous to that of an umpire. The government was to interfere as little as possible by providing a minimum number of rules and restraints upon the participants in the market place.

However, the concern here is not with what ought to have happened according to the model, but rather what did happen in the period from 1789 to the 1960's. The total number of federal employees grew in 100 years from approximately 3,000 around 1800 to approximately 239,000 in 1900. The total number of federal government employees in 1964 was approximately 2,500,000.² The federal government increased approximately 80 times between 1800 and 1900 and 833 times between 1800 and 1964.³ The increase in number of employees between 1900 and 1964 was approximately 10 times.

¹Samuel E. Morison and Henry S. Commager, The Growth of the American Republic, Vol. II (New York: Oxford University Press, 1962), p. 188.

²U.S. Civil Service Commission Annual Report, 1965.

³Portions of this chapter on the Federal hierarchy are taken from W. L. Warner, D. B. Unwalla, and J. H. Trimm (eds.), The Emergent American Society, Vol. I, chaps. xiv and xv.

These employees were placed in an ever increasing number of Federal government departments, agencies and bureaus. Not only was there an increase in the number of independent Federal units, but there also were increases in each of the existing units. The increases in the number of independent units is shown in the following table:

<u>Year</u>	<u>Number of Independent Units of the Federal Government</u>
1800	7
1900	17
1964	70

The types of additions made during the 1800's was primarily to the cabinet. In the 1800's with the creation of the Civil Service Commission and the Interstate Commerce Commission, the agency type of organization was used to service the federal government in the one case, and set up a workable organization for regulatory purposes in the other case. The agency type of organization served at least two purposes: it reduced the number of cabinet posts needed and held down the power of each cabinet post without adding more functions and activities which in turn would mean power through money, control of people, and the influence of size.

It is of interest to note that between 1900 and 1964 there was only one addition to the cabinet while the total number of independent government units increased from 17 to

70. Of the 53 organizations created, 43 of them were the independent agency type. This demonstrates the popularity of the agency type of organization by the government. Paralleling this growth, development, and proliferation of the federal government hierarchy are the changes in the society from a rural, agricultural, and locally oriented society to an urban, industrialized, and nationally oriented society. The creation of new units to the federal government reflect these changes. The additions to the Cabinet after the turn of the twentieth century were the Departments of Commerce and Labor. These were followed by the increasing array of agencies including 14 of the 15 regulatory agencies being focused on in this study. Stemming also from the urban-industrial movement has been the focus toward welfare programs. The creation in 1939 of the Federal Security Agency, forerunner of the Department of Health, Education, and Welfare, 1953, is illustrative of the trends. Of interest, also, is the fact that both recent additions to the cabinet, the Department of Health, Education, and Welfare and the Department of Housing and Urban Development, were first created as conglomerate agencies prior to their elevation to cabinet status.

Growth in the operations of the federal government is also shown by an examination of its expenditures:

<u>Year</u>	<u>Approximate Expenditure</u>
1800	\$ 5,000,000
1900	\$ 458,000,000
1963	\$ 92,600,000,000

The abbreviated table quickly indicates the substantial increases in expenditures which have taken place in a little over a century and a half. However, for the Federal government to perform an increasing range of functions and activities additional personnel was needed by existing departments and agencies as well as by the newly created units. To underwrite the expense of these new positions and the necessary facilities, additional funds were requisite.

The preceding evidence, and that to follow, support the thesis that there appear to be basic social forces at work within the society, and that these processes continue to operate despite the avowed policies of the leadership. Growth has taken place in each decade regardless of the political complexion of the President and the Congress. The rates of increase during the various periods has varied, but continued increases are evident. For example, during the Harding-Coolidge-Hoover decade the total number of independent units--departments and agencies--of the Federal government increased from a total of 31 to 39. Total employment appeared to decline from a total of 655,000 in 1920 to 601,000 in 1930. However, this apparent decline is the

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effect of World War I--the defense area decreased by 129,000 in the 20's, but the increase in other areas reduced this decrease to a net of 54,000. Thus by discounting the World War I influence there was a net increase. The budgetary expenditures were again greatly reduced from \$6,400,000 in 1920 to \$3,400,000,000 in 1930. Again, the reduction in the military areas and the great emphasis upon disarmament meant that the expenditures being made were on civilian efforts. Thus, compared to 1910 when the federal expenditures were \$694,000,000, the 1930 budget of \$3,400,000,000 shows a definite and significant increase.

Evidence has been presented in the aggregate sense to support the contention that the federal hierarchy has had a steady increase and expansion. The increase and expansion is not only an intensification and elaboration around the functions and activities which had been mandated to the departments, agencies, and bureaus which already were created. Additional functions and activities have been added to the existing units as well as assigning new functions and activities to newly created units. The current functions of the Federal government have been classified into 118 categories in previously cited research. Details concerning this analysis will be presented in subsequent chapters on functions.⁴

⁴Ibid., p. 578.

The numerous functions which have been gradually added and reinforced are indicative of the federal government's movement into the many aspects of contemporary life, in terms of individuals and groups. Many terms are given their broadcast interpretation in such a way that in both the legislation and the courts interpretive decisions the federal government has legitimate domain. These, then, are the first evidential indications of the changes taking place in the moral order so that the non-moral aspects of the business enterprise--technology, science, and the market place--are being subjected to moral analysis.

These changes have required an alteration in the definitions of what is public and what is private. Examples to support these contentions are: (1) an individual, his immediate kin, or the private organizations with which he is associated are not entirely responsible for his retirement and old age; (2) during periods of unemployment the individual is no longer responsible for logistically programming his income over these periods or are local charities and private welfare agencies thought to be his only source of assistance, and (3) the movement from the nineteenth century--"the customer beware" or the "the customer be damned"--to the early twentieth century Pure Food and Drug Act; to the present regulations on advertising and packaging. As these functions and activities have moved from the private to the public area, as the tasks have become rationalized and

professionalized; governmental units have been organized to perform the services required. Thus, the business enterprise today is generally felt to be responsible, not in the traditional private property sense to the stockholders, but that the employees, customers, and public in general also have vested interests in the large and very large corporations.

One resultant from these changes in the belief and value systems is the numerous regulatory units of government. To better understand the processes which have been under discussion, an intensive examination of a selected group of these regulatory units appears warranted.

The Regulatory Agencies

In Chapter I it was established that the fifteen agencies selected for this study were created and mandated from their inception to perform regulatory functions over some type of business enterprise or some particular set of activities of all business enterprise subject to the law. The next section of this chapter will be devoted to a brief examination of the fifteen agencies. Subsequent analysis will focus intensively upon the four selected using them as prototypes for the agency type of regulatory activity and as example of organization development and position proliferation. The four agencies treated intensively will first be referred to briefly in this section. The general mandates

of these four agencies have been previously given. These four agencies are: The Interstate Commerce Commission, The Federal Reserve System, The Federal Communications Commission, and The National Labor Relations Board.

The Interstate Commerce Commission

The Interstate Commerce Commission (I.C.C.) was established in 1887 to regulate the railroad industry. The Commission was created in response to an agrarian movement, for the purpose of bringing control over one of the first major industries and large scale enterprises in the economy of the United States. The I.C.C. will be dealt with in detail later, but for the present it is well to recall that the railroad industry and its individual firms were among the first to require large capital accumulations and large scale organization; had a national orientation; and the nature of the industry led toward oligopoly. This latter condition and limited competition led to the agrarian drive for legislation and the creation of a regulatory body in the public interest.

The Federal Reserve System

The banking system of the United States, or lack of one, presented continual problems all during the nineteenth century. Evidence would appear to indicate that the loose manner in which banks were chartered, particularly in some states, the manner in which the banks were linked on a

depository relationship; and lack of control by the banking community on themselves, or by a public authority helped to augment each of the major economic depressions of the 1800's. Businessmen became aware of these difficulties and through the members of Congress most closely associated with the business community at the turn of the century and shortly thereafter, legislation was drafted creating the Federal Reserve System.⁵ The organizational structure created was a modification of the usual agency type, details concerning it will be described later.

The Federal Communications Commission

The Federal Radio Commission was created in 1927 to regulate wireless communication activities. It was abolished and the functions were transferred to the Federal Communications in 1934. The Commission is forbidden from exercising any form of censorship over radio and television. However, the broadcasts are to be in the public interest.⁶ Detail on the development of the Commission and its strategic position today in mass communication will be presented later.

⁵Morison and Commager, The Growth of the American Republic, op. cit., p. 530; Harold U. Faulkner, American Economic History (8th ed.; New York: Harper and Row, Publishers, 1960), pp. 523-525; and Seymour E. Harris (ed.), American Economic History (McGraw-Hill Book Co., 1961), pp. 115-116.

⁶Morison and Commager, op. cit., p. 657.

The National Labor Relations Board

Another major area of controversy in business activity requiring attention in the 1930's was that of labor relations. The legal, social, and psychological acceptance of the right of employees to form or join unions and bargain collectively was accomplished. The Wagner Act established the National Labor Relations Board (N.L.R.B.). If adequately enforced, the N.L.R.B. encouraged labor organization, made collective bargaining compulsory on the employer, and declared certain management practices as unfair. Thus, by its wording it seemed to doom the company unions, the "yellow dog" contract, labor spies, etc.⁷ In its first two years the N.L.R.B. handled 5,000 cases involving "unfair practices."⁸

The Remaining Agencies

A summary description of the remaining eleven agencies, in chronological order, will now follow.

Some of the same thinking and interest which went into the Sherman Anti-Trust Act was involved with the creation of the Federal Trade Commission. Established to be

⁷Faulkner, op. cit., p. 678; and Morison and Commager, op. cit., p. 716.

⁸Morison and Commager, op. cit., p. 716.

"preventive rather than punitive in character,"⁹ the Commission was authorized to promote free and fair competition in interstate commerce through prevention of price-fixing agreements, boycotts, combinations in restraint of trade, other unfair methods of competition, and unfair or deceptive practices. The purpose is to prevent the free enterprise system from being stifled or fettered by monopoly or corrupted by unfair or deceptive trade practices.¹⁰ The F.T.C. took over the work of the Bureau of Corporations which had been created by Theodore Roosevelt to perform some of these same functions.

In the 1920's and 1930's no American industry was more subject to criticism than the electric power industry. Inflated financial structures and complicated series of holding companies so confused the investing and consuming public as to make it difficult for them to determine the financial position of the corporations or the fairness of rates.¹¹ The conditions and abuses of the railroads in their early days were being duplicated in the power industry and were leading again to the same sort of demand for federal control.¹² The first state regulations of electricity

⁹Ibid., p. 532.

¹⁰U.S. Government Organization Manual, 1965-66, p. 422.

¹¹Faulkner, op. cit., p. 668.

¹²Ibid., p. 669.

rates came in the year 1907. The Federal Power Commission was originally established in 1920 by the Federal Water Power Act. The functions and activities of the Commission include jurisdiction over the transmission and sale at wholesale of electric energy in interstate commerce and over public utilities engaged in such commerce, regulates the transportation and sale of natural gas in interstate commerce for resale of the natural gas companies, including independent producers, engaged in such commerce, and prescribes and enforces a uniform system of accounts for the electric utilities and natural gas companies subject to its jurisdiction.¹³

The Railroad Labor Board created by the Transportation Act of 1920 proved to be unsatisfactory to management and labor alike because it was powerless; its decisions were not binding.¹⁴ The Railroad Labor Act of 1926 created the National Mediation Board and the Labor Board was abolished. The 1926 legislation was subsequently amended in 1934 and 1936 to modify its operation and extend its jurisdiction. The primary purpose of the National Mediation Board is to avoid any interruption to commerce or to the operation of any carrier engaged therein. The activities of the N.M.B.

¹³ U.S. Government Organizational Manual, 1965-66, p. 414.

¹⁴ Faulkner, op. cit., p. 669.

includes mediating differences between the railroads, the express and pullman companies, and the airlines on the one hand and their employees on the other, growing out of their attempts to make and maintain agreements establishing the rates of pay, rules, and working conditions of the employees.¹⁵

The Federal Home Loan Bank Act of 1932 created the Federal Home Loan Bank System to provide credit reserve for savings and home financing institutions. The act was supplemented and extended in both 1933 and 1934. The Federal Housing Administration took over the F.H.L.B. System in 1947. The System was given independent status in 1955.¹⁶ The institutions eligible to become members of the Federal Home Loan Banks are savings and loan, building and loan, and homestead associations, savings and cooperative banks, and insurance companies. Every federal savings and loan association is required to become a member of its regional Federal Home Loan Bank, and to qualify for insurance of accounts.¹⁷

One of the important parts of the Banking Act of 1933 was the creation of the Federal Deposit Insurance

¹⁵U.S. Government Organization Manual, 1965-66, p. 469.

¹⁶Faulkner, op. cit., p. 659; and U.S. Government Organization Manual, 1965-66, p. 407.

¹⁷U.S. Government Organizational Manual, 1965-66, p. 408.

Corporation. The chief purpose of the F.D.I.C. is to insure the deposits up to a fixed amount of all banks which are entitled to the benefits of insurance under the law. All Federal Reserve bank members are required to insure and approved state banks can be approved and participate. The major functions of the Corporation are to pay off the depositors of insured banks closed without adequate provision having been made to pay claims to their depositors, to act as receiver for all national banks placed in receivership and for state banks placed in receivership when appointed receiver by state authorities, and to prevent the continuance or development of unsafe and unsound banking practices.¹⁸ Of interest, at the end of 1964 approximately 97 per cent of the incorporated banks of deposit were participating in the program.¹⁹

Continuing legislation in the financial area created the Securities and Exchange Commission in 1934. The Banking Act of 1933 had already separated commercial and investment banking. The Commission was created to curb malpractices on the securities exchanges and to supervise them. Issuers of securities making public offerings of securities in interstate commerce or through the mails, directly or by others on their behalf, are required to file with the Commission

¹⁸ Ibid., p. 403.

¹⁹ Ibid., p. 406.

registration statements containing financial and other pertinent data about the issuer and the offering.²⁰ Extended legislation also gave the S.E.C. considerable control over the activities of public utility companies.

With the establishment of the Railroad Retirement Board in 1935, the Federal government moved to control still another phase of the railroad industry. The R.R.B. administers a retirement system for the payment of retirement and disability annuities to railroad employees, annuities to their survivors, and a correlated unemployment insurance--employment service system for paying unemployment, maternity, and sickness benefits to and securing the reemployment of unemployed railroad employees.²¹

To improve control and streamline operations, the Civil Aeronautics Authority was created in 1938 as an independent agency with a semi-independent Air Safety Board. For the first two years "the work of these two bodies helped inspire greater efficiency and safety in civil aviation, and was popular with private air companies." However, the President's reorganization in 1940 generated criticism.²² Structural changes were made in 1940 with the creation of the Civil Aeronautics Administration (C.A.A.) in the

²⁰Ibid., p. 480.

²¹Ibid., p. 473.

²²Faulkner, op. cit., p. 672.

Department of Commerce. There was reassignment of duties and functions between the Board and the C.A.A. The Federal Aviation Act of 1958 repealed the Civil Aeronautics Act of 1938. This act again redefined duties and responsibilities creating the Federal Aviation Agency to be discussed shortly. Presently, the three major functions of the Civil Aeronautics Board are (1) regulation of the economic aspects of domestic international United States air carrier operations and of the common carrier operations of foreign air carriers to and from the United States; (2) participation in the establishment and development of international air transportation; and (3) promotion of safety in civil aviation.²³

The Federal Coal Mine Safety Board of Review is an example of having to create a new agency to act as umpire to the regulatory actions taken by other government units governing the coal mine industry. The Board is a quasi-judicial administrative agency established to hear and determine applications by coal mine operators for annulment or revision of and temporary relief from orders of Federal coal mine inspectors or the Director of the United States Bureau of Mines.²⁴

²³U.S. Government Organization Manual, 1965-66, p. 384.

²⁴Ibid., p. 399.

The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both is a major purpose of the Federal Aviation Agency. The Federal Aviation Act of 1958 realigned the control units governing aviation once again. The Civil Aeronautics Board and the Federal Aviation Agency are the two major agencies developed to supervise the air space and business firms using it. Consolidation of research and development with respect to air navigation facilities also needed to be better coordinated.²⁵

Prior legislation which helped to set the stage for the Federal Maritime Commission were the Shipping Act of 1916 and the Merchant Marine Act of 1920. Established as a part of the reorganization in 1961, the F.M.C. was created to administer the functions and regulatory activities which prior legislation had stated in regard to the Merchant Marine and intercoastal shipping. The creation of the Commission was to help combine for more effective operation a diverse range of functions and activities governing water carriers. Broad areas of responsibility were given to the F.M.C. in regard to common carriers by water and other persons engaged in the foreign commerce of the United States.²⁶

²⁵Ibid., p. 397.

²⁶Ibid., p. 410.

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Historical Setting

Evidence has been presented to briefly gain a sense around the creation of the fifteen agencies. As is indicated, each decade produced its additions. Of course, the emphasis is traditionally upon the 1930's and the numerous creations which Franklin Roosevelt and the Congress made to aid in the solution of the numerous problems which emerged from the Great Depression. However, one point of emphasis being made here is not to lose sight of the fact that much had been developing before the economic collapse and the 1930's. Equally true is that the same forces at work before 1930 and World War II are still at work in the post World War II period so that the evidence continues to build.

According to Schlesinger, "the thirties were a welter of experiments." "Franklin D. Roosevelt's New Deal enlisted economists of various schools united only by a zest for experiment, and as usual, experiment provided a better means of verifying doctrines than mathematical analysis. The virtue of Roosevelt himself was his related freedom from the constraint of dogma."²⁷ "If the American experience bequeathes anything to nations facing today even more formidable problems of economic self-development, it is that

²⁷ Arthur M. Schlesinger, Jr., "Ideas and the Economic Process," American Economic History, ed. by Seymour E. Harris (New York: McGraw-Hill Book Company, 1961), p. 21.

nothing counts more than a faith in thought combined with an interest for empirical reality and an understanding that reality is ever changing."²⁸

The change in reality often becomes a fact before we are consciously aware of what has taken place. As the Congress developed and passed the legislation necessary for each new agency, it was felt appropriate by a sufficient majority to secure its passage.

Technological advances and resource conservation, which surmounted state and were national and international in implication, required federal attention. Railroads became national systems crossing numerous states with no one state really in position to deal with the large and powerful railroad organizations which were being developed. A federal agency seemed to be the answer to those seeking a solution and, using the interstate commerce clause, the I.C.C. was born. However, fifty years earlier the Commission might have been considered unconstitutional.

A sound money and banking system is necessary to an economy. To facilitate exchange and assist the business community, sound banks and money are required either for national or international transactions. As the economy became more national and internationally oriented, these necessities became increasingly apparent. Resort to the

²⁸Ibid., p. 25.

Federal government and federal legislation was made to create a banking system where money, credit, flexibility, and stability could all be combined to provide for a sound operation which would give assistance to the businessman and in turn help bolster his confidence. Legislation was drafted and passed. The Federal Reserve System came into existence, then, in 1913. As weaknesses in the system became apparent in the Great Depression, the necessary legislative amendments were presented and passed by the Congress to strengthen the system and eliminate the indicated weaknesses.

During the Gilded Age--post Civil War to 1900--an era graced by the mythological business "heroes" of America, buyers and sellers were wary of each other and shrewd. For the naive and uninformed, elimination from the market place was almost a predicted certainty. A combination then of illicit practices which either hurt business competitors or customers finally motivated a sufficient number in business and the consuming public for the legislation creating the Federal Trade Commission to be passed. Again, the federal government's power to regulate interstate commerce was used.

The creation of the Federal Power Commission in 1920
∴ reflects the carryover interest in conservation from Theodore Roosevelt and a more active interest in the 1920's of the various resources remaining in the public domain. For instance, the Commission was to carefully control the leasing

of the inter-power sites. Again, the thought and feelings of a wide range of individuals within the society were coalesced and approval was given to the creation of still another government regulatory agency.

With the return of the railroads to private control following World War I, changes were to continue. With the Railroad Labor Act of 1926 and subsequent legislation in 1934 the National Mediation Board was established as an agency to deal with the labor problems in a specific industry. Up to this point, regulatory agencies had been created to regulate conditions in the market place--prices, rates, quality of goods, degree of competition, etc.; money and the monetary system; resources; and now employee relations covering conditions of employment and their methods of settlement.

To secure and protect the rights of both individuals and corporate interests, regulations of air space for radio communication, the wireless and wired communication through telegraph and the telephone was necessary. Technological advances of the type such as the radio, required public interest and concern because of the immediate problems in regard to air-space coverage. Whereas, in the area of labor, which had "grewed like topsie," the immediate concern and interference of public authority was much less acceptable.

The savings and loan associations actually developed and expanded during the 1920's although the idea dated back approximately 100 years. The Federal Home Loan Bank system

of twelve regional banks was established in 1932 to extend aid to qualified associations. With the economic collapse in the 1929-1933 period, home owners, and in turn the savings and loan associations holding their mortgages, were in grave difficulty the same as the banks and other financial institutions. Credit reserves to give support to the associations and also support to the home building industry was necessary.

Revisions were being made in the 1930's to strengthen the Federal Reserve System. One aspect of the actions was the establishment of the Federal Deposit Insurance Corporation to secure deposits and allay fears of depositors. Many depositors had some very unfortunate experiences in the 1929-1933 period and others had had difficulties in all the previous depressions which periodically gripped the economy. Thus, the citizenry was ready to have further regulation and support given to their financial institutions.

The above was also reflected in the separation of investment and commercial banking. The many disappointing experiences the small and unsophisticated investor had had in buying securities meant that some federal regulation would be welcomed by many. The Securities and Exchange Commission was created to fill this need. Although at first strongly opposed by those active on Wall Street, this opposition has considerably diminished as the small investors have been encouraged to invest in securities.

With the development of an industrial, urban society utilizing mass production techniques, the worker was separated from his tools and the final product. Ferment developed within those workers who were most deeply involved in this social process. These individuals began identifying as groups which in turn led to the founding of varying types of organizations. The associations formed varied in regard to their composition as to who the individuals were, their knowledge and skill, and the impact of the technological change upon them and their positions. Thus, there had been over 100 years of labor activity in the United States by the time the Wagner Act creating the National Labor Relations Board was passed in 1935. The Railroad Retirement Board established in 1935, extended the federal authority over the already highly regulated railroad industry. Also, following the creation in the 1920's of the National Mediation Board, the new agency meant further involvement of the federal government in the labor relations area.

The National Advisory Committee for Aeronautics established in 1915 early involved the Federal government in air-space research and experimentation. With the technical advance in airplanes and the acceptance of air travel, both military and civilian, regulations and control in regards to safety, the airways, continental aid, transcontinental flights, etc. could be expected. The creation of the Civil Aeronautics Board in 1938 is one resultant from the

expansion and development taking place in air-space. The reorganization and creation of an additional agency, the Federal Aviation Agency, in 1958 is further indication of success in aeronautics, the range and complexity of problems being generated in the industry, and possible anticipation of the future.

Contrary to the usual process, the Federal Coal Mine Safety Board of Review has remained very small. As of June, 1964, the agency, after approximately twelve years of operation, had only seven employees. Being a quasi-judicial agency of a highly specialized nature and limited purpose is a partial explanation for the limited growth of the F.C.M.S.B.R. Contrary to the air-space problem, the waterways, as one of the first forms of transportation, had been in use for a long period before regulatory action was taken culminating in the National Maritime Commission in 1961.

Summary

Our brief survey indicates the growth and expansion of the federal government by the use of three standard criteria: (1) number of units, (2) number of people, and (3) amount of expenditures. This combination of people and money in formal organization (the federal government) are now performing an increasing array of functions for the society.

To gain some beginning insight into the process which has brought this large development of the federal government about, the creation of the fifteen regulatory agencies which are the focus of this study, was examined. The need for each agency can be placed in a time-space relationship. The ideas surrounding the development of each agency had been developing for some period of time. At some point a culmination of pressures upon the Congress would combine to bring about the legislative enactment. The most precipitous period, it appears, would be the 1930's following the Great Depression. A period apparently needing new approaches and creative solutions to the problems of an urban industrial society. At least, much thinking which had been accepted as settled was being extensively reexamined for new insights and possible corrective measures. It is not surprising then that the agencies in existence were given new vigor and many new temporary and permanent agencies were created.

The process which brings an agency into existence is the result of a combination of forces. Many of the forces at work in favor of the creation of a new agency are apparently oblivious to the fact that they are helping to create "big government." Privately individuals or organizations may express concern over the size of the federal government, yet still feel that "one more agency" must be created to perform the set of functions and activities which they have

in mind. Felt needs for social action usually bring an organization into being. Social forces in action, coupled with the democratic process, combine to bring about the legislation for creation. Once set in motion, the organization will then begin to take on those aspects of growth and development typical of any social organization. Of fundamental importance, then, is for the organization to persist through time. The individuals composing the organizations develop vested interests in their positions and want to see these positions grow and expand. Individuals outside the organization begin to reorganize and accept the new creation as an entity which must be recognized for action and reaction. Budgets become established and monies are allocated.

These several different strands of thinking will be woven together in the subsequent exposition. Forces join to have created a new regulatory agency to exert control over some particular type of business or some of the functions and activities performed by a business enterprise. These regulatory agencies, once set in motion, behave as other social organisms--seeking growth, development, expansion, power, influence, and most of all, survival. From the results of the research, we shall attempt through inference from the structural analysis to demonstrate that the impact on the decision making process and strategy formulation of the firm is greater than initially intended in the original mandate of the legislation creating the agency. The

increased impact can come about not necessarily by intent on the part of the staff of the organization, but by the changing and increasing complexity of the social milieu in which the agency and the business enterprise function.

As originally hypothesized, and inherent part of the emergent American society is change. That the society to be what it is at any point in time, it must be becoming something else. As a part of this emergent change has been the transformation of the society from an agricultural, rural, and locally oriented type society to an industrial urban, and nationally oriented type society. In addition, a population explosion from within and the emergence of the United States as a dominant international power with responsibilities both symbolic and real from without only make the social milieu ever increasingly complex for the business enterprise to operate within. For the managers of business enterprise are not inactive observers to be acted upon, but are vitally active initiators and reactors themselves which only heightens the range and complexity of activity going on at any given moment. The evidence already presented and to be presented is offered in support of this thesis using the Federal government in general and the selected regulatory agencies in particular.

CHAPTER III

THE REGULATORY AGENCIES - A STRUCTURAL ANALYSIS

The purpose of this chapter is to begin the examination of the structure of the selected agencies. The analysis will begin by looking at the evolution of the vertical as well as horizontal spread of these hierarchies. The geographic spread of these agencies as a part of their structural elaboration is also of interest. A brief discussion of the concept of structure is given next before proceeding with the analysis.

According to Radcliffe-Brown, "the theory of evolution is one of a trend of development by which more complex types of structure come into existence by derivation from less complex ones."¹ The structure is defined as a set of relations between entities.² These parts or units are in some ordered arrangement and thereby form a structure.³ Radcliffe-Brown makes a careful delineation between social

¹A. R. Radcliffe-Brown, Structure and Function in Primitive Society (Glencoe, Illinois: The Free Press, 1952), p. 9.

²Ibid., p. 179.

³Ibid., p. 9.

structure and organization. A convenient use is to define social structure as an arrangement of persons in institutionally controlled or defined relationships and to use organization as referring to an arrangement of activities.⁴

"Thus we may say that when we are dealing with a structural system we are concerned with a system of social positions, while in an organization we deal with a system of roles."⁵

The reader will remember that the fifteen regulatory agencies were classified into three categories: (1) Transportation, Trade-Communication, and Power; (2) Finance; and (3) Labor. The four agencies receiving detailed attention are representative of the three groups, and are the Interstate Commerce Commission, the Federal Reserve System, the Federal Communication Commission, and the National Labor Relations Board. The first area to receive regulatory attention at the national level was the Transportation, Trade-Communication and Power group. The Interstate Commerce Commission was the first of the regulatory agencies to be established. It is to serve as our prototype for the balance of the analysis.

⁴Ibid., p. 11.

⁵Ibid.

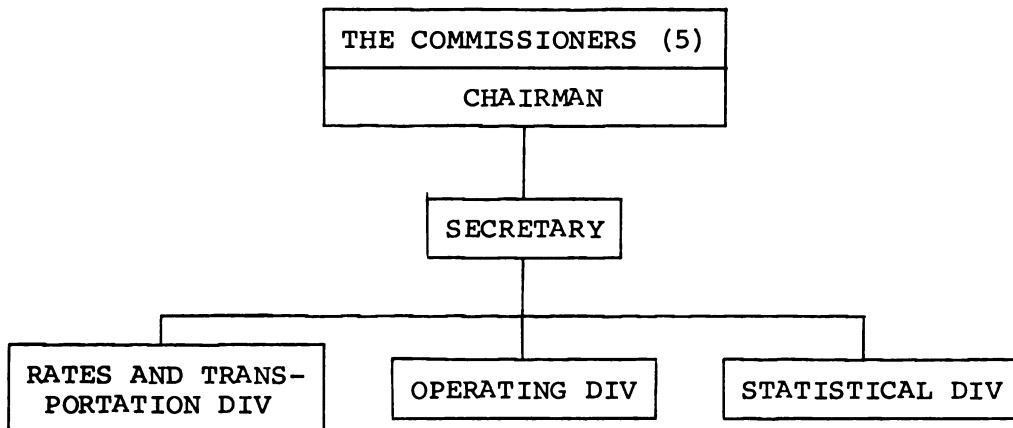
The Interstate Commerce Commission

While the Constitution gave Congress the power to regulate interstate commerce, public support for government regulation wavered particularly at the federal level. The creation of the Interstate Commerce Commission stands as a landmark in the legislative history of the United States.

The analysis of the structural evolution of the I.C.C. begins with the initial structure in 1887-1888. Examination of the organization at twenty-five year spans follows: 1912, 1937, and 1962.

The I.C.C. started with five Commissioners, who were appointed by the President with Senate approval. A secretary, and ten employees were initially appointed with approximately twenty more employees being added during the first year. A tri-level structure soon evolved as indicated in Chart 1. The Chairman of the Commission, the Secretary acting as the commission's executive officer and disbursing agent, and the major functional groupings around the tasks to be performed are as shown the basic beginning structure of the I.C.C. In 1887 the Commission created a department of Statistics. However, this department seems initially to have been interested primarily in matters of rates rather than statistics. In 1888 it became the Division of Rates and Transportation and the Division of Statistics was established by the Commission.

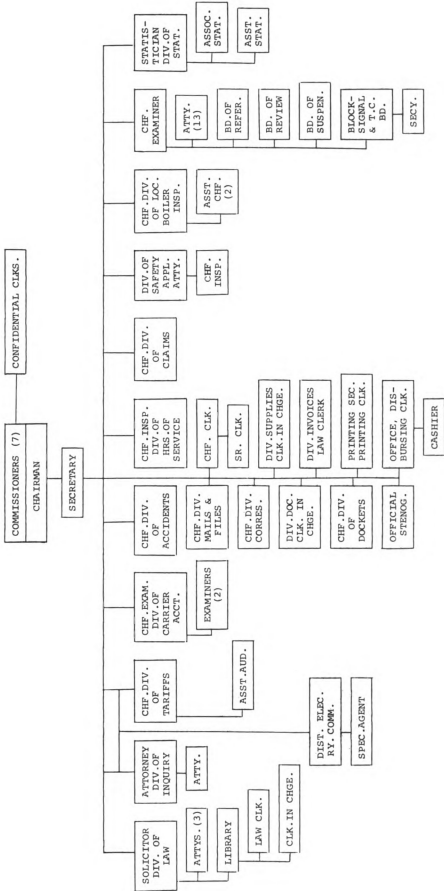
Chart 1. Interstate Commerce Commission, 1888
(Total Employees: 32)



The I.C.C. grew so that by the turn of the Century, the agency had approximately 150 employees. The same basic structure as was shown in Chart 1 continues. However, each of the activities within each of the divisions began to develop into sections. The development of sections is indicative of job proliferation around basic activities and the gradual appearance of a new level within the structure--The Commission, the Secretary, First-line supervision, and employees. The total number of employees increased more than four and one-half times during this period.

The number of Commissioners for the I.C.C. was increased to seven with the passage by Congress of the Hepburn Act in 1906. The structure of the Commission by 1912 was organized along the lines shown in Chart 2. Additional

Chart 2. Interstate Commerce Commission, 1912
(Total Employees: 512)



organization and the use of specialization are immediately obvious. The work of the Commission has been divided into these numerous divisions, sections, and boards from the original three units. These sections are arranged into seven groups with each one reporting to one of the Commissioners, and the Administrative group reporting to the Secretary and, in turn, the Chairman. Illustrative of the processes at work is the creation of the Division of Carrier Accountants. Prior to 1912 the Division of Statistics had become the Division of Statistics and Accounts. In the organizational developments of 1912, the two groups were separated creating two divisions. The reader will recall that the original Division of Rates and Transportation was spawned by the Statistical Division. Many of the new divisions now created and obvious in the 1912 chart were developed from Rates and Transportation.

The spread which is so apparent horizontally also implies some vertical extension for there were in 1912 slightly over 500 employees. The expansion is represented by a larger number of units as well as an increase in the number of employees to man all of these units--new and old. The structural development at this point appears to be more horizontal than vertical. However, the inference can also be made, and subsequently demonstrated, that with 500 employees another level of management began to appear between the division head and the first-line supervisor.

The increase in total number of employees since the turn of the century is approximately three and one-half times.

During the next twenty-five years numerous additions and changes were made. Starting in 1917, Congress authorized the addition of two more Commissioners, bringing the total to nine. The total number of employees increased by 1,000 during the five years from 1912 to 1917. With this quickened pace of growth, organizational changes were also made. The basic structure was again elaborated both horizontally and vertically. The units previously referred to as divisions are now referred to as bureaus. Two of the divisions--Accidents and Hours of Service--in evidence in 1912 do not appear in 1917. However, two new bureaus do appear, they are: Stenography and Valuation. The names of two of the bureaus were changed--Bureau of Safety Appliances to Safety and Bureau of Locomotive Boiler Inspection to Locomotive Inspection.

A new level was added to the structure with the creation of the office Assistant Secretary. The number of levels now is as follows--Chairman, Secretary, Assistant Secretary, Bureau Director, Supervisor, Employee--a total of six levels with approximately 1,500 employees. Also starting at this point, the Commissioners were divided into three divisions to expedite the work of the I.C.C. The work of these three Divisions follows: (1) Cases set for oral argument, Work of Bureau of Valuation; (2) Cases set for oral

argument, Cases on special docket, Applications for increased charges, Applications under Sec. 4 and 6, Requests for suspension, Released rates, Transportation of explosives and dangerous articles; and (3) Board of Review cases not orally argued. Each Division is composed of three Commissioners. The names of the six committees established by the I.C.C. at this time are (1) Committee on Legislation, (2) Rules of Practice and Forms, (3) Office Space, (4) Classification and Salaries, (5) Car Service, and (6) Examination and Board of Review.

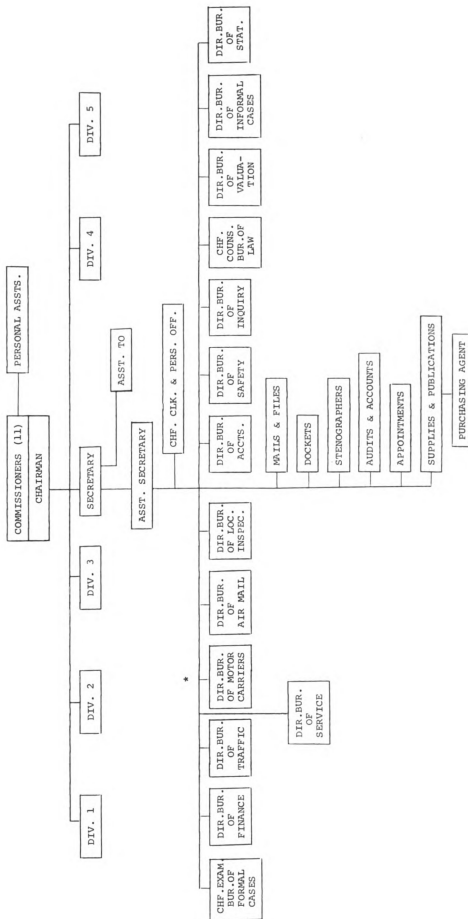
Structurally, the role of the Secretary as the executive officer for the Commission remains the same, but with ever increasing complexity. Similarly, the Commissioners have an increasingly complex set of relationships as the I.C.C. grows and develops. The pattern of growth being displayed is following that which has been hypothesized. Auxiliary and administrative functions are being reflected in the structural elaboration taking place both horizontally and vertically. This is not to deny that the main purpose of setting regulatory policy governing carries and hearing cases are not being extended.

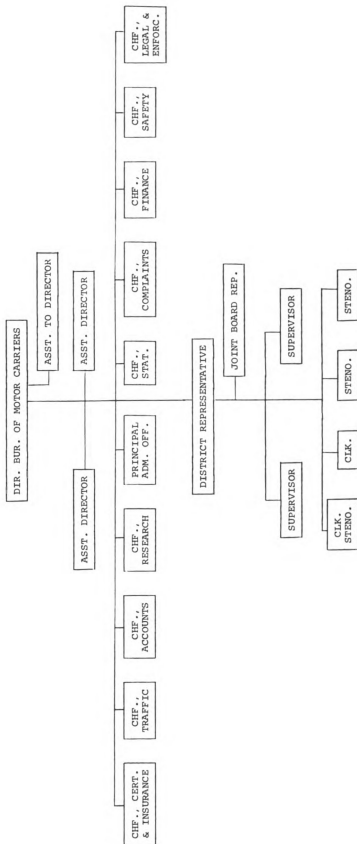
With the Transportation Act of 1920, the Commission was increased to eleven, but the number of employees did not change substantially. Structurally the Bureau of Finance was created as an addition to the number of bureaus.

Several units were recombined to again form the Bureau of Administration. Other name changes made in 1920 are Bureau of Car Service to Service; Bureau of Tariffs to Traffic; Bureau of Carrier Accounts to Accounts; Bureau of Examiners and Attorneys to Formal Cases; and Bureau of Correspondence and Claims to Informal Cases. During the World War I years the railroads were nationalized and there was a temporary but significant change in operations. During the decade of the Twenties the Commission grew in size so that by 1930 there was a maximum of 2,389 employees. By 1937, the fiftieth anniversary of the Interstate Commerce Commission, the organization structure looked as in Chart 3. The approximately 2,000 employees, which are fewer than the earlier peak number, appear in what seems to be a simple, clean, clear-cut set of relationships. This only masks the real operations of the Commission's work.

In examining Chart 3 for 1937, the overall structure is presented first. This is to remind the reader of the movement in the total organization. In the lower portion of the chart the Bureau of Motor Carriers has been selected and shown for detailed examination with particular emphasis on the field offices of this bureau. In this way the full impact of the vertical extension of the agency can be portrayed.

Chart 3. Interstate Commerce Commission, 1937
(Total Employees: 2,173)





The overall structure maintains its basic form with the Secretary and his proliferated staff as chief administrators for the Commission. All activities and functions, in addition to the administrative area, are now packaged into fourteen major bureaus and five divisions. The divisions have the cases grouped for the Commissioners to hear or take action on them. These divisions have been increased from three to five in the twenty-five year interim. The elaboration around administration is again of interest. The Office of the Secretary continues to increase and in addition the administrative functions have been collected to operate as a Bureau of Administration with the Secretary as head reporting to the Chairman of the Commission. These are reflections of the growth of and need to perform the auxiliary and administrative functions. The functional relationship, then, between growth, size, and the development of the auxiliary and administrative functions is given support as these kinds of structural movements are observed.

The Bureau of Motor Carriers has somewhat more employees than the entire Commission had after twenty-five years of operations. The Bureau is divided up into nine units plus the administrative group and the field organization. Structurally within the Bureau there is the Director, Assistant Director, Unit Chief, Assistant Chief, and Employee. This is a total of five levels, approximately the same number as when the Commission had between 500 and

600 employees. However, in the present organization the Chairman, Secretary, and Assistant Secretary must be added on top of the Director of the Bureau. By adding both figures in regard to levels together, we find that it totals to eight. The I.C.C., then, has grown from an organization of approximately 32 employees and three levels to an agency with 2,000 employees and a structure with approximately eight levels in fifty years.

The most significant changes in the Commission at the beginning of World War II involve the make-up of the constituent units. An additional unit, Bureau of Personnel Supervision and Management, was created thus separating the personnel functions from the position of the Chief Clerk. The collected units representative of the Bureau of Administration previously referred to and the new Bureau of Personnel both have the Chairman of the Commission as their commissioner-in-charge via the Office of the Secretary. The Bureau of Air Mail does not appear in 1940, since these functions were transferred from the control of the Commission in 1938. The divisions created to facilitate the work flow by allowing a minimum of three Commissioners to render decisions continues as before. The basic organization structure, except as indicated, remains essentially the same. Employment was at a high with approximately 2,700 employees.

By 1950 an often expected change appears with the creation of an Assistant Secretary and Budget Officer. The administrative necessity to bring under control monetary expenditures and to be able to give an appropriate accounting for past activities and make projections for future needs becomes increasingly important in public enterprise. The Bureau of Personnel has been eliminated but a Personnel Office has been created. The new addition, reflecting a new assignment of functions, is the Bureau of Water Carriers and Freight Forwarders. The name of the Bureau of Statistics has been changed to the Bureau of Transport Economics and Statistics. The total number of major units remains the same with gradual shifts in total number of personnel.

Chart 4 for 1962 is presented in similar detail to 1937 to aid in the comparative analysis and show the elaboration which has been taking place in the Commission. During the twenty-five year period, 1937-1962, the total number of employees increased to approximately 2,700 and now is approximately 2,500. As previously indicated, the figure of 2,500 does not represent a high figure but is more representative of stabilizing tendencies rather than growth. The volume of activity requires that continued attention be paid to the more efficient utilization of personnel and thus attention to structural design. Layers have been added to the 1962 structure. This is to be expected. There is now a Vice Chairman, a new level; along with the creation of the

Office of Managing Director which displaces the Office of the Secretary as the major administrator for the Commission. However, the Secretary's Office remains at the same level as does the Office of the General Counsel. The Budget, Personnel, and Administrative Services provide still another major hierarchical level which is the staff level. These latter three offices are drawn as staff positions to the Managing Director but are large units in themselves with their own line authority in each. Another title creating additional positions and layers is that of Assistant. There is now an Assistant Managing Director, and Associate Counsel as well as an Assistant Secretary. At the Bureau level, Assistant Directors of the respective bureaus is complete. Thus, the number of levels counted in the following manner are: (1) Chairman, (2) Vice Chairman, (3) Managing Director, (4) Assistant Managing Director, (5) Director of Bureau, (6) Assistant Director, (7) Section Chief, (8) Supervisor, and (9) Employees. The number of levels currently in the Commission is a minimum of nine and perhaps ten or twelve in some instances. The number of Divisions for the processing of cases has again been reduced to three.

Other structural changes between 1937 and 1962 are the addition of the Bureaus of Water Carriers and Freight Forwarders, previously mentioned, and Operating Rights. The group known as the Bureau of Administration was divided between the Managing Director and the Secretary. Air mail

authority was transferred from the Commission. Name changes and combinations altering the major units are: Formal Cases to Bureau of Rates and Practices; Informal Cases to the Traffic Bureau; Law including Indices and Library to the General Counsel; the Bureaus of Safety and Service were combined and now include the Bureau of Locomotive Inspection; and the Bureau of Valuation to the Bureau of Accounts.

To be an additional aid in this comparative analysis of the I.C.C. in 1937 and 1962, Table 2 is presented. The changes affecting numbers of personnel reflect the alterations indicated in the previous paragraph. These name changes suggest more than would first appear. Functions and activities are being continually reassigned as between the units with names and numbers of personnel being the obvious indicators of the more subtle flow of events.

The Bureau of Motor Carriers used for detailed analysis in Chart 3 for 1937 has somewhat fewer employees according to Table 2. The I.C.C. has always had field offices as was shown in Chart 3. However, in Chart 4 for 1962 these field offices have been formally organized into thirteen regions with a Regional Manager in charge of each.⁶

⁶The thirteen regional cities are: Boston, New York; Philadelphia; Columbus; Atlanta; Nashville; Chicago; Minneapolis; Kansas City, Mo.; Ft. Worth; Denver; Portland, Oregon; and San Francisco.

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Table 2. Interstate Commerce Commission--number of employees by unit, 1937 and 1962

Name	1937	1963	Name
Accounts	210	179	Accounts
Administration	202	160	Managing Director
		171	Secretary
			(Authority transferred)
Air Mail	50		
Finance	53	97	Finance
Formal Cases	109	101	Rates and Practices
Informal Cases	28		(Traffic Bureau)
Inquiry	27	99	Inquiry and Compliance
Law, Indices			
Library	29	20	General Counsel
Locomotive			
Inspection	90		(Safety and Service)
Motor Carriers	604	529	Motor Carriers
Safety	103	352	Safety and Service
Service	42		
Statistics	104	181	Transport, Economics, and Statistics
Traffic	157	258	Traffic
Valuation	316		(Accounts)
		15	Water Carriers and Freight Forwarders
		208	Operating Rights
	<u>2,124</u>	<u>2,370</u>	
Commissioners and their Employees	<u>49</u>	<u>103</u>	
Total	2,173	2,473	

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There were 144 Field offices operated by seven of the Bureaus in 1937 whereas in 1962 there were 88 Field offices in the thirteen regions plus an office in Anchorage, Alaska that reports directly to Washington. In 1937 there were approximately 30 per cent of the Agency's employees in the Field offices, while in 1962 the percentage had increased slightly to approximately one-third.

The structural changes appear to be less significant, now, at the lower levels of the hierarchy. The total number of personnel in the I.C.C. has been relatively stable, thus the movement tends to be at the higher echelons of the structure. The repackaging of the units and the altering of lines of authority are being done to expedite increasing volumes of work and reflect legislative and executive changes. The role of a Managing Director is in vogue resultant from the recommendations of consultants. Thus, comparing the data in Table 2, Chart 3, and Chart 4, it is not the numbers of personnel per se causing the change in structure but these other somewhat illusive factors. The changes at the top do increase the numbers of levels and create distance both physical and social between the top command and the operative employee.

In summary, the reader will recall that in 1887 a Secretary was appointed as the chief administrative officer for the Commission. In Chart 4 there are two administrative positions--Secretary and Managing Director. According to

Table 2 there are now 331 (160 + 171) employees performing these administrative functions. Similarly, the Statistical unit dates from 1887, but has spawned other units such as the Bureau of Traffic, 258 employees, and still has 181 employees in its own unit in 1962.

The Federal Reserve System

The next major federal regulatory agency created in 1913 as the result of a long-felt need, was the Federal Reserve System for banking. The F.R.S. while following in the agency pattern is uniquely different. The concept of a government sponsored corporation with independent regulatory agency status was conceived and executed with the System. This organizational pattern was followed in establishing several subsequent agencies to be analyzed later.

The F.R.S. is composed of a Board of Governors appointed by the President with Senate approval which is usual for government agencies. However, the twelve reserve banks are owned by their member banks. The capital stock of each Reserve Bank is held by the members and may not be transferred. The membership of the System is comprised of all national banks which are required to belong and those state banks which have applied and been accepted as members. The twelve Federal Reserve banks, each serving a geographical area of the country, are located in the following cities: (1) Boston, (2) New York, (3) Philadelphia,

(4) Cleveland, (5) Richmond, (6) Atlanta, (7) Chicago, (8) St. Louis, (9) Minneapolis, (10) Kansas City, (11) Dallas, and (12) San Francisco.

The Board of Governors for the system is composed of seven members selected by the President with Senate approval. In selecting the members the President is to give due regard to making the Board of Governors representative of agriculture, financial, industrial, and commercial interests, and the geographical areas of the country. The Chairman is designated by the President. The Board of Governors together with the Federal Open Market Committee and the Federal Advisory Council comprise the governing and policy making bodies of the system. The Open Market Committee has for its members all of the Board of Governors plus five representatives elected annually from the Reserve Banks. The Advisory Council members are selected one from each of the twelve districts. The administration of the system is accomplished through the coordination of the three previously mentioned executive bodies and their respective staffs. The expenses of the System are underwritten by semi-annual assessments on the Reserve Banks and not by federal government appropriations.

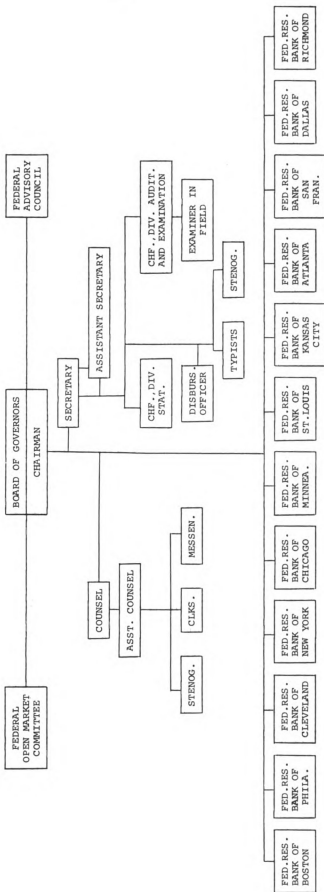
The Board of Directors of each Reserve Bank is composed of nine members: 3 class A members, representing the stockholding member banks; 3 class B members representing the business and agricultural community, but not officers,

directors, or employees of any bank; and 3 class C members representing the public without any banking connections. The class A and B directors are elected by the stockholding member banks, whereas the class C directors are appointed by the Board of Governors. The Chairman and Vice Chairman are chosen by the directors of the Reserve Bank from the class C directors.⁷

The purpose of these structural arrangements was to devise a system with the right combination of control and autonomy. The System had to be attractive to bankers and encourage their enterprising spirit while at the same time exert sufficient control so that the periodic panics and runs on the banking system could be minimized, if not eliminated. The twelve Federal Reserve Banks, geographically spread, were to serve as banker's banks on a decentralized basis. The beginning structure of the Federal Reserve System is shown in Chart 5. The Board of Governors, the Open Market Committee, the Advisory Council, the twelve Reserve Banks, and approximately forty employees comprised the System. By the end of the first year of operation, the F.R.S. had approximately sixty employees. This initial administrative organization is similar to that of the Interstate Commerce Commission although one was concerned with transportation systems and the F.R.S. with the banking system.

⁷See Appendix A for the suggested executive and clerical organization for Federal Reserve Banks.

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The structural design of the Federal Reserve System, which can be seen in Charts 5 and 6, has meant that the development has proceeded on two levels. There is the central staff primarily related to Washington and the three central bodies of the System--the Board of Governors, the Federal Open Market Committee, and the Federal Advisory Committee. It is the personnel associated at this level that is being quoted in this research. In addition there are the twelve Federal Reserve Banks and their branch offices. Each of these banks operate separately from an administrative standpoint. The System started with twelve regional banks as an inherent part of the structure. Since 1913, the System has added twenty-four branches to the original twelve. By 1916 there was only one branch office in the system--the New Orleans office of the Reserve Bank of Atlanta. However, by 1921 there were twenty-three branch offices and the agency office of Savannah. It is of interest that there has been relatively little change in these branch offices since 1921. The original twelve Federal Reserve Banks and their twenty-four branches are shown in Chart 6. These thirty-six reserve bank cities represent the commercial centers in each of the geographical regions. In 1963 there were approximately 13,993 banks in the United States. Of this almost 14,000 banks, 6,058 or 43 per cent belonged to the Federal Reserve System. There were 4,537 national banks and 1,521 state chartered banks belonging to the System.

In comparing the central staffs in Charts 5 and 6 as between 1913 and 1964, the elaboration and growth around the original positions can be observed. The Secretary's Office has expanded so that there is now a Division of Administrative Services, Personnel Administration, and Data Processing. The two original sections remain but are expanded to divisions--Research and Statistics and Examinations. The administrative staff supporting the Federal Open Market Committee has grown to parallel that of the Board of Governors. Total growth of personnel, however, at this level has been very slow in recent years. The total was approximately 500 employees in 1950. In 1956 the F.R.S. had 577 employees. By 1960 the total had grown by only 21, a total of 598. The 1965 total shows an increase of 69 or a new total of 667. The functions and activities of the F.R.S. have not been significantly altered in recent years which partially account for this relative stabilization of personnel. The most likely place for increases to be taking place by reflecting growth in activity is at the Reserve Bank and branch level which are not reflected in the above figures. However, the reader will recall that the number of branch offices has not changed significantly since 1921. The initial decentralized conceptions in the structuring of the F.R.S. together with the separation between the central staff and the Reserve Banks has given the System the appearance of minimal growth. The pattern was set early and

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significant changes in the structure have not been made. Two arguments frequently given quite separate and apart of any democratic ideals for this geographical dispersion was the old fear of too much centralization of power in Washington and that the United States was too large and economically diverse to make a single central bank useful. The Federal Reserve System provides an example of a highly creative structure allowing for autonomous action but with regulatory control.

The Federal Communication Commission

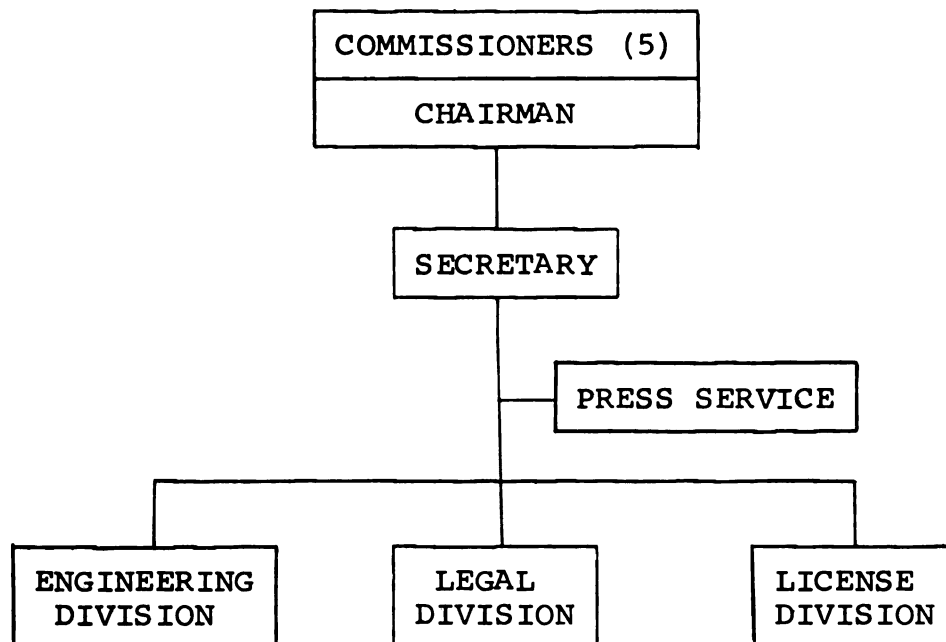
Returning now to the Transportation, Trade-Communication, and Power group for the third agency to be intensively examined, the Federal Communications Commission, which began its existence as the Federal Radio Commission in 1927. Regulation and control of the airways seemed necessary and appropriate to insure the full utilization of the new technological advances. Mass communication was now assured and major events were available to all who had receivers simultaneous with the occurrence. While operating locally as stations, networks were established linking these stations into large national systems.

Radio broadcasting spread rapidly after 1920 so the creation of the Federal Radio Commission in 1927 was necessary from both a social and technological standpoint. From these beginnings the situation developed so that by 1934 the

Federal Communications Commission was created. The new F.C.C. was to regulate not only radio, but also the telephone and telegraph. The control of the latter two means of communication was transferred to the new agency.

The structure of the new Federal Radio Commission during its first year of operation follows:

Chart 7. Federal Radio Commission, 1928
(Total Employees: 57)



There were five Commissioners, one from each of the five geographical zones. The United States was divided into these zones for allocation purposes. This structure follows the pattern already established by the prior two agencies. In 1929 the F.R.C. had a total of 90 employees, including the five Commissioners. The personnel were organized as

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follows: Commissioners and assistants, 10; Secretary office, 8; Press, 3; Investigation, 2; Disbursing, 1; Personnel and supplies, 7; Correspondence Section, 4; Files, 6; Legal, 16; Engineering, 16; and License, 17. The basic structure as shown in Chart 7 is maintained with these recent additions, the changes are reflected in the administrative area.

The creation of the Federal Communications Commission in 1934 as the successor organization to the Federal Radio Commission unified the regulation of nongovernment communication by radio, wire, and cable. The Commission was increased to seven members. The other officials in addition to the Chairman are now: Secretary, General Counsel, Director Division of Broadcasting, Director Telegraph Division, Director Telephone Division, and Chief Engineer. In addition, Field District offices were established in the following cities with an inspector in charge:

- | | |
|------------------|-------------------|
| 1. Boston | 12. San Francisco |
| 2. New York City | 13. Portland |
| 3. Philadelphia | 14. Seattle |
| 4. Baltimore | 15. Denver |
| 5. Norfolk | 16. St. Paul |
| 6. Atlanta | 17. Kansas City |
| 7. Miami | 18. Chicago |
| 8. New Orleans | 19. Detroit |
| 9. Galveston | 20. Buffalo |
| 10. Dallas | 21. Honolulu |
| 11. Los Angeles | |

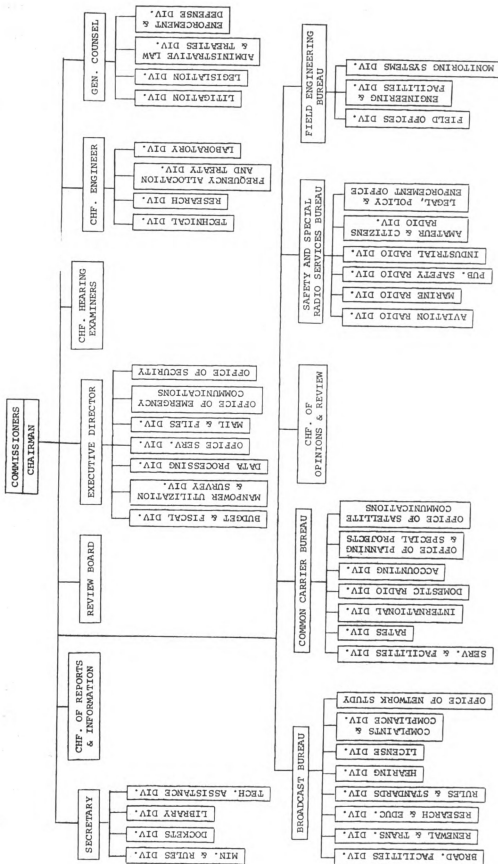
Monitoring Stations: Grand Island, Nebraska, and Great Lakes, Illinois. The division of personnel at this time as between Washington and field was--366 Washington and 122 Field--for a total of 488.

To show the full elaboration and proliferation of the Federal Communications Commission Chart 8 is given. Many of the initial titles can be found, however, there are many new ones. The horizontal spread and vertical extension can be seen. The total number of employees has increased by approximately 1,000 in the last thirty years.

The separation of the administrative functions into the Office of the Secretary and the Office of Executive Director demonstrates the same developments previously shown in the Interstate Commerce Commission. General Counsel, review boards, hearing examiners, and reports and information appear to be necessary adjuncts of regulatory agencies. The number of layers in the hierarchy has continued to increase from the original three or four shown in Chart 7 to the present seven to ten levels shown in Chart 8. The count would be from the Chairman to the level of the operative employee. One additional level now needing emphasis is the creation of Regional Offices in addition to the District Offices. This imposes a new layer between the district and Washington. The new Regional Offices are:

North Atlantic	New York City
South Atlantic	Seattle
North Pacific	San Francisco
Central States	Chicago
Great Lakes	Detroit
Gulf States	Houston
Alaska	Anchorage
Hawaiian	Lanikai, Oahu

Chart 8. Federal Communications Commission, 1964
(Total Employees: 1,541)



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Changes were also made at the district level. The Galveston District Office was transferred to Houston and Galveston was named a Ship Office. Other new Ship Offices are Newport News and San Pedro. The sub-offices at San Juan and Juneau became District Offices 22 and 23, respectively. To summarize, there are nine Regional Offices, twenty-three District Offices, six sub-offices, and three ship offices. The growth patterns in terms of numbers of personnel of the F.C.C. has been: 1928, 57; 1929, 90; 1934, 233; 1936, 500; 1955, 1,000; and 1964, 1,500.

The National Labor Relations Board

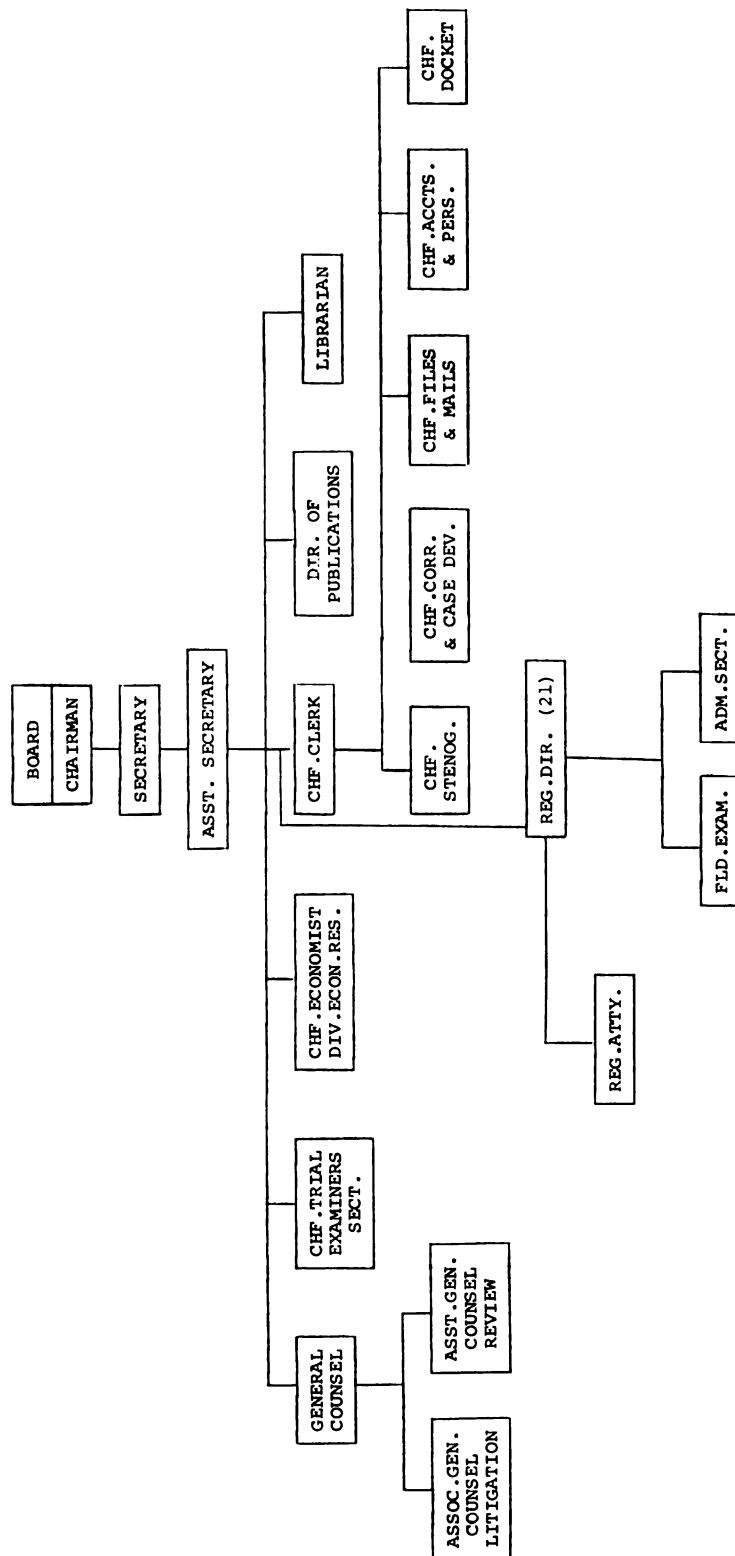
Labor and labor relations had long been a troublesome area in the American economy. The cumulative experience resulted in the passage of the National Labor Relations Act of 1937 often referred to as the Magna Charta for labor. The legislation recognized the rights of employees to organize unions. If a majority in an enterprise desired union organization, the representatives for the collectivity had to be recognized by the management of the enterprise for purposes of collectively bargaining to determine the conditions of employment. The National Labor Relations Board was created by the Wagner Act as the federal regulatory agency to supervise these national policy requirements.

A strong spirit of individualism and a belief in a laissez faire type of political economy hindered earlier legislation. The beginning labor legislation took the form of regulations concerning child labor, women, workmen's compensation, and the number of hours. The recognition of collective bargaining as an instrument of government policy covering the employer-employee relationships had to wait until the 1930's for the majority of employees.

The N.L.R.B. started to function in 1935 with a Board of three members, 136 employees and 21 regional offices. The organization looked as in Chart 9. The agency being the successor organization to the National Labor Board and the first National Labor Relations Board received by transfer the organization and personnel of the prior organizations. The approximate division of employees was 63 in Washington and 73 in the 21 Field Offices. The structure as shown in Chart 9 is much more elaborate than in those organizations starting with less personnel and more limited prior histories. In terms of number of levels, there are approximately six levels in this beginning structure. This hierarchy is fairly typical of those already shown in excess of one hundred employees.

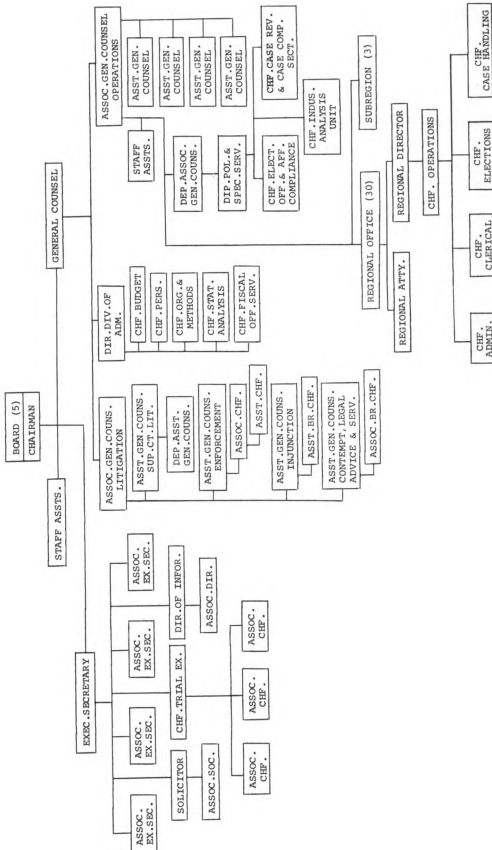
The controversy concerning the many roles that each agency plays--legislative, judicial, and executive--culminated in the passage of the Taft-Hartley Act in 1947.

Chart 9. National Labor Relations Board, 1935
(Total Employees: 136)



The Congress with this legislation was not attempting to divide the N.L.R.B. but to separate prosecuting functions from decision-making functions. The position of the General Counsel was altered considerably in terms of authority and responsibility. The President would now appoint the Counsel and not the Board. The General Counsel acquired general supervision over officers and employees in the regional offices and over all attorneys other than the legal assistants to the Board. The members of the Board also delegated to the General Counsel the power to appoint all personnel under his jurisdiction as well as such administrative services as accounting, personnel, supplies, stenography, administrative statistics, budgets, and related Washington units. The legislation gave the General Counsel the sole and independent responsibility for investigating charges of unfair labor practices, issuing complaints, and prosecuting cases where his investigators found evidence of violation of the act.

These structural changes in the N.L.R.B. are reflected in Chart 10. In comparing Chart 9 and Chart 10 the changes resulting in a tremendous build-up around the General Counsel are obvious. The Secretary has been relieved of his other duties and is related now directly to the Board and the judicial functions. The General Counsel is now responsible for investigation and prosecution and all of the activities directly and indirectly related. The total number



of employees has increased from 136 to approximately 2,000 or an increase of about 15 times in a little less than thirty years. Consequently, similar to the other large agencies, the number of levels in the hierarchy has been increasing as was the case in the other structures.

It will also be noted that the number of regional offices has increased from 21 to 30 with three sub-regional offices. These offices are located in the key cities in each of the geographical areas. Later in the chapter a brief analysis of the cities selected by the agencies will be made. The structural examination of these agencies must also include their geographical spread and the possible patterns that might emerge. As indicated in the beginning, substantial numbers of the personnel in the N.L.R.B. are located in these regional offices. The current division is about 63 per cent in the field and 37 per cent in Washington. It is in the regional offices that unfair labor practice charges and representation petitions are filed. Thus these offices play a significant role in the total operations of the N.L.R.B.

The Model

At this point, certain generalizations emerge from these four examples. Despite their individual differences, a model can be sketched emphasizing the similarities rather

than the differences. A pattern of organization appears to have evolved as the agency form has continued to be used.

The model is of the following form:

1. A supervisory board or commission with a Chairman.
2. A Chief executive or administrative officer.
3. Elaboration of position and structure--horizontal and vertical--around the mandated functions.
4. Elaboration of position and structure--horizontal and vertical--around the auxiliary and bureaucratic--administrative functions.
5. Geographical or territorial spread with regional and/or district offices.

Subsequent examination of the remaining agencies will be briefly compared against this simplified model as a way of quickly seeing the similarities and differences between these organizations.

The Remaining Agencies

Transportation, Trade- Communication and Power

Two of the remaining agencies in this category are the Federal Trade Commission (1915) and the Federal Power Commission (1920). Both agencies have approximately 1,160 employees with very similar structures. The evolutionary pattern of these agencies approximates that of the I.C.C. and the F.C.C. previously discussed in this category and thereby, the Model also.

The Federal Power Commission was created in 1920 to administer the Federal Water Power Act and had a part-time commission composed of the Secretaries of War, Interior, and Agriculture. Independent status was achieved by the F.P.C. in 1930. A set of five full-time Commissioners were appointed at this time. This briefly sketches the beginnings of these two agencies. They have evolved into large structures with approximately six to eight levels. The geographical spread follows the pattern previously sketched into the key cities in the various sections of the county.

The next two organizations in this grouping are the air-space agencies--the Civil Aeronautics Board (1938) and the Federal Aviation Agency (1958). Air travel for whatever purpose, almost immediately became a national concern. The traversing over long distances rapidly dwarfed the size of the individual states. The creation of the National Advisory Council on Aeronautics in 1915 marked the formal beginning of the Federal government concern with the area. The Air Commerce Act of 1926 assigned regulatory functions to the Secretary of Commerce and an Assistant Secretary of Commerce for Aeronautics, was created. A unique structure was created with the passage of the Civil Aeronautics Act of 1938. The Civil Aeronautics Authority, a five member board; Office of the Administrator "in" the Authority; and the Air Safety Board, three members; were all established at this time. These positions were by Presidential appointment and

Senate approval with the President able to remove the Administrator at will but the others only for cause. This complex combination was to take over and perform the quasi-legislative and quasi-judicial functions of safety and economic regulation of civil aviation. An elaborate super-structure developed rapidly around these three major units. Seven regional offices were also a part of this hierarchy and its extension. The structure around the Authority approximated the model previously sketched. However, the addition of the other two units made for a complexity not experienced in the other agencies.

The legislation in 1958 redistributed and separated the functions creating the Civil Aeronautics Board and the Federal Aviation Agency. The Civil Aeronautics Administration, the Airways Modernization Board, and the safety regulatory authority were transferred to the new F.A.A. The result of this new allocation of functions left the new Civil Aeronautics Board with a quasi-judicial role. The structure of the C.A.B. follows the established model with a relatively small number of personnel, 840. The F.A.A. took over the work requiring personnel and thereby has some 45,377. This large number of employees makes the Agency one of the largest in the Federal system. However the structure is most unique in that the organization is headed by an Administrator without a commission or board. Indirectly, the C.A.B. plays this role partially. Thus the C.A.B. and

the F.A.A. are complementary organizations. The field force for the Agency operates from seven regional offices. The vast build-up in personnel is indicative of the increasingly important role that air travel is playing in contemporary society. The number of levels in the Agency would range from approximately eight to eleven in many cases.

The remaining agency in this group is the Federal Maritime Commission. The F.M.C. is the newest of the agencies being examined. The structure is composed of a Commission of five members, a Managing Director, Secretary, the typical elaboration around the auxiliary and administrative-bureaucratic positions, and three district managers. The total number of employees is approximately 230 and the hierarchy follows the model for these agencies. With this size of structure there are five to seven levels.

Finance

The other two agencies in this study which are similar in structural organization to the Federal Reserve System are in the Financial area. They are the Federal Deposit Insurance Corporation and the Federal Home Loan Bank System. These agencies, also, are government corporations performing regulatory functions. That is, the agency is owned by and the expenses are paid by the members of the system. However, the President with Senate approval appoints the members of the governing board and the agency supervises

and regulates the activities of the member organizations. The F.H.L.B. Board was originally created in 1932 as an independent agency to function for the savings and loan organizations much as the Federal Reserve System was for the commercial banks. The F.H.L.B. System is composed of twelve regional Federal Home Loan Banks, the Federal Savings and Loan Insurance Corporation, and the Federal Savings and Loan Advisory Council. The regional banks were created like the Reserve banks to serve as a permanent credit reservoir for thrift and home-financing institutions. The System started with twelve banks, this was reduced to eleven and then has been increased to twelve again. During the period from 1939 to 1955 the F.H.L.B. was a part of the Federal Loan Agency and the Housing and Home Finance Agency. Thus the Agency has had a varied history.

The Federal Home Loan Bank System was created to do the tasks that the Federal Reserve System and the Federal Deposit Insurance Corporation perform for commercial banks. The System was to provide credit to the member mutual institutions and insurance for the savings of the depositors. The structure of the System is similar to the Federal Reserve System with a governing board, administrative staff, and the insurance corporation, which is the uniquely different part. The number of employees has varied to the present 1,300. A high proportion of the employees have been assigned to the field. At present, there are approximately

860 people in the Division of Examination and Supevision with sixty-one in Washington and 799 in the field; of these, 700 are examiners. The F.H.L.B. System has something in excess of 5,000 members.

The Federal Deposit Insurance Corporation established on a temporary basis in 1933 was given permanent status by the Banking Act of 1935. The F.D.I.C. was created to complement the Federal Reserve System by insuring the time deposits of member banks. Banks not belonging to the F.R.S., however, may apply to the F.D.I.C. and if approved belong only to it. The Board is composed of three members, one of which is the Comptroller of the Currency and two appointed by the President. The twelve district offices do not completely parallel the Federal Reserve cities. Like the I.C.C., the F.D.I.C. has had a greater number of personnel than at present. However, a large proportion of its personnel has always been in the field. Of the approximate 1,400 employees now, there are 350 in Washington and 1,050 in the field. The largest single group is in the Division of Examination with 1,013 employees, 955 of which are in the field. There are approximately 13,800 banks who belong to the Corporation.

The Securities and Exchange Commission is the remaining agency in the Financial group. Initially some of the functions had been assigned to the Federal Trade Commission in 1933, but these activities were transferred to the S.E.C.

in 1934 upon its creation. While the name of the agency implies that it is a corporation, it is not in the sense that the F.R. System, the F.H.L.B. System, or the F.D.I.C. are. The Commission structurally speaking is organized like the model previously developed from the I.C.C. and the F.C.C. Created to correct weaknesses in the selling of securities and the financial markets, the Commission was given a broad regulatory mandate. There are five members to the Commission with a Chairman, the chief executive officer is the Secretary, and the other units are similar to the typical agency structure. The S.E.C. has established nine regional offices with 8 sub-regional or branch offices. Employees of the Agency now number approximately 1,400 and are distributed in a hierarchy with about six to eight levels in it.

Labor

The agencies yet to be discussed in the Labor group began by performing specialized functions in two industries--railways and coal. Other legislation had been passed culminating with the Railway Act of 1926 which created the United States Board of Mediation. This action reestablished mediation as the basic method of government intervention in railway labor disputes. The United States Board of Mediation was abolished in 1934 with the legislation that created the National Mediation Board. The provisions of the legislation

were extended to the air carriers and their employees in 1936. The N.M.B. is composed of three members, an executive secretary as chief administrator, and approximately 135 employees. This is an example of an organization with a limited purpose whose growth and development is very slow. The structure remains relatively simple compared to the other larger agencies. The N.M.B. performs the functions for specific carriers which the National Labor Relations Board and the Federal Mediation and Conciliation Service offer to firms and employees in all other industries.

Continuing with our discussion of the railroad industry, the Railroad Retirement Board was created in 1935 to administer the retirement and disability annuities to railroad employees and their families. The structure is headed by a three member board with a chairman, the board being appointed by the President. The administrative group is headed by a Chief Executive Officer and a Secretary. The agency with approximately 1,847 employees is patterned after the larger organizations with the usual divisions and bureaus. The R.R.B. also maintains seven regional offices throughout the country. The number of levels in this structure is between seven and ten. Changes in the railroad industry influencing the numbers of employees ultimately will be reflected in the volume of activity of the R.R.B., its number of employees, and the structure.

The smallest agency in this sample and one of the smallest in the Federal hierarchy is the Federal Coal Mine Safety Board of Review. A unique, three member Board operating on a limited basis with a staff of seven employees as an appeal or review authority in regard to mining decisions made by other governmental agencies. The Executive Secretary and the General Counsel are the two key individuals in this small, very limited purpose organization. The relative decline and significance of the coal mining industry in terms of the society in general has also contributed to this limited size. With so few employees, there is little to discuss in regard to structure.

Key Cities

The reader will recall that throughout this chapter reference has been made, for the majority of the agencies, to their regional and/or district offices. An examination of these offices reveals that there are certain major urban areas in each of the geographical regions which tend to be picked. A simple tally shows that the five most frequently picked cities are Chicago, Atlanta, San Francisco, New York City, and Boston. Others frequently selected are: Seattle, Houston, Los Angeles, Ft. Worth-Dallas, Kansas City, St. Louis, Denver, Detroit, Cleveland, Minneapolis-St. Paul, and New Orleans. It is of interest to note that these are the same cities which are frequently picked by businessmen for

their headquarters and regional offices.⁸ This structural extension from Washington into the geographical regions of the country focusing upon the same urban centers as the leaders of other large-scale organizations has significance in terms of the structure and functioning of the society as a whole. These centers become collecting points for the leaders of the area and in turn these centers become decision-making points which are structurally linked to Washington. In turn, Washington is linked locally via these key urban centers.

Summary

This section has established the structural development and elaboration reflected by the proliferation of positions combined into large, complex hierarchies. The task was to look at these fifteen regulatory agencies with particular emphasis upon the selected four.

The four illustrative agencies have developed along similar lines in terms of structure of the central hierarchy and in terms of their geographical spread. The I.C.C., because of its age and size was selected for detailed analysis and to serve as the model. The F.C.C. is a similar

⁸W. L. Warner, D. B. Unwalla, and J. H. Trimm, The Emergent American Society, Vol. I, pp. 67-75.

structure. The F.R.S. is unique in that it is a government corporation classified into the independent agency category and performing regulatory functions. Similarly, the F.H.L.B.S. and the F.D.I.C. are also like the F.R.S. The N.L.R.B. varies somewhat in that by attempting to separate the functions there has been considerable distance created between the Board and the General Counsel. The remainder of the agencies tend to approximate the model except the very smallest one, the F.C.M.S.B.R., where there is little or no structure because of size. The very largest agency, the F.A.A., because of its massive number of employees and extensive investigatory powers, reinforce the model by its magnitude and complex operations. The extension of the hierarchies into the various geographical sections of the country follows a pattern more similar than different.

The growth and development of these hierarchies in terms of number of personnel filling an increasing number of positions, particularly of the bureaucratic-administrative type, lend evidence useful in answering the questions posed at the beginning of this research. This material will later be reexamined in terms of additional evidence and then related to the larger body of knowledge concerning large-scale organizations.

CHAPTER IV

THE REGULATORY AGENCIES - AN ANALYSIS OF FUNCTIONS AND ACTIVITIES

The focal point of this chapter is the regulatory functions and activities assigned by Congress for the selected group of fifteen agencies to perform. An examination of these intended purposes is the present task. The four agencies selected for special emphasis will be examined first, and then the remaining eleven organizations in chronological order. Before examining the agencies, however, the concept of function will be discussed briefly.

Functions - Definition

Structure and the structural evolution of the agencies was examined in Chapter Three. The focus of this chapter is on function. "The concept of organic function is one that is used to refer to the connection between the structure of an organism and the life process of that organism."¹ "As the terms are here being used a cell or an organ has an

¹A. R. Radcliffe-Brown, Structure and Function in Primitive Society, p. 12.

activity and that activity has a function."² "The concept of function, . . . thus involves the notion of a structure consisting of a set of relations amongst unit entities, the continuity of the structure being maintained by a life-process made up of the activities of the constituent units."³

While accepting this conception of function, for the purposes of this chapter a separation is made between the mandated functions set by legislative act and those acquired and performed to preserve the enterprise. At the creation of each agency, a unit or organ of the Federal government, the legislative act establishing it assigned regulatory functions for it to perform. This action is the Congress' interpretation of the needs of the society. Thus a unit is given existence with activities to perform. This chapter will survey the evolution of assigned functions for each of the agencies.

The examination is made in terms of the growth and extension of assigned functions performed by the agencies. Involved in this examination of functions and activities will be a reflection of the increased extension of the Federal government into the affairs of the business community. This follows from the earlier theoretical statement from W. Lloyd Warner:

²Ibid., p. 179.

³Ibid., p. 180.

Moral values grow, expand, and flow through public opinion, law, government, and other institutions to lodge more and more firmly at the national level. Here, the secular part of the moral order through the instruments of federal law and its agencies and through the reinforcements of national opinion and its moral values, confronts the non-moral demands of technology, science, and the market place.⁴

The evidence developed in this section will be used to test the above statement.

The Assigned Functions of the Agencies

The reader will recall the theory stated earlier concerning the three types of functions: (1) Assigned, (2) Auxiliary, and (3) Administrative-Bureaucratic. The focus at present is on the "assigned." The analysis of the other two types of functions together with structure and structural-functional analysis is the task of Chapter V.

The Interstate Commerce Commission

The railroads held virtual monopoly power over rapid land transportation in the nineteenth century. As a result, various types of doubtful practices developed. Rate policy was one major source of enmity to the railroads and another was their dividend policy. In addition to these reasons: "The unsavory way in which many of the leading railroads had won their charters from Congress and state governments, and

⁴W. Lloyd Warner, The Corporation in the Emergent Society, pp. xv-xvi.

their land grants and other assistance as well, added many disinterested persons to their list of enemies."⁵

State experimentation in the regulation of business began early. "Recent research has shown clearly that governmental control of economic life originated before the Civil War."⁶ Bernstein also states that, "studies of the attempts of selected states . . . to promote, guide, and regulate their economies in the period from 1790 to 1860 demonstrate conclusively that relations between states and economic life have always been close and intimate."⁷ Hostility towards the railroads began after the Civil War, stemming from various causes such as variable and sometimes questionable methods in regard to rate changes, the decline in prices of Western products after 1865, and other abuses which had crept into railroad management. States began the regulatory movement in 1869 with the creation of a railroad commission in Massachusetts. The so-called Granger Laws, which were more stringent, were enacted in the middle western states. States in other geographical sections also

⁵Richard Hofstadter, William Miller, and Daniel Aaron, The United States (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1957), p. 463.

⁶Marven H. Bernstein, Regulating Business by Independent Commission (Princeton, New Jersey: Princeton University Press, 1955), p. 19.

⁷Ibid., p. 19.

began to take action. All of this, however, had to be intrastate action and the railroads were interstate. The struggle between the railroads and government finally culminated in the passage of the Interstate Commerce Act in 1887.

While the I.C.C. was originally established to correct many of the objectionable activities the railroads had been engaging in, the act gave the Commission the right to issue cease and desist orders, but these could not be enforced except through the courts. The attorneys for the railroads were able men, so that cases for some time were decided in favor of the railroads and not the I.C.C.

The expansion of the mandated functions of the Commission can be charted by an examination of some of the relevant legislative acts. Striking at the heart of the practice of rebating was the core of the Elkins Act of 1903. The Hepburn Act of 1906 gave the Commission enforcement power of its orders. Also, the jurisdiction of the I.C.C. was extended to include express companies, certain pipelines, and sleeping-car companies. It was with the Hepburn Act that successful rate regulation was realized as the Elkins Act had not been that helpful. Thus, it took approximately twenty years to accomplish some of the desired results originally anticipated.

Control over rate increases and the initiative to revise rates was included in the Mann-Elkins Act of 1910. The Commission could now suspend proposed rates and investigate their lawfulness. This act also brought the telegraph, telephone, and cable companies under the surveillance of the Commission by defining them as interstate commerce. Power and authority over the carriers was extended again in 1920 with the I.C.C. being given the duty to take steps toward aiding a national transportation service.

The authority of the I.C.C. was extended to motor carriers in interstate commerce in the Motor Carrier Act of 1935. The Transportation Act of 1940 extended the Commission's authority to water carriers on the coastal and inland waters. Other legislation has been enacted covering such diverse things as the record keeping system and financial structure to the approval or disapproval of service. In all, there has been some 200 amendments and modifying acts to the original Interstate Commerce Act.⁸ According to an I.C.C. document,

some 20,000 individual for-hire companies with total annual revenues approaching twenty billion are subject to the Commission's economic jurisdiction. Thousands of other carriers engaged in private trucking operations are required to abide by the I.C.C.'s motor carrier safety rules.⁹

⁸75 Years of Regulatory Service in the Public Interest: Interstate Commerce Commission, 1887-1962.

⁹Ibid., p. 10.

The Interstate Commerce Commission serves as an example of an agency whose beginning was quite limited and effectiveness in terms of its supporters very disappointing. However, from this initially weak start, the agency now exerts as a result of these continued additions to its scope and regulatory authority extensive power and influence over the various types of carriers.

The Federal Reserve System¹⁰

The panic of 1907 illustrated to financial and political observers the need again for strengthening national finance. Studies were instituted which finally culminated with the forming of the Federal Reserve Act in 1913. However, as subsequent events were to indicate, this was not sufficient and so additional legislation has been necessary.

The initial purposes of the Federal Reserve System was to provide for a series of banker's banks with the following objectives: (1) to furnish an elastic currency, (2) to afford means of rediscounting commercial paper, and (3) to establish more effective supervision of banking in the United States. The membership includes all national banks which are required to belong, and those state banks who apply, are qualified, and are accepted for membership into the Federal Reserve System. In effect, the member banks own

¹⁰The Federal Reserve System: Its Purposes and Functions, 1947 (2nd ed.). Much of this section is based upon this monograph.

the twelve Reserve banks and finance the operations of the System.

The Reserve System appeared to be a vast improvement over what had previously existed. The System appeared to have created a currency which was both sound and flexible. Secondly, the problem of excessive concentration of relatively immobile reserves in large financial centers was essentially eliminated by the System. Of particular significance to many was that banking continued as private business, but regulated by the Federal government.

However, the events following the 1929 crash indicated that additional thinking and improvements were needed if the System were to accomplish the objectives initially envisioned when it was established in 1913. One result was the increase in the authority of the Federal Reserve Board to regulate interest rates. To restate the purposes of the Federal Reserve System in more general terms, they are to regulate the supply, availability, and cost of money with a view to aiding the maintenance of a high level of employment, stable prices, and a rising standard of living.

The methods given to the Federal Reserve System to accomplish their objectives are the discounting of commercial paper for member banks, purchases and sales of securities in the open market, and changes in the reserve requirements. The Board of Governors also has the special power to regulate

the terms governing the purchase and sale of securities in the stock market.

The major functions of each of the twelve banks which constitute the system are to hold the legal reserves of member banks, exercise supervisory duties in regard to member banks, facilitate the collection and clearance of checks, supply currency for circulation, and are fiscal agents of the United States Government.

The money supply must be geared to the needs of the economy. If the supply of money is too small, the economy will be in a depressed state; and if the supply is too great, the economy will experience inflationary pressures. While the Federal Reserve is not the single determiner of the supply of money, the country does expect the Board of Governors will act to facilitate the maintenance of stable economic conditions, a high level of employment, and a constantly improving standard of living.

The Federal Communications Commission

The legislation to create the Federal Radio Commission, forerunner to the Federal Communications Commission, in 1927 was passed by the Congress when it became clear that the Department of Commerce had no authority under the 1912 Radio Law to allocate frequencies, withhold radio licenses, or regulate power or hours of transmission. The first radio station was licensed in 1921 by the Secretary of Commerce

under the 1912 law. These procedures in regard to radio station regulation continued in an orderly fashion until 1926 when the Attorney General ruled that the Secretary of Commerce had no such authority to act under the 1912 law. Anarchy then reigned in the radio industry from 1926 to 1927 and the passage of the Federal Radio Act creating the Federal Radio Commission.¹¹

The sizeable task which had been given the F.R.C. was early recognized by one of the Commissioners given soon after his appointment:

It is a rather appalling responsibility. The law tells us that we shall have no right of censorship over radio programs, but the physical facts of radio transmission compel what is, in effect, a censorship of the most extraordinary kind. There is a definite limit to the number of broadcasting stations which can operate simultaneously. What does this mean? It means that the Federal Radio Commission must say to this person, "You may broadcast," and to that person, "You may not broadcast; there is no room for you!"¹²

Of interest in 1928 was the designation of two of the Commissioners to be a Committee on the subject of television. In 1932, the Radio Division of the Commerce Department was transferred to the F.R.C. Also at this time, the Division of Field Operations was created within the Commission. The activities of the Division was to inspect all

¹¹Annual Report of the Federal Radio Commission, 1927.

¹²Ibid., p. 6.

transmitting apparatus to ascertain whether in construction and operation it conformed to the requirements of the Radio Act of 1927 as amended.¹³

The F.R.C. was abolished and its duties, functions, records, and property were transferred to the Federal Communications Commission upon its creation in 1934. The purpose of the F.C.C. was to provide for unified regulation of nongovernmental communication by radio, wire, and cable. The field engineering arm of the F.C.C. dates from 1921 when government first began to inspect ship-radio equipment. This field staff operation which initially started with three men was absorbed by the F.C.C. in 1934. To underscore the need for this consolidation, wire telegraph companies were under the jurisdiction of the Post Office Department, the Department of State, and the Interstate Commerce Commission. The Postmaster General, under the Post Roads Act of 1866, was to fix rates each year on July 1st for government telegrams for the ensuing fiscal year. General regulatory powers over wire-communication carriers was vested in the Interstate Commerce Commission in 1910. The I.C.C. established uniform systems of accounts, made valuation studies, and required certain types of reports regarding the carriers' operations. Legislation in 1921 authorized the State

¹³Annual Report of the Federal Radio Commission,
1933.

Department to receive all applications to land or operate submarine cables in the United States and advise the President as to granting or revocation of such licenses. The President had been exercising control in the area under broad executive powers since 1869. The I.C.C. was also given regulatory powers over radiotelegraph carriers in the legislation passed in 1910. Finally, the 1912 act authorized the then Secretary of Commerce and Labor to grant station and operator licenses. It was this latter act which was nullified in 1926 causing the necessity for the creation of the F.R.C.¹⁴ Ultimately, in 1934 the Federal Communications Commission was created as the successor organization.

The National Labor Relations Board

Attempts by employees to organize unions for purpose of bargaining collectively over their conditions of employment met with the legal position that unions were restricting employees' freedom and were in restraint of trade.

The National Labor Relations Act "affirmed the right of employees to self-organization and to bargain collectively through representatives of their own choosing or to refrain from any or all such activities." "The act prohibits certain unfair labor practices and authorizes the Board to designate appropriate units for collective bargaining and

¹⁴Annual Report of the Federal Communications Commission, 1937.

to conduct secret ballots to determine the exclusive representative of employees."¹⁵

The Labor Management Relations Act (Taft-Hartley) of 1947 increased the Board from three to five members. The General Counsel was now to be appointed by the President and not the Board. The Review Division was abolished and the new set of relationships between the Board and the Counsel had to be spelled out. The Board now was to function primarily as a tribunal for rule making and for deciding cases upon formal records without exercising responsibility for the preliminary investigation of petitions or charges. The Counsel was given supervision over officers and employees in the regional offices and the main office as well.¹⁶

The primary purpose of the new act which extended the area of governmental intervention into labor relations considerably further, were to regulate and restrict the activities of unions, to protect individual employees and employers against the power of unions, and to attempt to restore a balance of power in labor-management relations. Procedures were also established to handle national emergency strikes, around which considerable concern had been generated.

¹⁵U.S. Government Organization Manual, 1965-66, p. 465.

¹⁶Annual Reports of the National Labor Relations Board, 1948.

In twelve year spans: 1935-1947, 1947-1959, labor management relations have been given attention by the Congress. The Labor-Management Reporting and Disclosure Act of 1959 (Landrum-Griffin) requires far more than its title implies. The Act established very detailed regulations regarding the internal affairs of union and the conduct of union officers. These regulations are almost unique in federal labor law. While the 1947 act required some reporting and disclosure; as indicated, the 1959 act does much more. Also, amendments to the 1947 act were included in the 1959 act. The legislation has now spelled-out that there are unfair labor practices for unions as well as employers. Unions are now recognized as social institutions with rights and privileges as well as responsibilities and obligations to society.

The powers of the N.L.R.B. can be summarized into the following points:

1. To issue orders requiring employers, labor organizations, or their agents to cease and desist from any of the specified unfair labor practices or to take such affirmative action as will effectuate the policies of the act including reinstatement of employees with or without pay.
2. To designate the unit of employees appropriate for collective bargaining.

3. To certify the results of secret ballots and the names of employee representatives chosen by secret ballot.
4. To order and conduct hearings and investigations, issue subpoenas, and administer oaths, and to prescribe such rules and regulations as may be necessary to carry out the provisions of the act.
5. To petition any United States Court of Appeals for the enforcement of its orders.
6. To petition the United States District Court for appropriate temporary injunctive relief to prevent the continuation of any unfair labor practice.¹⁷

The N.L.R.B., in 1961, delegated its decisional powers with respect to employee collective bargaining election cases to its 28 regional directors. This delegation was made possible by the 1959 act and permits regional directors to decide in their regions election cases that before the change had to be ruled on only by the Board in Washington. Dismissals by regional directors of charges in unfair labor practice cases may be appealed to the General Counsel, while the regional directors dismissals in representation cases may be appealed to the Board members.¹⁸

¹⁷ U.S. Government Organization Manual, 1965-66.

¹⁸ Annual Report of the National Labor Relations Board, 1961.

The collective impact of this legislation upon labor-management relations will be discussed in the next chapter.

Remaining Agencies--Chronological Order

The Federal Trade Commission

The antecedent for the Federal Trade Commission was the Bureau of Corporations in the Department of Commerce.¹⁹ The Bureau functioned with a Commissioner. With the creation of the F.T.C., the Bureau was abolished and all functions, activities, employees, and records were transferred to the new Commission.

The three major pieces of legislation for the Commission to enforce were: (1) The Federal Trade Commission Act--to prohibit unfair competition in interstate commerce, (2) Clayton Act--certain price discriminations, tying contracts, intercorporate stockholdings, and interlocking directorates, and (3) Sherman Act--making investigations and recommendations in regard to anti-trust cases for both the Attorney General and the courts.²⁰

A reorganization in 1962 to speed the work load was accomplished. Two new procedures instituted at this time were: (1) "Provide for the issuance of Trade Regulation Rules which spell out specifically and clearly what the

¹⁹Acts From Which the Commission Derives Its Powers With Annotations, Federal Trade Commission, 1922.

²⁰Annual Report of the Federal Trade Commission, 1916.

F.T.C. believes is illegal about particular business practices" and (2) "Provides for the Commission, not just the staff, as in the past, to give business advisory opinions, whenever practicable, on whether the proposed actions would be illegal and hence would invite adversary action by the Commission."²¹ There is deep concern on the part of the Commission to expand its functions along the lines that President Wilson and the other creators had in mind at the creation of the F.T.C. to guide businessmen away from the illegal methods of competition, rather than simply to exert the menace of the law against transgressors.²²

Increasing concern for protection of consumers-- principally from false or misleading advertising, was an accomplishment of 1965. "Moreover, instead of merely swatting at the gnats and hornets of deception as they were called to the Commission's attention, entire areas of deception were probed in depth, and broad enough attacks were carried out to halt many forms of competitively engendered hucksterism."²³

²¹Annual Report of the Federal Trade Commission,
1962, p. 1.

²²Ibid., p. 2.

²³Annual Report of the Federal Trade Commission,
1965.

The Federal Power Commission

The original Federal Power Commission²⁴ was created in 1920. The primary function was to administer the Federal Water Power Act. The early activities of the Commission were confined almost entirely to the issuance of licenses for non-federal hydroelectric power projects. The reader will recall that the reorganization of 1930 established the F.P.C. as an independent agency with five full time Commissioners.

The Commission's jurisdiction was extended to interstate transmission of electric energy and its sale at wholesale in interstate commerce by the Federal Power Act of 1935. This has resulted in the Commission regulating interstate wholesale rates of electric utilities, along with their securities, mergers and consolidations, acquisitions, and accounts. The country has been divided into regional districts for electric energy.

The jurisdiction of the F.P.C. was extended by the Natural Gas Act of 1938. This legislation gave the Commission regulatory authority over transportation and sale of natural gas. This gave the F.P.C. the power to regulate the interstate operations of natural gas companies the same as they exercised over the electric utilities.

²⁴Annual Report of the Federal Power Commission, 1965. Much of this section is based upon this report.

Summarizing the functions and activities of the Commission is to exercise regulatory control over the electric power and natural gas industries. Specifically, the F.P.C. issues permits, licenses, certificates for construction and operation of hydroelectric projects and natural gas transportation. In addition, the Commission audits accounts for compliance with prescribed systems of accounts, rate regulation, and other purposes. Gathering and analyzing information for needs and other purposes along with regulation of rate charges and service concludes this cryptic enumeration of the Commission's functions and activities.

The National Mediation Board

The first law dealing with railway labor relations was enacted by Congress in 1888 and provided for voluntary arbitration and investigation of labor disputes that threatened to interrupt commerce. During the ten years of its existence the arbitration provisions were never used and the investigatory powers were used once with no effect on a strike already in progress.²⁵

The Erdman Act of 1898 was the first law to place emphasis upon the policy of mediation and conciliation by the government for the prevention of railway labor disputes. The investigatory features of the previous act were repealed,

²⁵Twenty Years Under the Railway Labor Act, Amended and the National Mediation Board, 1934-1954, p. 7ff.

but voluntary arbitration was retained in the new act. A full-time Board of Mediation and Conciliation was created by the Newlands Act of 1913. The emphasis again was upon mediation and conciliation for the settlement of disputes. If mediation failed the arbitration procedures were improved. Also, the Board was required, when requested by either party, to render an opinion when a dispute arose as to meaning or application of any agreement reached through mediation. An attempt was made in 1916 to settle by direct congressional action a dispute when other courses of action had failed. With the involvement in World War I, the railroads were temporarily nationalized.

The United States Railroad Labor Board of nine members was created by the Transportation Act of 1920. The principles of this act reverted back to the 1888 law. The Board had the authority to hear and decide all disputes that could not be settled in the meetings between the representatives of the carrier and the employees. However, compliance with these decisions of the Board were not obligatory. The pressure of public opinion was expected to help enforce the decisions of the Board which was composed of three members from labor, three members from management, and three members from the public. The concept of mediation had once again been discarded.

Mediation as the basic method of government action was reestablished by the Railway Labor Act of 1926. Mediation and conciliation was made obligatory upon the parties who were to exert every reasonable effort to make and maintain agreements through representatives of their own choosing without interference from the other. Voluntary arbitration was to be urged upon the parties if mediation failed. The attempt in this act was to synthesize the best features of previous legislation in regard to railroad labor relations.

The National Mediation Board was created by the 1934 amendments and the prior board was abolished. The right of employees to organize and bargain collectively was clarified. In representative disputes the Board was to investigate and certify the designated representative of the employees to the management. Also, the National Railroad Adjustment Board, to be headquartered in Chicago, was established. The provisions of the Act were extended to cover air carriers and their employees in 1936. The National Air Transportation Adjustment Board was established to be used when N.M.B. thought it necessary.

The Railroad Labor Act is a culmination of 65 years of experience with federal legislation to govern the labor relations of railroad and airplane carriers. The purpose continues to be to promote and maintain peace and order in

these labor relationships as a means of avoiding interruptions in interstate commerce.

Federal Home Loan Bank Board

Originally created in 1932 as an independent agency, it was to serve as a permanent credit reservoir for thrift and home-financing institutions. The act gave the Board authority to charter and supervise Federal savings and loan associations. The associations were to be federally sponsored, but to be locally owned and managed mutual institutions. Created at the same time and under the supervision of the F.H.L.B.B. was the Federal Savings and Loan Insurance Corporation. The primary function of the insurance corporation is to insure the safety of savings deposits against loss for each saver or investor in all of these federally chartered associations and state chartered associations which have been admitted into the system.²⁶

The F.H.L.B.B. operated as an independent agency from 1932-1939 when in the reorganization of 1939 it was placed under the newly created Federal Loan Agency. By executive order in 1942, the board was abolished and the chairman was named the Commissioner of the Federal Home Loan Bank Administration under the new National Housing Agency.

²⁶Annual Report of Federal Home Loan Bank Board,
1955.

In 1947 the board was reestablished in place of the Commissioner and the agency became a component of the Housing and Home Finance Agency. Legislation in 1955 removed the agency from the Housing and Home Finance and established the F.H.L.B.B. as an independent agency once again.²⁷

The agency by 1955 had been in operation for twenty years during periods of depression, wartime, and prosperity. The principal functions and activities consist of establishing policies, issuing regulations, and supervising the operations of the Federal Home Banks, the Federal Savings and Loan system and the Federal Savings and Loan Insurance Corporation. Periodic examination of the Federal Home Banks are made and the charters authorizing the conversion from state to federal charters are made.²⁸

As stated in one of their annual reports:

It is the desire and intent of the Board to maintain close liaison with the savings and loan industry at all times, to assure understanding of mutual problems and establish common ground for Board policies and actions.²⁹

The effort has continued through the various groups and committees which have been established for this purpose. The legislative creation is the Federal Savings and Loan Advisory Council. Other groups established by agreement

²⁷ Ibid.

²⁸ Ibid.

²⁹ Annual Report of Federal Home Loan Bank Board,
1965.

between the F.H.L.B.B. and the industry are the Conference of Federal Home Loan Bank Presidents, emergency and disaster preparedness programs, and activities in the international area.

Federal Deposit Insurance Corporations

The Banking Act of 1933 created the temporary Federal Deposit Insurance Corporation. Originally intended to operate for six months on the temporary legislation, the agency lasted for 20 months. Permanent status came with the Banking Act of 1935. The major function, that of insuring the deposits of those banks in the system, was to reduce the anxiety of depositors whose experience with banks during the depression years (1929-1933) had been a harrowing one.³⁰

Individual states had attempted to handle the problem of guaranteeing bank obligations. During the period between 1829 and 1917 fourteen states adopted plans with New York being the first. Of these programs, eight were established after 1907. The plans were confined to the states and state chartered banks with varied strengths and weaknesses. Some had been relatively successful until the Great Depression during which none survived.³¹

³⁰Annual Report of Federal Deposit Insurance Corporation, 1935.

³¹Annual Report of Federal Deposit Insurance Corporation, 1964.

At the national level, 150 bills were introduced into the Congress on the subject of deposit insurance between 1886-1933. The experience with the state plans and the Congressional investigations on the subject eventually made for a better national program. Under the permanent plan banks not members of the Federal Reserve System must obtain approval of the F.D.I.C. before opening new branches or reducing their capital. Also, all insured banks must receive F.D.I.C. approval before merging or consolidating with non-insured institutions. Despite this regulatory action, a diverse and decentralized system has been maintained which continues to contain elements of instability.

The Securities and Exchange Commission

As indicated by the legislation strengthening old and creating new agencies, the financial area required considerable attention. The Securities and Exchange Commission created in 1934 to require a fair and full disclosure of the material facts in regard to securities offered for sale or sold in interstate commerce or by the use of the mails in order to prevent frauds in the sale of securities.³² The Commission was vested with broad administrative powers to promulgate rules and regulations as well as being empowered to enforce these regulations. However, the S.E.C. is not

³²First Annual Report of the Securities and Exchange Commission, 1935.

empowered to express approval of the merits or value of any security; it is limited to requiring the disclosure of the relevant facts so that the investor has the necessary information to make his own decision.

The functions of the S.E.C. as outlined in 1934 are as follows:

- To register and regulate national securities exchanges.
- To register securities traded on such exchanges.
- Regulate over-the-counter markets and transactions in registered securities.
- To regulate members of exchanges and other persons doing business in securities through the medium of such exchange.
- To secure monthly statements of holdings of registered equity securities by directors, officers, and principal stockholders.
- To secure an adequate disclosure of the material facts regarding corporations whose securities are registered on national securities exchanges to keep reasonably current through these and similar reports.³³

The recent 1964 amendments which resulted from the most thorough examination of the securities markets since the 1930's represent the greatest legislative advance in federal securities regulation and investor protection since 1940. Some of the salient features of the new regulations were to eliminate differences in reporting requirements

³³ Annual Report of the Securities and Exchange Commission, 1964.

between the issuers of securities listed on the exchanges and the larger issuers whose securities are traded over the counter, allow the self-regulatory agencies and the S.E.C. to raise standards for entry into the securities business, and strengthen the Commission in dealing with broker-dealers and their employees.³⁴ Of interest, the study and the proposals were conducted by the Commission and submitted to Congress for action.

A concluding note: because of the continued growth in the number and size of investment companies, the Commission considered that the public interest and the protection of investors would be served by strengthening the annual report filed by investment companies, and accordingly a proposal was published.³⁵ The efforts of the S.E.C. in 1965 were to vigorously implement the 1964 amendments.

Railroad Retirement Board

The Railroad Retirement Board was created to correct some of the difficulties existing in the railroad industry in regard to pensions as is indicated in the following quotation:

Many individuals will receive annuities under the Railroad Retirement Act who would not have qualified under the private plans, and most of the employees, who would have qualified under

³⁴Annual Report of the Securities and Exchange Commission, 1964.

³⁵Ibid.

the private plans will receive amounts under the Railroad Retirement Act. Employees had no guaranteed rights to pensions under the private pension plans. Even those who received relatively liberal pensions or gratuities were constantly under the fear of their possible cancellation and of the likelihood of general reductions during periods of depression. Long periods of service were required, and if an employee had service on several roads, he could normally count only the service on one road or on the roads related to it through joint operation. The new law establishes a uniform retirement system covering all employees of the railroads and other companies subject to the act.³⁶

Successive amendments have introduced new types of benefits, liberalized eligibility requirements, and increased the amount of benefits. Indicative of the significant changes made, was the 1937 act which practically superseded the 1935 act. The system has evolved from a limited staff retirement program for railroad employees into a comprehensive social insurance program for employees, their widows, and survivors.³⁷ The number of individuals on the retirement and survivor benefit rolls have grown to approximately 900,000 and benefit payments to more than a billion dollars a year. Railroad employment reached its peak in 1945 with a yearly average of approximately 1,680,000 persons, whereas the average in 1964 was 775,000 employees.

³⁶ Annual Report of the Railroad Retirement Board, 1937, pp. 52-53.

³⁷ Annual Report of the Railroad Retirement Board, 1965.

The Board remains unique in that it is the only federally administered program for a single industry.

Civil Aeronautics Board

The history of the Civil Aeronautics Board and the Federal Aviation Agency closely parallel the development of aviation and aerospace advances in the United States. Suggestions in the early part of this century were made in regard to federal registration and licensing for those engaged in air travel, but gained little momentum. The National Advisory Committee for Aeronautics (N.A.C.A.) created to "supervise and direct the scientific study of the problems of flight with a view to their practical solution," led the effort to obtain legislation necessary for the orderly development of civil aviation.³⁸

A suggestion by N.A.C.A. was submitted by President Wilson in 1919 to the Congress, but no legislation resulted. However, bills were regularly introduced annually until action was finally taken in 1926 to establish federal regulation of civil aviation. Of interest after 1921 the industry itself actively sought government regulation and "thereby revealed at a tender age its uniqueness among private

³⁸A. E. Briddon (ed.), Federal Aviation Agency Historical Fact Book, A Chronology 1926-1963 (Washington, D.C.: U.S. Government Printing Office, 1966).

enterprises."³⁹ The major controversial problem area of the 1920's was the status and role of aviation in the national defense structure and the relationship to be established between the military and civil areas.

The Air Commerce Act of 1926 became "the legislative cornerstone for the development of commercial aviation in America."⁴⁰ The Act established the pattern for the regulation of civil aeronautics by the non-military department of the federal government.

Separate from the military and defense departments, the Secretary of Commerce was charged with the responsibility to foster air commerce, designate and establish airways; establish, operate, and maintain aids to air navigation (except airports); arrange for research and development to improve such aids; license pilots; issue airworthiness certificates for aircraft and major aircraft components; investigate accidents; and other aids to promote air commerce. To carry out these functions and activities an Assistant Secretary of Commerce for Aeronautics was created.

The Civil Aeronautics Act of 1938 created a new organizational structure and set of relationships. The purpose of the change was to separate the functions of the agency. The new independent agency was to perform as agent

³⁹Ibid., p. viii.

⁴⁰Ibid.

of Congress for some of its functions and as agent for the President for other of its functions. To accomplish these ends a five member Civil Aeronautics Authority was created to perform the quasi-legislative and quasi-judicial function of safety and economic regulation of civil aviation. To be responsible for the essentially executive and operational functions the Office of Administrator was created in the new Authority. Also, established within the Authority was a three member Air Safety Board with quasi-judicial powers for inquiring into the cause of accidents.⁴¹ Economic regulation was made more comprehensive and thorough and safety regulation was revised and enlarged under the new legislation.

Organizational changes were made during the interim, however, the next comprehensive legislation covering civil aeronautics was in 1958 repealing prior legislation and reorganization plans. The functions and activities covering civil, including commercial, aeronautics were collected and reassigned to two new agencies: the Civil Aeronautics Board and the Federal Aviation Agency. The C.A.B. retained responsibility for economic regulation of the air carriers and for accident investigation, but lost under the act most of its former authority in the safety regulation and enforcement field to the F.A.A. However, the quasi-judicial functions

⁴¹Ibid., p. 14.

of the C.A.B. were retained and it acts as an appeal board in regard to suspensions or revocation of a certificate by the F.A.A. The functions and responsibilities of the C.A.B. have increased substantially and experience has shown that additional regulatory tools are needed to enable the Board to deal with the many complex and varied problems. Therefore, periodically legislative suggestions are submitted to Congress for action.⁴²

Federal Coal Mine Safety Board of Review

An administrative agency of a quasi-judicial nature created to hear and determine applications by coal mine operators for annulment or revision of and temporary relief from orders of federal coal mine inspectors or the Director of the United States Bureau of Mines. The Board meets at the discretion of the Chairman when he determines that there is need to convene. Thus, the members function intermittently on a per diem basis. The Secretary and General Counsel head up the small permanent staff. Activities remain limited as the total number of employees continue to be small after almost fifteen years of operation. Created to give the industry representatives an appeal board, it is chaired by someone with mining knowledge separate from the

⁴²Annual Report of the Civil Aeronautics Board, 1958.

regular courts. Thus the mine operators have skill and competency in the chairman of their appeal board.⁴³

Federal Aviation Agency

Created in 1958 as one of the two major agencies to regulate civil aviation, the Federal Aviation Agency inherited the organization and nucleus of the former Civil Aeronautics Authority. Also, it took over the responsibilities and personnel of the Airways Modernization Board, and Air Coordinating Committee.⁴⁴

The Administrator directs the agency without a board or commission and his major functions are: (1) Promulgate safety regulation, (2) Registration and recordation of aircraft, (3) Consolidation of research and development of air navigation facilities, (4) Give leadership and direction to civil supersonic transport development, (5) Establishment and operation of air navigation facilities, (6) Airspace control and air traffic management, (7) Federal-air Airports program, and (8) Encouragement of civil aviation both domestically and abroad.⁴⁵

⁴³U.S. Government Statute, 1952. U.S. Government Organization Manual, 1965-66.

⁴⁴Federal Aviation Agency Historical Fact Book, A Chronology 1926-1963.

⁴⁵U.S. Government Organization Manual, 1965-66.

While much authority in the field of safety regulation and enforcement was given to the F.A.A., the determination of the probable cause of an accident was to be the function of the Civil Aeronautics Board.

Federal Maritime Commission

The F.M.C. was created to regulate the waterlane foreign and domestic off-shore commerce of the United States. The basic objective was to strengthen and revitalize the administration of the functions and regulatory activities stemming from the shipping statutes starting in 1916. Also, the promotion and development of the U.S. Merchant Marine would be enhanced by consolidating responsibility into the agency.⁴⁶ The mandate given the new agency had an immediate and far reaching impact upon the carriers.

The responsibilities and functional areas covered by the new agency were provisions for the licensing of independent freight forwarders and the regulation thereof; regulatory responsibility in regard to rates, agreements, and tariffs; rendering decisions issuing orders, and making rules and regulations governing and affecting common carriers by water in domestic off-shore trade of the United States; and finally "permission for the Governor of any State, Commonwealth, or possession of the United States to

⁴⁶First Annual Report of the Federal Maritime Commission, 1962.

file a protest against any rate, rule, or regulation that he alleges is unjustly discriminating against that State, Commonwealth, or possession."⁴⁷

The F.M.C. in 1964 developed a number of significant benchmarks to guide the regulatory course of the agency.⁴⁸ While in 1965 the agency focused on international negotiations and Government-industry cooperation in fulfillment of its role in maritime affairs, world trade, and commerce.⁴⁹

Summary

In this chapter evidence concerning the evolution of the functions and activities of each of the agencies has been presented. The emphasis has been upon the assigned functions. As the need for new or additional federal regulation was felt, agencies were created and the functions assigned. The spread and scope of the federal government performing regulatory activities was demonstrated. Beginning with the Interstate Commerce Commission regulating the rail carriers, to the Federal Reserve System regulating banking, to the National Labor Relations Board regulating labor practices, these agencies represent the developments from regulating certain types of businesses and their

⁴⁷Ibid., p. 2.

⁴⁸Annual Report of the Federal Maritime Commission,
1964.

⁴⁹Annual Report of the Federal Maritime Commission,
1965.

activities to the activities of business regardless of the type of product or service created.

The three major functional groupings: (1) Transportation, Trade-Communication, and Power; (2) Finance; and (3) Labor demonstrate the growth and expansion of the federal government. The range and scope of the federal government expansion is reflected by the increase in the number of agencies. The reader will recall that the first agency was created in 1887 and by 1961 there were fifteen agencies distributed into the three categories. Group I has seven agencies while Groups II and III have four each.

The federal government has not only assumed and is performing additional functions as reflected by the total numbers of agencies, but material presented indicates that the agencies periodically have been given additional functions to perform. Thus the functional increase is cloaked in both new additions and new assignments to the existing units. The movements in technology which were primarily interstate in nature such as radio broadcasting and aeronautics along with the emphasis by business in general toward national markets and interstate operations are two major reasons for these moves toward central government and its assumption and performance of these functions and activities.

Frequently developments took place at the local-state level and were gradually assumed by the federal government because of the inability of the local-state governments to cope with problems of an interstate and international nature. In other cases, the immediate understandings were that the nature of the problems were national in scope and local-state government would be unable to perform effectively.

The relationship existing between structure and function will be analyzed in the next chapter. The difficulty in attempting to separate structure and function for presentation in Chapters III and IV is apparent. The data as presented in the two chapters are not mutually exclusive. The analytical interweaving of the evidence presented will shed light upon the major and minor theses of this research.

CHAPTER V

STRUCTURAL-FUNCTIONAL ANALYSIS

The reasons for selecting structural-functional theory as the framework for the analysis are:

The three concepts of process, structure, and functions are thus components of a single theory as a scheme of interpretation of human social systems. The three concepts are logically interconnected, since "function" is used to refer to the relations of process and structure. The theory is one that we can apply to the study of continuity in forms of social life and also to processes of change in those forms.¹

There has been, however, a great amount of criticism of structural-functional theory, particularly with respect to its supposed inability to deal with social change.² Thus creating, "an implicit ideological commitment to the status quo."³ However, there are others who suggest that functional analysis is inherently radical.⁴ Having been accused of

¹A. R. Radcliffe-Brown, op. cit., p. 12.

²Robert Cole, Structural-Functional Theory, the Dialectic, and Social Change, University of Illinois Bulletin, LXIII, No. 135 (1966), p. 39. See also Robert K. Merton, Social Theory and Social Structure (Rev. ed.; Glencoe, Illinois: The Free Press, 1957), pp. 37-38.

³Robert Cole, op. cit., p. 39.

⁴Robert K. Merton, op. cit., pp. 38-42.

being both conservative and radical suggests that structural-functional analysis does not necessarily entail a specific ideological commitment to either, according to Merton.

"Critically revised, functional analysis is neutral to the major ideological systems."⁵ ". . . it is like those theories or instruments of the physical sciences which lend themselves indifferently to use by opposed groups for purposes which are often no part of the scientists' intent."⁶

The neutrality of structural-functional analysis as a scientific tool is the position taken in this paper. A closer examination of the theory is warranted. First, a series of definitions is required. Let us consider first the meaning of function itself:

Functions are those observed consequences which make for the adaptation or adjustment of a given system; and dysfunctions, those observed consequences which lessen the adaptation or adjustment of the system. There is also the empirical possibility of nonfunctional consequences, which are simply irrelevant to the system under consideration.⁷

Another conceptual distinction which needs to be made is the difference between manifest and latent functions:

Manifest functions are those objective consequences contributing to the adjustment or adaptation of the system which are intended and recognized by participants in the system.

⁵Ibid., p. 42.

⁶Ibid., p. 51.

⁷Ibid.

Latent functions, correlatively, being those which are neither intended nor recognized.⁸

The unintended consequences of action are of three types:

1. Those which are functional for a designated system, and these comprise the latent functions.
2. Those which are dysfunctional for a designated system, and these comprise the latent dysfunctions.
3. Those which are irrelevant to the system which they affect neither functionally nor dysfunctionally, i.e., the pragmatically unimportant class of non-functional consequences.⁹

According to Cole:

A functional system is made up of two types of variables: the social structure and the items implicated in this structure. Functionalism is viewed primarily as the interpretation of items (both at the level of values and institutions) by establishing their consequences for larger structures in which they are implicated. Thus, it is the larger structure which is being maintained with the items implicated in the structure determining its presence or absence.¹⁰

Merton states that "the several subgroups in the large society are 'integrated,' whatever their personal desires or intentions, by the centralizing structure which serves these several needs" and also that "structure affects function and function affects structure."¹¹

To conclude this explanatory statement, the question of change is again more thoroughly examined. It will be

⁸Ibid.

⁹Ibid., p. 51.

¹⁰Robert Cole, op. cit., p. 40.

¹¹R. K. Merton, op. cit., p. 82.

recalled that in the Warner quotation in Chapter I, change is posited as a value in the American society. However, for those that consider structural-functional analysis to be conservative and not able to account for the sources of social change, a recent article concludes, "that with considerable modification the functional approach can account for social change. Specifically, this is to be achieved by the explicit incorporation of the dialectic into functional theory."¹² ". . . within all social structures are contained potential seeds of change. Whether change will be realized is resolved through the relation of dialectic mechanisms to maintenance mechanisms. Social change is thus, to a great extent, a systematic product of the structure of society itself." ". . . a wide variety of mechanisms are subsumed under the dialectic. Such mechanisms have, however, a basic feature in common; they operate through those structural characteristics which, by virtue of their existence, point to eventual change in the social structure."¹³ Thus change is inherent in societies and is significantly heightened in those, such as the American, where it is built into the value system as a good.

¹²Cole, op. cit., p. 58.

¹³Ibid., p. 57.

The Federal hierarchy is a single structure or social system with all of the constituent units structurally arranged to perform functions and activities which sustain and maintain the total organized effort. The various units such as the State Department, handling foreign affairs; the Treasury Department, handling monetary and fiscal matters; the Bureau of the Budget, controlling present and projected expenditures; and the General Services Administration, which handles many of the maintenance and housekeeping activities perform their functions to sustain the system. While many of the units of the Federal hierarchy perform regulatory activities in addition to their other duties, the selected group in this study were specifically established for the purpose of regulating business enterprises and their activities. Through social support and legislative act, it can be inferred that the Federal government must perform these functions and activities for the society to continue, given its values and objectives.

The analysis will proceed first to examine the Federal hierarchy and the structural-functional evolution of the constituent units, the selected independent regulatory agencies, and secondly, an examination of these units as typical regulatory organizations which grow and develop. The centralizing tendencies within the American society will be demonstrated as resulting from maladaptive attempts at the local-state level of government to cope with these

regulatory problems which are essentially national in character. The following evolutionary summary of legislation will show the emergence from regulatory actions taken at the local-state level and the gradual movement toward the federal level of government with the eventual creation of the regulatory agencies which are being examined in this study.

The Federal Hierarchy

The Federal government, as previously indicated, has been growing steadily since its inception in 1789. The Federal system has grown from a small number of cabinet posts with limited functions to the complex network of departments, agencies, and bureaus of today which at times have overlapping functions and authorities. This has come about despite the Americans typical fear of a strong, centralized, federal authority. As Alexis de Tocqueville observed in the 1830's:

In the United States as soon as a man has acquired some education and pecuniary resources, he either endeavors to get rich by commerce or industry, or he buys land in the bush and turns pioneer. All that he asks of the state is not to be disturbed in his toil, and to be secure of his earnings.¹⁴

The philosophy of the Constitution is reflected in the Tenth Amendment which states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to

¹⁴Alexis de Tocqueville, Democracy in America (New York: Oxford University Press, 1946, Galaxy edition), p. 430.

the states, are reserved to the states respectively, or to the people."¹⁵

The legal precedent for Federal regulatory activity was established early in the following Supreme Court decision:

The Constitution of 1789 gave Congress the power to regulate commerce among the several states; and in the famous case of *Gibbons v. Ogden* (1824) the Supreme Court held that the power to regulate such commerce was vested solely in the federal government. To the claim that the term "commerce is limited to traffic--that is, the buying and selling of commodities"--Chief Justice Marshall replied: "Commerce, undoubtedly, is traffic, but it is something more--it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse." Justice Johnson, in his concurring opinion, added: "Commerce, in its simplest signification, means an exchange of goods; but in the advancement of society, labor, transportation, intelligence, care, and various mediums of exchange become commodities, and enter into commerce; the subject, the vehicle, the agent, and their various operations, become the objects of commercial regulation."¹⁶

In *Gibbon v. Ogden*, Chief Justice Marshall declared that the power of Congress to regulate interstate business activity is "complete" and "absolute." The discretion of Congress in selecting the ends or purposes of regulation, he stated, is subject neither to constitutional limitation nor to judicial review. The "sole restraints" on which the people must rely to protect themselves from abuse are "the wisdom

¹⁵ Constitution for the United States of America.

¹⁶ V. A. Mund, Government and Business (New York: Harper & Brothers, 1955), pp. 18-19.

and discretion of Congress, their identity with the people, and the influence which their constituents possess at elections."¹⁷

This opinion of the Supreme Court did not eliminate the ambivalent feelings in regard to the role of the Federal government. Early reflections of these feelings are shown around the creation of the First and, particularly, the Second United States Banks. The antagonism of the, then, President Andrew Jackson toward the Bank epitomized the frontier, fear of a strong, central government dominated by the seaboard elite. The charter of the Second Bank was allowed to lapse. State-chartered banks and state bank notes dominated the monetary and banking system no matter how unsatisfactory until the enactment of the Legal Tender Act of 1862 and the National Banking Act of 1863. During this period from 1836 to 1863, there were about 1,600 banks which had issued about 7,000 different kinds and denominations of bank notes which circulated at varying discounts. In 1865 the Federal government drove all state bank notes out of existence by levying a tax of 10 per cent on them. The Banking Act empowered the Comptroller of the Currency to charter and supervise national banks. Despite the creation of a uniform currency and some supervision over the national banks, it was considered to be an inadequate system by many.

¹⁷Ibid., pp. 18-19.

The dangers of the system were clearly shown in the panic of 1907. These conditions eventually led to the creation of the Federal Reserve System in 1913.

As previously outlined in Chapter IV, a parallel development during the nineteenth century in finance at the state level was the adoption of plans to insure or guarantee bank obligations which served as currency.

At the state level starting in the 1860's action was being taken legislatively to regulate the railroads. Frustration on the part of the public from the East, to the Midwest, to the Western plains against the activities of the railroads brought these various regulatory acts. Finally, federal action was sought to bring control over the large interstate systems which transcended state borders. These pressures on the Congress culminated in 1887 in the creation of the first major regulatory body using the agency type structure, the Interstate Commerce Commission.

The following year, 1888, the first law dealing with railway labor relations was enacted by Congress. The passage of this act limited the movement at this time into the labor field to the railroad industry. However, records indicate that the journeymen printers of New York City combined in 1778 to demand a wage increase. In 1838 a proposal was made to establish a Department of Agriculture and Mechanics. By 1868, labor leaders and others were pressing Congress for a Department of Labor. The Bureau of Labor

was finally created in the Department of the Interior in 1884 to gather and disseminate statistics. However, in 1887 bills were introduced into both houses of Congress for the creation of a Department of Agriculture and Labor but a bill was never reported out of the joint conference committee. Thus the law that provided for voluntary arbitration and investigation of labor disputes that threatened to interrupt commerce reflected some of the ferment of the period. However, the 1888 legislation was not used.¹⁸

Legislation at the state level to cover the following conditions was also being enacted at this time.

The changeover in the latter part of the nineteenth century from an agricultural to an industrial society brought with it a tremendous increase in the traffic in foods, drugs, cosmetics, and therapeutic or health devices such as eyeglasses, crutches, heating pads, and the like. The consumer buying these products in the open market was at the mercy of unprincipled dealers who manufactured under unsanitary conditions; sold products which were unsafe for consumption or use; and deceived the public by false and misleading statements in the literature accompanying the products or in general advertising; and who thus gave the consumer less than his money's worth.¹⁹

Action by the Federal government was taken in 1906 with the passage of the Federal Food and Drug Act.

¹⁸ Twenty Years Under the Railway Labor Act, Amended and The National Mediation Board, 1934-1954, p. 7.

¹⁹ Jesse S. Raphael, Governmental Regulation of Business (New York: The Free Press, A Division of the Macmillan Company, 1966), p. 227.

The 'trust' developments beginning in the 1880's to create large combines to monopolize and in restraint of trade could not be dealt with at the state level. Thus, in 1890 the Sherman Anti-Trust Law at the Federal level became necessary to meet these problems which extended beyond state boundaries. In the early part of the 20th century, the Clayton Act was passed as supplementary to the Sherman Act. The Bureau of Corporations in 1903 was also established in the newly created Department of Commerce and Labor.

All of these developments were antecedent to the passage in 1914 of the Federal Trade Commission Act creating the Federal Trade Commission in 1915. The new Agency absorbed the former Bureau of Corporations. Its purpose was and is to maintain free competitive enterprise and prevent unfair and deceptive trade practices.

Supportive legislation to the Interstate Commerce Commission was also being enacted. Successful rate regulation came with the Hepburn Act in 1906 and was, therefore, more helpful than the Elkins Act of 1903. In 1910 with the passage of the Mann-Elkins Act the Commissions regulatory activity was strengthened and it was given jurisdiction over telegraph, telephone, and cable companies. Paralleling these developments in the railroad industry was the passage of the Erdman Act of 1898 and the Newlands Act of 1913. In these acts the Federal government placed reliance upon a policy of mediation and conciliation in railroad labor

disputes. The latter act established the first full-time Board of Mediation and Conciliation.

By 1915 the Federal government had thrusts into the four following areas with regulatory agencies already established in three of them. The areas of transportation (I.C.C.), finance (F.R.S.), trade (F.T.C.), and labor.

The railroads were nationalized for World War I and were under direct Federal control from late 1917 to early 1920. However, the Commission was enlarged by amendment in 1917 to nine members and in 1920 the Transportation Act increased the membership again to eleven. Another area of increasing concern was hydroelectric power projects. As a result, the Federal Water Power Act was passed which created a part-time Federal Power Commission to administer the act. The Commission was composed of the Secretaries of War, Interior, and Agriculture. Two of the members of the Commission reflect the overtones of conservation which was contributory to the creation of it.

Railway labor legislation continued to be enacted, the Adamson Act of 1916 added direct congressional action when mediation failed and arbitration was refused. The U.S. Railroad Labor Board of nine members was created in 1920 by the Transportation Act of that year. The composition of the Board was three members each from labor, management, and the public. The concept of mediation was discarded; in its

place was substituted hearings and investigation of disputes by the Board with recommendations in the form of decisions which the pressure of public opinion was expected to enforce. However, the Railway Act of 1926 reestablished mediation as the basic method of government intervention and created the U.S. Board of Mediation.

In regard to the creation of the Federal Radio Commission, 1927, the reader will recall that various strands of regulatory power dating back to 1866 and stemming from the Post Office, the State Department, the I.C.C. and the Department of Commerce were all combined together for the new agency. The Attorney Generals' ruling in 1926 stating that the Secretary of Commerce had no authority to act according to the 1912 law created a situation requiring the establishment of the F.R.C. in 1927.

The part-time commission was abolished in 1930 and five full-time Commissioners were appointed at the creation of the Federal Power Commission as an independent regulatory agency. In summary, by 1930 in the middle of the Great Depression, six of the fifteen regulatory agencies were in existence and operating. The regulatory agency had now become an accepted device by both political parties--Democrats and Republicans. All of the areas are now represented: Transportation, Trade-Communication, and Power (I.C.C.), (F.T.C.), (F.P.C.); Finance (F.R.S.); and Labor (N.M.B.).

The Great Depression starting in 1929 created a climate for experimentation. The 1930's became the decade of the alphabet agencies. The economic collapse shook the whole socio-economic and political structure of the United States. Much of the culture was challenged and reexamined. The collapse of businesses, mortgage foreclosures, and bank failures collectively added to a downward spiral. Two areas received attention in 1932 prior to the Franklin D. Roosevelt era. The passage of the Norris-LaGuardia Act meant much to the labor movement and reflected the changes that were beginning to take place. In finance, the Federal Home Loan Bank System was created to serve as a permanent reservoir for thrift and home-financing institutions. A need for aid in home financing and to insure the savings deposits was of prime interest to home owners and savers. The F.H.L.B.S. functioned independently from 1932-1939 and in the reorganization was placed under the Federal Loan Agency. In 1942 by executive order the Board was vacated, the chairman of the Board was made Commissioner of the Federal Home Loan Bank Administration under the National Housing Authority.

Other aspects of the financial area were also re-examined. The Federal Reserve System was strengthened and the complementary Federal Deposit Insurance Corporation was established in 1933 to insure savings deposits. A national bank holiday was necessary in early 1933 because of the

numerous bank failures. The state sponsored savings insurance programs failed and the demands were for a national program. The initial deposit agency was created in 1933 as a temporary measure intended for a six month duration. However, the agency operated for twenty months and the Federal Deposit Insurance Corporations became a permanent unit in the Federal structure in 1935.

The sensational literature at the turn of the century revealed the nefarious activities which had been taking place in the securities markets. The legislative response at the national level was the creation of the Bureau of Corporations in 1903 in the Department of Commerce and Labor as previously mentioned in regard to the Federal Trade Commission. The Bureau had the power to require reports from corporations and publish their findings. It was felt that this publicity would make prudent investors. At the state level action was also being taken. Starting with Kansas in 1911, the "Blue Sky Laws" were enacted to regulate the securities market.²⁰ Corporations offering securities and dealers in securities had to register with the state and obtain a license. Investigations were made of those seeking licenses as to their legitimacy. Licenses were denied those with questionable records.

²⁰Ibid., p. 203.

The functions, records, employees, etc., of the Bureau of Corporations were transferred to the Federal Trade Commission upon its creation in 1915. The corporate form had been growing in popularity for the purpose of operating businesses since before the turn of the century. Concomitant with the high level of economic activity during the 1920's was the manipulation of corporate financial structures and the related securities. Much questionable activity was revealed in the post 1929 crash period. The Securities Act of 1933 gave jurisdiction for enforcement of the act to the Federal Trade Commission. However, the following year the Securities and Exchange Act of 1934 created the Federal Securities and Exchange Commission which was to administer the acts of both 1933 and 1934.

Continuing in the tradition of special treatment for the railroad industry, the Railroad Retirement Board was created to establish a uniform retirement system covering all employees of the railroads and other related companies subject to the act. Frequently employees would work for several roads with differing plans or experience layoffs in depressed periods, the act was to establish a system to render uniform treatment and reduce fears to all individuals committed to the railroad industry. Successive amendments have introduced new types of benefits, liberalized eligibility requirements, and increased the amounts of benefits.

The general policy of the Federal government in regard to labor up to the 1930's was essentially to provide mediation and conciliation services during labor disputes. This was true of the railway legislation and the Bureau of Labor (1884), the Department of Commerce and Labor (1903), and the Department of Labor (1913). The National Industrial Recovery Act of 1933 created the National Labor Board. The first National Labor Relations Board, 1934, was the successor to the N.L.B. of 1933 and the second N.L.R.B., 1935, was the successor to the first N.L.R.B. The intent and purposes here was to recognize the right of workers to organize into unions and that management was to recognize these collectives for the purposes of collective bargaining over the conditions of employment. Unions and collective bargaining were now being recognized as a part of public policy in regard to labor relations.

Air travel was recognized as a national concern as early as 1912 by President Wilson. The National Advisory Council on Aeronautics was established in 1915. However, two dramatic events in the 1920's--the General Mitchell court-martial and the Lindberg flight--focused attention on air travel but solved none of the related problems. The Civil Aeronautics Board created in 1938 received by transfer the regulatory functions and activities which had been performed by the Aeronautics Division of the Commerce Department established in 1926. It will be recalled that during

the 1920's the industry itself actively worked for Federal regulation. The 1926 act had separated the military from the civilian aviation and thereby was the legislative cornerstone for the development of commercial aviation in the United States.

Another important change during the 1930's was the creation of the Federal Communications Commission. What had been the Federal Radio Commission was transferred to the new F.C.C. as well as the regulation of nongovernmental communication by wire and cable. Thus, the new agency furnished unified regulatory control over these communication media. Simultaneously, legislation strengthening the I.C.C., the F.T.C., and the F.P.C. was enacted.

At the close of the 1930's six new regulatory agencies had been added and the prior six organizations had all been strengthened by new legislation. In each of the major three groups additions had been made. The groups and their regulatory agencies are: Transportation, Trade-Communication, and Power (I.C.C.); (F.P.C.); (F.C.C.); (C.A.B.); Finance (F.R.S.); (F.H.L.B.S.); (F.D.I.C.); (S.E.C.); and Labor (N.M.B.); (N.L.R.B.); (R.R.B.). This categorization shows the proliferation in terms of the agencies themselves. It is of interest to note that there were no permanent additions to the regulatory agencies during the 1940's, the World War II era. There were significant legislative modifications in several instances. An important case was the

restructuring of the National Labor Relations Board in 1947. The Board of the Federal Home Loan Bank System was again reconstituted in place of the Commissioner who had been functioning since 1942. The System also in 1947 became a constituent part of the Housing and Home Finance Agency.

The creation in 1952 of the Federal Coal Mine Safety Board of Review is illustrative of how elaboration and proliferation can take place as an organization such as the Federal government grows within its units and in terms of the number of units. Need for coordinators, expeditors, appeal boards, umpires, adjudicators, etc. become increasingly necessary as the size, scope, and complexity of the organization increases. The reader will recall that the functions of this agency is to review, by appeal, the decisions of other units of the Federal government.

The dramatic effectiveness of the U.S. Air Force during World War II and the development of fast, safe planes for commercial and private use along with military advances in the post war period has meant that air-ways are getting filled with planes the same as highways with automobiles. Accident prevention and the implementation of safety measures have taken on paramount importance. The Federal Aviation Act of 1958 repealed the 1938 act, continued the Civil Aeronautics Authority under the C.A.B., but transferred the safety rulemaking function to the administrator of the new Federal Aviation Agency. The four major areas of functions

and activities of the F.A.A. are safety regulation; research and development; establishment and operation of air navigation facilities; and air traffic management. The C.A.B. retained the power to investigate accidents and to determine their probable cause along with the review authority over the decisions of the Administrator of the F.A.A.

The Federal Maritime Commission was established in the reorganization plan of 1961 to administer the functions and discharge the regulatory authorities under the following shipping statutes: Shipping Act--1916, Merchant Marine Act--1920, International Shipping Act--1933, and the Merchant Marine Act--1936. The basic objective was to strengthen and revitalize the administration of the Federal programs concerned with the development of the U.S. Merchant Marine. The F.M.C. is the newest of the agencies but dealing with one of the oldest forms of transportation.

This summary reveals the important fact that the independent regulatory agencies reflect a substantial period of experience and development. Their use has not been limited to any one period. Beginning in 1887, every decade has seen the creation of new commissions or the extension of existing agencies into new fields. So steady an evolution, under such varied political auspices, indicates that these commissions respond to a real need.

The evidence demonstrates that many of these functions and activities assigned to Federal regulatory agencies were first performed at the local-state level. It further shows the flow of power and influence from the local-state level to Washington and the Federal agencies. As business organizations became national and international in orientation along with extending geographically their markets and operations, local-state level control was ineffective.

In prior research, the functions and activities of the Federal government were analyzed. There were 118 functions and activities defined and grouped into eighteen categories.²¹ The one category, Regulation of Business Activities, has nine functions which are:

1. Regulation of securities and security exchanges--performance of functions and administration of requirements dealing with the operation of security exchanges and the issuance of securities which must conform to the law.
2. Regulation of competitive practices--administering requirements to prevent unethical business practices to preserve free enterprise.
3. Regulation of banks, banking activities, and credit institutions--administration of requirements in the banks and credit areas designed to keep interest rates at certain levels, to prevent unethical banking practices, and to prevent banking practices which could cause failure.

²¹W. L. Warner, D. B. Unwalla, and J. H. Trimm (eds.), The Emergent American Society, Vol. I, p. 578. See Appendix B for the whole classification.

4. Regulation of transportation systems--performance of functions to regulate public carriers in terms of fares and rates charges, methods of operation, types of service and points served.
5. Regulation of public utilities--administration of functions to regulate utilities in terms of rates charged, of service, and methods of operation.
6. Regulation of communication systems--performance of functions for the regulation of communications systems in assigning frequency and operating space, establishing operating standards, and in requiring minimum standards of public service. In the case of telephone communications, prescribing rates and types of service.
7. Regulation of mineral and natural resource industries--performance of regulatory functions to prevent wasteful practices and to insure proper use and development of the nation's natural resources.
8. Labor relations regulations--administration of regulatory requirements under the several labor-management acts requiring disclosure of information concerning labor organizations, procedures for strikes creating a national emergency, protect workers' rights, working conditions, and other requirements to prevent unfair and harmful practices by management or unions in the labor area.
9. Regulation of insurance companies--performance of functions designed to protect the public in terms of coverage, rates, and insurance practices. This is primarily cooperative with the states which determine most insurance company regulations.

These are the functions and activities performed by the regulatory agencies except number nine which is primarily state with only general supervision at the Federal level. Of the remaining 109 functions, six of these are in the Intergovernmental Services Category, leaving a total of 103. There are fifteen functions from these other categories that

related directly to the business firm. However, in the classification these latter fifteen functions are not the responsibility of the regulatory agencies alone. Other units may have major responsibility and only jointly share the responsibility for performance with the regulatory agencies. The functions are:

1. Protection of working conditions rights--administration of programs to enforce provisions of laws dealing with industrial safety, hours of labor and other programs to protect the welfare of labor.
2. Protection of workers' rights--performance of functions designed to protect, promote and secure the rights of laborers (strikes, minimum wage, right to work).
3. Maritime control--enforcing regulations involving vessels in regard to harbors, navigation rules, and running rules.
4. Tariff enforcement--control and enforcement of duties on imported goods and prevention of illegally imported goods.
5. Enforcement of pure food and drug laws--insuring conformance to the provisions of the Pure Food & Drug Act by manufacturers of such goods.
6. Labor dispute injunctions--enforcing provisions of the Taft-Hartley Act and other acts in regard to labor disputes and disturbances.
7. Inspection of food and drug producers--maintenance of field offices to perform inspections of food and drug producers.
8. Loans and guarantee of loans and mortgages--direct Federal corporation loans for home ownership and guarantee and insurance of other private loans for home ownership.
9. Administration of old age insurance programs--performing functions for the formulation of requirements, payments, and detail of governmental social security insurance programs.

10. Administration of unemployment compensation programs--coordinating, determining compensation policy and distributing funds for programs to assist workers out of employment.
11. Administration of workman's compensation programs--determining claims, amounts to be paid and other policies in the administration of programs dealing with workman's accident claims for worker under the law.
12. Insurance of bank deposits--performance of functions to determine what banks will be insured, to govern proper bank operation and to determine and authorize payment of claims.
13. Maritime safety protection--operations by federal agencies in the interests of safety and protection of life and property at sea.
14. Transportation navigational aids--operation and maintenance of devices and aids and regulation of private aids to insure the public safety with public transportation.
15. Promotion of safety for industrial workers--formulation and promotion of safety codes for the protection of workers and inspection of industrial conditions to insure conformance with safety principles wherever the law permits.

In summary, it is the above twenty-four functions which directly affect the business enterprise and business activities. The remaining functions impinge variously on the businessman as an individual and indirectly upon his business affairs.

The Constituent Units

Functions expand and proliferate in terms of the organization itself, in this case the Federal government. The reader will recall the quotation in Chapter I by

D. B. Truman, "that not only has the number of federal functions been augmented, but the nature of these duties is far different from that of those which characterized the national government two generations ago." The prior section of this chapter demonstrated the evolution of the elaboration of functions at the Federal level, the creation of units at this level to perform these functions, and the assignment of these functions to the units. In this study these units are the selected regulatory agencies. This, then, ties these functions to a particular type of structure--the independent regulatory agency. The Federal government responding to social needs, created these regulatory units which are functionally integrated into the Federal hierarchy.

The scope of responsibility entrusted to these agencies is enormous. . . . This is true despite the fact that such powers as they exercise are generally delegated to them by the Legislative. This delegation followed upon the conviction that the problems in a particular area were so manifold and complex that the Congress simply had neither the time nor the capacity to handle them. Similarly the delegation to them of adjudicatory powers stemmed from the conviction that the issues involved were different from those that theretofore had been traditionally handled by courts and thus were not suited for judicial determination. These delegations, once made, are rarely recalled or retracted; on the contrary, the tendency is to expand them as more and more complex problems arise. The legislative standards under which the delegations are made are similarly increasingly loosened so that not infrequently the guide in the determination of problems that face the agencies is not much more than their conception of the public interest.²²

²²James M. Landis, op. cit., p. 2.

A biological analogy is now appropriate to the analysis. The process whereby the cells of the body specialize, split, and multiply is similar to the way in which positions develop, divide, and proliferate within formal organizations. The purpose for focusing on this phenomena is twofold: (1) to demonstrate that the process in fact does go on in formal organizations and these fifteen regulatory agencies are illustrative, and (2) while all three types of functions--assigned, auxiliary, and administrative-bureaucratic--follow in the same biological patterning, emphasis in this part of the analysis will be placed upon the administrative--bureaucratic type. The reason for this is because of the close tie between efficiency and the operations of the agency. The inference to be made is that the impact of the regulatory functions are now likely to be felt by the business firms subject to the regulation. Certain types of "efficiency" stem from a well-ordered organization, which means a more stringent application of the functions and activities it is required to perform. Some of the reasons for selecting the agency type of organization was to bring specialized knowledge to these specialized problems and thereby accomplish a kind of efficiency which would be cost reducing to all parties concerned.

The material in Chapters III and IV indicates that over the years, as these agencies have grown and the work volume increased changes have been taking place. "During

the past 25 years considerable interest in the Commission's organization, operations, and procedures has been evidenced by the Congress, the Executive Branch, industry, private study groups, students of government, and the Commission itself."²³ The studies were started in 1939 and have been done periodically, by various groups, since. Recommendations have been selectively adopted during this period bringing about organizational and procedural changes. These changes were made to promote maximum efficiency.

Emphasizing the generality of the above is the following quotation from the Landis report, "The experience of the past twenty-five years cannot be overlooked, nor can the existence of a problem in one agency be evaluated without the recognition that it has basic common aspects with like problems in other agencies."²⁴ This generality is revealed in the material in Chapter III indicating the developments within the agencies toward the creation of the new position of Executive or Managing Director, as recommended by consultants. This separates the administrative role from the Secretary. Also, it is now common to find a Methods and Systems division along with a Data Processing division, both of which are intended to improve and speed operations. These actions have been taken to reduce costs.

²³Interstate Commerce Commission Activities, 1937-1962, p. 21.

²⁴James M. Landis, op. cit., p. 2.

Another area of problems still related to efficiency but of a different order from those above, are the problems related to the processing of the cases themselves. It has been previously noted that the field sections of the various agencies have been growing and developing in terms of numbers of people and numbers of offices. Simultaneously with these developments has been the activation of the concept of decentralization. That is, the delegation of decision-making authority within the hierarchy. The twofold purpose for these actions are to stay close to the source of the agencies work and second to speed the processing of cases by allowing local and regional personnel to make decisions rather than having everything sent to Washington for decisions to be made there. These various points will be underscored in this final examination of the agencies.

The Interstate Commerce Commission will again serve as the first example. In the original organization of the I.C.C. the office of Secretary was created to head the administrative staff and coordinate the operations of the Commission. The duties of the secretary were related "to the Commission's records, mails, correspondence, service of papers, publications, distribution of documents, supplies of all kinds, payment of employees, disbursement of all moneys, and whatever else may be found necessary."²⁵ Also, an

²⁵Annual Report of Interstate Commerce Commission,
1889.

operating division was created under the direction of the Secretary. The functions of the operating division included:

the filing and service of all papers in cases and proceedings before the Commission; keeping the docket of such cases and the minutes of the Commission; entering and serving orders; filing and indexing correspondence; printing and mailing circulars and reports; copying and forwarding testimony in cases and investigations; purchase of stationery and all other supplies for the Commission; keeping the accounts of disbursements, and various other duties that may become necessary.²⁶

This analysis details the administrative-bureaucratic functions. Illustrative of the assigned functions are the Division of Rate and Transportation, while the Statistical Division is an example of the auxiliary functions.

The operating division disappeared in 1909 with the various sections being set-up as separate units. The I.C.C. had in 1912, after approximately twenty-five years of operation, 500 employees. These operating units were recombined into the Bureau of Administration in 1920. In that same year, the Transportation Act enlarged the Commission's powers in many respects over the carriers already subject to its jurisdiction under prior acts, and placed the duty upon the Commission to take many steps toward development and maintenance of an adequate national transportation service. The Secretary, in addition to his other duties, functioned as the budget officer for the Commission and the point of

²⁶ Ibid.

contact with the Bureau of the Budget. The chief clerk carried the responsibility of personnel officer and the point of contact for the Commission with the Civil Service Commission. In both of these cases, the occupant of these positions was not only performing administrative functions but also auxiliary functions in performing the liaison role. The Bureau of Administration was given charge of the section of mails and files, stenography, audits and accounts, supplies and publications, and dockets.²⁷

Employment in the I.C.C. continued to grow during the 1920's despite curtailments in the valuation project in the middle of the decade. By 1930 employment had reached a high of approximately 2,400. However, with the depression and the transfer of the nongovernmental wire and cable regulatory functions to the newly created Federal Communications Commission, the I.C.C. was at another low point in employment by 1935. However, with the addition of the regulation of motor carriers, the Commission again began to grow to an employment high point of approximately 2,700 in 1941. Of interest, about 1,300 were engaged in the regulation of motor carriers. Just prior to this point, in 1937 after fifty years of operation, the I.C.C. had 2,173 employees, with 251 or 11 per cent affiliated with the Secretary of the

²⁷ Interstate Commerce Commission Activities, 1887-1937.

Commission and the Bureau of Administration. The other key figure is that 638 employees, or approximately 30 per cent of all personnel were in the Field Staff.²⁸

Current employment, after 75 years of operation, is approximately 2,500. Proliferation and elaboration around each position in the structure is observable. Using the administrative area as an example, the position of Managing Director has been created with an Assistant Managing Director; Budget and Fiscal Officer; Personnel Director; Chief, Administrative Service; and Chief, Systems Development. In addition the position of Secretary continues with an Assistant Secretary; Public Information Officer; and Chief, Reference Services reporting to the occupant of the position. Originally, all of these functions and activities being performed by the Managing Director and the Secretary were all part of the Secretary's position together with a chief clerk and a small clerical staff. The same process has been taking place in regard to the auxiliary functions as the assigned functions are varied by legislative act. These auxiliary and administrative-bureaucratic units in the agency are necessary to perform service functions for the whole organization or organism and help to perpetuate its existence the same as the General Service Administration functions and performs for the whole Federal government.

²⁸Ibid.

Indicative of the problems being experienced by the I.C.C. in terms of case-load and resort to decentralized operations are found in the two following quotations.

Nineteen review boards were created to expedite the Commissions work. We have delegated to these boards authority to handle proceedings or classes of proceedings that do not involve issues of general transportation importance. The review boards act in cases which have required the taking of testimony at public hearings or the submission of evidence by opposing parties in the form of affidavits. The boards action is administratively final if no appeal is made to the appropriate appellate division and there is no right of review by the entire Commission. These review boards are already making a noteworthy contribution toward reducing the heavy burden of proceedings work which heretofore rested entirely on the Division.²⁹

In fiscal 1963 we reduced the average elapsed time for disposition of formal proceeding cases to 6.9 months, a 21% improvement over the time required 2 years ago. As there appears to be no slackening of this trend, (5-10% increase each year) maintaining this average minimum decisional period of less than 7 months, with our staff limitations, is expected to become one of our severest challenges.³⁰

In summary, legislation has strengthened the authority of the I.C.C. and broadened the scope of its jurisdiction. The initial concern of the Commission was with railroads, gradually water and motor vehicles have been added. Thus, the functions and activities along with the structure

²⁹Annual Report of the Interstate Commerce Commission, 1963, p. 2.

³⁰Ibid., p. 5. (Information in parentheses added.)

of the Commission have increased in depth and breadth. As these developments took place, the organization has been cementing its own relationships and securing a more permanent place for itself by not only adapting the structural-functional connections within the agency but from the I.C.C. to the Federal hierarchy in general and on out to the society as a whole.

The Federal Reserve System while demonstrating the same kinds of elaboration and proliferation in general also has its unique differences because of its initial design. That is, a government sponsored corporation for regulatory purposes, owned by its members, and organized on a decentralized basis. The intention was to have a regulated system but without a highly centralized, all powerful group in Washington. This desire has been partially realized in that the physical growth of the F.R.S. has been slow relative to a number of the other agencies. However, the lack of size has not diminished the power and influence of the Board of Governors of the F.R.S. which has continually increased. It was not until 1950, after thirty-seven years of operation, that the System had 500 employees. However, an organization of 635 employees, the present figure, is not small. The major part of the staff is related to the Board but there is an extended staff for the Open Market Committee and a secretarial group for the Advisory Council. The two agencies with similar organizational structures to the F.R.S. are the

Federal Home Loan Bank System and the Federal Deposit Insurance Corporation. These latter two agencies growth pattern has been much more rapid and each now has more employees than their model. The reader will recall that the F.H.L.B. System has functioned both as an independent agency and as a unit in other organizations. Since it was given independent status the last time in 1955, the total number of employees has increased from 689 to 1,300. The F.H.L.B.S. performs both of the functions for the savings and loan organizations that the F.R.S. and the F.D.I.C. perform for the banking institutions. The F.D.I.C. currently has approximately 1,500 employees. Some of this difference in size can be explained by the variance in the number of institutions served by the respective agency. The F.R.S. has about 6,000 of the approximately 14,000 banks as members of their System. The duo-functioning F.H.L.B.S. has about 5,000 savings and loan organizations as members. Of the three agencies, the F.D.I.C. has the largest membership, approximately 13,800 banks. Many banks with state charters find it advantageous to belong to the F.D.I.C. and not the F.R.S. The idea of and security in having savings deposits insured has wide public appeal and influenced the growth of both the F.H.L.B.S. and the F.D.I.C. The power and influence over monetary affairs exercised by the F.R.S. is of greater concern to the larger banks with national and international commitments. This partially explains their smaller membership.

Illustrative of dysfunction is the long smoldering squabble between the F.D.I.C. and the General Accounting Office. The G.A.O. is a Federal agency reporting to Congress and created for the purpose of examining the books and records of the units of the Federal government. A problem has developed in that the Directors of the F.D.I.C. have refused to let the G.A.O. examine their books. The unique organizational structure of ownership by members places the F.D.I.C. along with the other two agencies with similar design in a special set of relationships to the other units of the Federal government like the G.A.O. The result of this situation is that the Comptroller General has submitted a special report to the Speaker of the House of Representatives requesting that Congress act to resolve the deadlock.

This situation is also an example of latent functions. The intention of Congress at the creation of these two agencies was not for them to become deadlocked. Also, it is doubtful if there was any recognition or anticipation of the problem. Had there been an awareness of these difficulties, corrective action would have been taken at the time.

The F.H.L.B. System cognizant of present and potential points of tension between themselves and the savings and loan industry, have attempted to maintain close liaison with the industry through the use of groups and committees to assure understanding of mutual problems and establish common groups for the F.H.L.B.B. policies and actions.

An area of long-standing concern to those interested in regulatory agencies is the multiple role they play as prosecutor, judge, and jury. It was the concern with this problem that led eventually to the passage of the Administrative Procedure Act of 1946 with its emphasis upon the internal separation of these functions within the agency. The agency that was given immediate and significant attention as a result of this emphasis was the National Labor Relations Board. The structural change was the separation of the General Counsel who is now appointed by the President with Senate approval. While the General Counsel is not really separate from the N.L.R.B., the present structure is often referred to as a "two-headed" system. The reader will recall that this pattern of operation has not been repeated in any of the other agencies. One critic of the system stated that this is "an experiment which after a decade of trial and error is not likely to be repeated."³¹

The N.L.R.B. fraught with the same problems as the other agencies, has delegated broad decision making powers and duties in processing employee representation election cases to the agency's 28 regional directors. The Chairman stated that the delegation will provide a major speedup in N.L.R.B. case handling in line with the policy of relieving the Board of a substantial part of its total caseload. The

³¹James M. Landis, op. cit., p. 4.

new plan will free the Board to reduce its large backlog and dispose of its other cases involving unfair labor practices more promptly and carefully.³²

The radio, which had been used to some extent before World War I for transmission of messages only, began to revolutionize the lives of the people with the erection of the first broadcasting station in 1921. By the end of the decade perhaps 40,000,000 were daily "listening in" on the 10,000,000 receiving sets throughout the country. The Federal Radio Commission created to regulate a technological advance parallels the model of the I.C.C. in terms of its growth and development. There is one major difference in growth pattern, it took the I.C.C. 25 years to have 500 employees but it only took the F.C.C. eight years. The functions and activities which had previously been performed by the Commerce Department were now transferred to the new F.R.C. The initial structure was divided with a Secretary for administrative activity, the Press and Legal divisions illustrative of the auxiliary functions, and the License and Engineering divisions sharing the assigned functions.

When the F.R.C. became the Federal Communications Commission in 1934, it also received from the Interstate Commerce Commission regulatory control of nongovernmental

³²Organization of Federal Executive Departments and Agencies, Committee on Government Operation, U.S. Senate, 1962.

wire and cable communication. Thus by 1935 resulting from its own growth and transfer, the F.C.C. had 500 employees eight years after its original creation. The organization structure in 1935 was related to the three major areas of regulations--Broadcast, Telegraph, and Telephone; a Secretary for administration; and a General Counsel and a Chief Engineer round out the major functional areas for effective operations. The structure parallels the model set by the I.C.C.

With the advent of television in addition to radio, the Commission is exerting regulatory control over two of the largest sources of mass communication. While the F.C.C. is charged not to exert any censorship, as quoted earlier, one of the first commissioners recognized the subtle and not so subtle role the Commission plays through the granting of licenses. The F.C.C. like the other agencies has been delegating adjudicatory functions in an attempt to expedite their operations.

The Federal Trade Commission is one of the most obvious examples of where there is an overlapping of jurisdiction. The Antitrust Division of the Department of Justice and the Food and Drug Administration are the two other units of the Federal government whose authority overlaps that of the F.T.C. However, it is considered that the sanctions which the Antitrust Division and to a lesser extent

those of the Food and Drug Administration can invoke are far more powerful than those of the Commission.³³ Conflicts can and do exist with dysfunction as the possible resultant.

As to its internal operations, the F.T.C. was recognized in 1954, in accord with a management survey, along what was termed functional lines.

In addition to the anticipated elimination of delay in the procedures of the Commission, the reorganization had the following objectives: Simplification of the form of organization; grouping of related functions for most effective administration; provision for clearcut centers of responsibility and control; development of the best use of manpower; and strengthening of various segments of the organization in accordance with present and probable needs as dictated by estimated workload.³⁴

The following example is used to demonstrate the processes which are going on in all of the agencies not just the F.T.C. The Commission approved the reorganization plan to be effective in 1961 and "for the purpose of streamlining the work and eliminating unnecessary delays."³⁵ The Commission was changed from a "process" to a functional-type organization. It is of interest to note that what is being called "process" in 1961 was seven years earlier being

³³James M. Landis, op. cit., pp. 48, 51.

³⁴Organization of Federal Executive Departments and Agencies, Committee on Government Operations, U.S. Senate, 1955, pp. 52-53.

³⁵Organization of Federal Executive Departments and Agencies, Committee on Government Operations, U.S. Senate, 1962, p. 50.

referred to as functional. Thus as circumstances, situations, workloads, and personnel change so do the alignment and assignment of functions and activities and in turn the structure.

The F.T.C. like the other large agencies has been delegating and decentralizing their operations to expedite the work flow and speed the rendering of decisions. Also, the F.T.C. is using advisory opinions to businessmen who seek advice on the legality of proposed action so that the Commission can refrain from exerting the menace of the law against the transgressors.³⁶ The F.T.C. regulations provide for the calling of conferences of members of an industry for the purpose of discussing and promulgating codes of fair practice which members of the industry will follow voluntarily.³⁷

The Federal Power Commission:

Facing a workload which, matching the industry growth, has soared to unprecedented heights, the Commission during the 1960 fiscal year took many positive steps to cut down the increasing regulatory lag, a natural outgrowth of the thousands upon thousands of filings now received each year from gas and electric companies.³⁸

³⁶Annual Report of the Federal Trade Commission, 1962, pp. 1-2. See also J. S. Raphael, op. cit., p. 178.

³⁷J. S. Raphael, op. cit., p. 178.

³⁸Annual Report of the Federal Power Commission, 1960, p. 1.

"There are, of course, no easy short cuts in the regulatory field, with its Constitutional requirements of 'due process.'"

"But operating within the structure of the law, the Commission moved decisively during the 1960 fiscal year to expedite its proceedings and shorten hearings in both natural gas and electric power cases."³⁹ The Commission was widely criticized for not taking action earlier, particularly in the natural gas field. Independent consultants submitted a report in 1954 but early action was not forthcoming.⁴⁰

Another way in which the agencies grow is by conducting studies and phrasing suggestions to the Congress. A recent example of this type of operation is the study which the Securities and Exchange Commission did. It is referred to as the most thorough examination of the Securities Markets since the 1930's. The Report provided a foundation for the legislative proposals which were submitted to the Congress by the Commission. These amendments represent the most significant statutory advance in federal securities regulation and investor protection in 25 years.⁴¹

³⁹Ibid., pp. 1-2.

⁴⁰Organization of Federal Executive Departments and Agencies, Committee on Government Operations, U.S. Senate, 1955, p. 52. See also J. M. Landis, op. cit., pp. 54-58.

⁴¹Annual Report of the Securities and Exchange Commission, 1964, p. 1.

To aid in their relationships, a commendable practice of the S.E.C. is in affording opportunities to the industry to comment on proposed regulations.

The Railroad Retirement Board is constantly reviewing and scrutinizing its operations and techniques in an effort to improve its service and make its administration of the acts more efficient and economical. As outlined in Chapter IV,⁴² it is now related to a relatively declining industry but with expanded services.

There are several developments in the two air space regulatory agencies that are of interest. The Civil Aeronautics Board to improve its external relations created an Office of Community and Congressional Relations, which represents the Board in dealing with state and local communities, and civil bodies and the Congress and recommends policies and actions relating thereto under the Executive Director.⁴³ Also, now reporting to the Executive Director are the Office of Administration and Office of Secretary. Similar structural changes were also being made in the large and complex Federal Aviation Agency. Two new deputy administrators were created. One of the new Deputy Administrators is for Administration and the other Deputy Administrator is

⁴²Annual Report of the Railroad Retirement Board, 1965, pp. 10-11.

⁴³Annual Report of the Civil Aeronautics Board, 1961. See also, Organization of Federal Executive Departments and Agencies, Committee on Government Relations, U.S. Senate, 1962, p. 44.

for Plans and Development. These actions reduced by two, the number of key officials reporting directly to the Administrator and improved coordination among related activities. The F.A.A. as the largest of the agencies studied and one of the largest in the Federal government, has, it is of interest to note, less than 10 per cent of its personnel in the Washington office. Recent actions taken were not only to consolidate administrative management responsibilities, but also to decentralize responsibility for control of Agency operations from the former Washington bureaus to the several Regional Assistant Administrators. Decentralization of operational authority to the field neared completion of the subregional stage with the decision to establish area offices at eighteen locations in the forty-eight contiguous states. These eighteen offices constitute the basic echelon of decentralization of operational authority under the evolutionary plan of administrative decentralization begun in 1961.⁴⁴ The structural changes around the executive director and administrator are examples of streamlining the organization by creating new levels within the hierarchy.

The F.A.A. is also administering new programs which are quite separate from purely regulatory activity. The F.A.A. Federal-Aid Airport Program for fiscal 1967 provides

⁴⁴Annual Report of the Federal Aviation Agency, 1965,
p. xiv.

\$59.2 million to improve 295 existing airports and \$13.3 million to construct 46 airports. It is stated that the public acceptance of air transportation and the need for airport development produced an unprecedented number of requests for aid. The F.A.A. has limited the program to urgently needed development where local financing will permit early commencement of work. The Federal funds will match those provided by local project sponsors, generally on a 50-50 basis.

The last three agencies, the National Mediation Board, the Federal Maritime Commission, and the Federal Coal Mine Safety Board of Review, are the smallest of the group. The latter agency has by far the longest title but the smallest staff which has not grown. The F.C.M.S.B.R. plays a most unique adjudicatory role which explains the need for its continued existence. It is well to note, that while the Board has not been allowed to grow, neither has it been eliminated. The National Mediation Board has grown from an agency of six to twenty-one mediators around whom the functions and activities of the agency center. The N.M.B. has not experienced exceptional growth and development. A partial explanation for this limited expansion is that there are three other units of the Federal government, the Federal Mediation and Conciliation Service, the Department of Labor, and the National Labor Relations Board, which are able to

offer the same or similar services. An agency to which a great deal was transferred and the newest in the study, is the Federal Maritime Commission. Structured along similar patterns of the I.C.C. model, the growth and development so far has been typical but not particularly rapid.

Summary

As has been pointed out, the Federal government has had a continual growth in terms of men, money, and functions performed. This has been demonstrated by the structural-functional analysis of these selected regulatory agencies in this study. By combining the processes of structural evolution and functional growth, the mutual interactions can be better understood with the resultant emergence of power flowing toward and being centralized in the Federal hierarchies. Simultaneously, the problems related to centralization vs. decentralization have surfaced and have warranted attention. Questions in regard to efficiency of operation, philosophy of organization, and responsiveness of the organization, are some of those which have arisen. These tendencies and counter-tendencies move together and lend support to the prior contention that the American public has ambivalent feelings concerning bigness and the centralization of power. It also appears that these apparently countering tendencies are inherent in the processes themselves.

In the analysis, it is difficult to separate out the two aspects.

As the United States has emerged from an agricultural, rural society to an industrial, urban society with increasing interdependence between the constituent units; government intervention has been sought by the members of the society. Evidence has been given to show how the agencies evolved out of the American social fabric.

The processes contributing to these movements has meant that a large Federal government has emerged with numerous regulatory units. These organizations of control while abhorred on the one hand have on the other apparently become necessary evils. The fifteen agencies in this study are a resultant of this highly interactive process which has characterized the American society.

Each of the fifteen agencies, as previously indicated, has been assigned regulatory functions and activities. In the majority of cases these functions have been strengthened and additions made to them through time. The increase in number of employees is support for the contention that these regulatory agencies are extending and implementing their activities. Another dimension is the increase in the number of regional or district offices which are being created and added to many of the agencies. As issues have continued to be defined as public rather than private, to

be of national interest crossing state boundaries rather than local, power has been vested at the national level in Washington. This research has been concerned with documenting the development of this power over the past 80 years using the regulatory agencies governing business enterprises and business activities as the vehicle.

CHAPTER VI

SUMMARY AND CONCLUSIONS

Summary

The thesis of this work is that the:

American society is rapidly growing into one great community, in which corporations, the state, and other structures play their significant roles. Change is built into the very nature of this social system, and in fact most innovations originate within it. To maintain order and still change, this society incorporates the persistent past into its moving future.¹

This thesis is a statement which describes the processes being observed and the evidence presented was studied to gain new insights and a greater understanding in regard to these developments. "The results of these developments in the public sector is to create a mixed economy--one in which there is both private enterprise and public action."²

The movements within the United States from rural to urban, from agriculture to industry, also brought a high degree of specialization from technological advances. The

¹W. L. Warner, D. B. Unwalla, and J. H. Trimm, op. cit., p. 2.

²E. S. Redford, op. cit., p. 39.

way of life of the American public began to change with the separation of ownership and the job; the paycheck and having a job was of tantamount importance to the city dweller.³

The loss of job and the related paycheck meant the inability of the individual to purchase goods and services. Only if the individual had savings could he feel secure that he would continue to have food, shelter, and clothing. Thus, while economic fluctuations of the economy had their impact in a predominately rural society, the impact on an urban society is much greater. Power has also been gradually shifting from the rural to the urban centers. Thus the composition of legislative bodies while slow, have also been reflecting this change. Certainly the executive branch has felt the impact of the urban centers for elective and other purposes for some time.

During the nineteenth century it would seem that the major area of concern to the society would have been the establishment of a sound monetary and banking system. However, this was not done until after the first major rapid transportation system, the railroads, had been brought under control. This also reflects the lack of understanding of the role of monetary and fiscal policy in the economy. Instead, the railroads loomed large as the powerful giant on whom many depended. It was felt that the "giant" was not

³J. M. Gaus, op. cit., quoting Arthur Pollard.

behaving in the public interest, thus control mechanisms should be employed. Much of this movement for the Interstate Commerce Commission was rural in composition.

It was not until the turn of the twentieth century that the understanding, need, and level of sophistication reached a point where something was actively done to establish a sound banking system with a stable monetary program. An awareness of the economy as a whole was beginning to take shape.

Big business of the nineteenth century was essentially in transportation--first, shipping by waterway and the railroads. However, by the latter part of the century in the United States the big "trusts" were taking shape in oil, sugar, and steel, to name a few of them. Two major activities of the Theodore Roosevelt administration--"trust busting" and establishing conservation programs--openly emphasized that the Federal government had a role to play in regulating aspects of the economy in the public interest. It is to be recalled that it was during the T. Roosevelt administration that legislation was passed which gave the Interstate Commerce Commission its most powerful implementation up to that time.

The assumption that the Federal government has a responsibility to assist in the maintenance of a buoyant economy is found in the original purpose of the Federal

Reserve System--"to regulate the supply, availability, and cost of money with a view to contributing to the maintenance of a high level of employment, stable prices, and a rising standard of living."⁴ In general, then, employment, prices, interest rates, and living standards were a rightful concern of the Federal government, and specifically on one of its regulatory agencies. The Federal government was now becoming something more than just an umpire in the Sherman Anti-Trust legislation sense. The broad outlines having been set, the various agencies have been created as the needs arose to take care of specific problems.

The above offers the conception of an Emergent American Society. In addition it is stated that the one result of this emergence is the creation of a mixed economy. Of the several purposes of this research, one of the primary interests was to gain support or denial for the emergent theory. A reexamination of the evidence will now be made at the several levels of generalizations for qualification of the theory.

To gain insight and understanding into the functioning of a society, the study of the organizations which comprise that society is necessary. The Federal government being the largest single organization in the American

⁴The Federal Reserve System: Its Purposes and Functions (2nd ed.), Board of Governors of the Federal Reserve System, 1947.

society qualifies it for study. These units of government are studied as examples of formal organizations and the body of theory related to these types of structures was applied. The evolution of an organization results from an interactive process. Other formal structures are a part of this development. The sets of relationships which evolve establishing contact between the units of the Federal government and other organizations is a part of this study. The purpose of this study has been to analyze the Federal agencies created to regulate business firms and their activities.

The present task at this point in this research is the reexamination of the evidence to draw several sets of generalizations. The Federal government of the United States has grown from an organization of less than 3,000 employees between 1789 and 1800 to the present 2,500,000 employees. The number of units has increased from four cabinet posts and three executive departments--the Attorney General held a cabinet position but had no department, the Post Office department was subsidiary to the Treasury Department--to some 70 major units by the 1960's plus many other additional temporary units, international units, and others. The Federal Budget has grown from a few million dollars and a limited taxing ability to a budget of over 100 billion dollars by 1965 and an increased array of taxes. In summary, using standard criteria of men, money, and number of units--

the Federal government has become a very large enterprise with a number of large-scale units.

As this growth and development has taken place, the number of functions and activities which the Federal government performs has increased also. This expanded activity gave rise to the increase in number of units through the years. The independent agency type of organization developed in the latter part of the 19th century became the model for additional units in the 20th century. This organizational type having been used for the first regulatory agency in 1887, was copied and used as the prototype for all the succeeding regulatory activity of business requiring individual units.

However, a generalization that has been made by the I.C.C. is, "despite the passage of many years the relationships of regulatory commissions to the Presidency, the Congress, and the executive departments continue to be a subject of considerable interest and diffusion of opinion." "The so-called independent establishment, to which category this Commission (I.C.C.) belongs, continues to evoke discussion as to its relationships because it does not report to one body or authority on its collective functions." "The combination of quasi-legislative, quasi-judicial, and executive functions in one agency with, at times, the functions

of both investigator and judge creates a fourth arm of Government."⁵

To date, fifteen of these regulatory agencies have been created relating to the business world. The fifteen agencies regulating business enterprises and their activities have been the objects of investigation of this study. Four of the fifteen agencies have received detailed attention. The United States Government was almost 100 years of age before it created the first regulatory agency in 1887. During the past 75 years the fourteen remaining regulatory agencies were created.

Unique sets of circumstances surrounded the creation of each agency. The socio-economic and political forces culminating in the establishment of the agency reflect the needs and demands of the period. In some instances, the functions and activities were already being performed by the Federal government and were transferred to the new independent agency at its creation. In other cases, the work of the new agency was new to the national government.

Once created, the majority of these regulatory agencies have grown but at differential rates. The Federal Coal Mine Safety Board of Review has experienced no growth in

⁵"Interstate Commerce Commission Activities, 1937-1962," Supplement of the Annual Report of the Interstate Commerce Commission, 1962, pp. 19-20.

over a decade of existence. The rate of growth varies considerably. The largest agency, the Federal Aviation Agency, received a major portion of its employees at its inception. The majority of the fifteen agencies are in the 1,000 to 2,500 employee size range. The increase in number of employees means larger budgets also. In many instances even after the number of employees has tended to stabilize, the budgets have tended to continue to increase due to other factors.

Growth in terms of the number of units (agencies) and in the size of the units reflects an increase in the number of functions the Federal government is performing and the implementation of the performance of these functions. The regulatory legislation has moved from the control of industries like railroads and banking to activities like trade practice, advertising, and labor relations.

The agencies have also, in some cases right from their inception, moved to have geographical spread to assist in the implementation of their functions and activities or to alleviate accusations of centralization of power.

The hierarchies which these regulatory organizations have developed extend vertically, elaborate horizontally, and spread geographically. The beginnings of most of the agencies were small and relatively simple. As these organizations have grown, the initial positions have been split, and with specialization and growth a great proliferation of

jobs has taken place. The biological analogy to organizational growth is in the way human cells grow, split, specialize, and extend. The evidence on fourteen of the fifteen agencies lends support to the thesis that once an organization is created, it tends to grow and elaborate so long as its functions and activities remain relevant to the society. The major exception again is the Federal Coal Mine Safety Board of Review whose functions remain limited and the coal mine industry is in a relative state of decline.

In comparing the positions in the administrative-bureaucratic category, the pattern as between the agencies is remarkably similar. The development of this category of positions in the regulatory organizations emphasizes that these agencies evolve similarly. The elaboration and proliferation of administrative-bureaucratic positions is not related to the primary functions and activities of the regulatory organization but rather are in a functional relationship to the size and complexity of the agency. To obtain efficiency of operations from a managerial standpoint, the organization must be structured by defining positions and the relationships which exist between these positions. It must select and develop individuals to occupy these positions, create methods and procedures of operations. Also, it should establish financial control, and audit systems to mention some of the most common and obvious tasks.

The volume of work in many of the regulatory agencies is directly related to the business community and the buoyancy of the economy. Cyclical economic fluctuations influence the work flow more than anything else except legislative alterations in the functions and activities to be performed by the agency. Congressional acts have tended not to reduce the total number of functions and activities of the Federal government. However, there are periodic transfers and changes in functions and activities as between the existing agencies and periodically the creation of new ones. Thus, the regulatory agency as a service organization can exert little control over its volume of work.

With the increase in the number of Federal regulatory agencies, an increase in the number of functions and activities performed is also reflected. Power and influence has flowed toward Washington. More types of business firms and business activities must now be reviewed by this group of regulatory agencies. To the business manager a significant aspect of the contemporary environment is regulation by the Federal government. As decisions and strategies are conceived and developed by a management, the actions must be tested against known governmental opinion or be submitted so that a pronouncement can be made as to its legality.

The work of the regulatory agency with an increasing number of businesses needing the Commission or Board to render opinions on an increasing number of functions and

activities have become overloaded in many instances. Delays and lags from several months to several years, in some cases, have developed causing discontent in the business community with bitter attacks and pressure on the Agency to improve its operations and speed-up the decision rendering process. The evidence indicates that the administrators of the agencies are well aware of these problems and they are trying seriously to remedy the difficult situations.

The concept of decentralization has been selected as a possible solution. Reorganization of the several agencies has been in process to incorporate decentralization in an attempt to expedite the work flow by reducing the lags which have built-up and be more responsive to the needs of business. It appears in these organizations that the dichotomy of centralization vs. decentralization moves simultaneously. The reorganizations which have been taking place appear to leave final power centralized in Washington, while decentralizing or delegating the authority to make decisions at many other levels within the hierarchy. Dissatisfaction with the decision made at lower levels in the regulatory agencies can generally be appealed to Washington.

The Regulatory Agency and Other Formal Organizations

The prior set of general statements were related to the regulatory agencies themselves. The purpose at this point is to test whether the Agency type can be used as a

model or prototype to make generalizations about other formal organizations such as associations, business firms, educational systems, and the church. The comparative analysis between these units of government and other organizations is made to test theories concerning formal organizations in general.

Simply stated: Formal organizations are collectives of individuals drawn together into ordered relationships to accomplish ends--both personal and social in nature. Weber stated that formal organizations seeking efficiency through rationally ordered relationships would inevitably move toward the bureaucratic model--his ideal type of administration.

Organizations typically have their roots or beginnings with a small number of people. This statement appears to be true from an analysis of the research on business firms, associations, the church, and various types of educational organizations as well as the units of government. The investigation of the regulatory agencies supports the thesis that all had small beginnings. In all but one case the agencies have grown. The growth of the hierarchy reflects the advance made in technology and specialization. Size of organization appears to force emphasis upon efficiency of operation. Rational ordering of the structure through the use of objective job descriptions and selection of personnel based upon competency and skill are identified

with efficiency and also are basic to the bureaucratic model. Government organizations have typically been referred to as bureaucracies, particularly, in the United States. However, other research indicates that other types of large-scale organizations also approximate the bureaucratic model.⁶

Patterns of growth and development of formal organizations appear to be more similar than different and appear to have little bearing as to whether they are public or private, voluntary or ordered, secular or sacred. The separations of ownership and management in business has meant that the professionals in the managerial positions are similar to the managers in the top positions of all large rationally structured organizations. Sub-cultural differences surround the activity of the managers in each of the major areas of activity--business, government, education, religion, and voluntary associations. The basic processes uncovered in analyzing the independent regulatory agencies--proliferation of positions, extension of hierarchical levels, and geographical spread--apply to all types of successfully expanding formal organizations.

"The process of decentralization of authority will undoubtedly be a growing trend in the dynamics of bureaucracy

⁶Edward S. Mason, The Corporation in Modern Society (Cambridge, Massachusetts: Harvard University Press, 1959), pp. 10-13; and W. L. Warner, D. B. Unwalla, and J. H. Trimm, op. cit.

in the future." However, "a fundamental inference of this study is that mutual confidence, trust, and orientation must precede, to a maximum extent possible, decentralization of authority."⁷ Just as the regulatory agency is experiencing the problems of centralization vs. decentralization, so also are the other types of large formal organizations. In the business community, such giants as General Motors Corporation and Sears, Roebuck and Company have been the leaders in decentralized operations. Currently activity going on in the Roman Catholic Church as well as the new proposals being studied by voluntary associations to improve the relationships between the hired professional staff and the membership are additional examples. To maintain an efficient and responsive organization is the problem confronting the managers of all large-scale enterprises.

Implications

The American society during, particularly, the past 100 years, has been changing from a rural, agricultural, and locally oriented type to an urban, industrial, and nationally oriented type. The first transcontinental railroad was completed in 1869 representing two significant developments. First, railroads were one of our first really big businesses and second, large transcontinental railroad systems meant

⁷ B. H. Baum, op. cit., p. 161.

rapid transportation of goods and the establishment of national markets.

While business firms still become incorporated in individual states, it early became apparent with the railroads as an example that the only real control over the large transcontinental systems was from Washington, and the Federal government. It is of interest to note that it was only eighteen years after the completion of the first national railway system that the Interstate Commerce Commission to control the railroads was created.

Local and State governments continued to try to control and regulate these emerging business giants. However, as with railroads, it became apparent that action at the national level would also be necessary for those organizations operating interstate. Hence, the fifteen national independent regulatory agencies were gradually created. "Today each of the means of transportation and communication is regulated (or managed--for example, the post offices) from Washington, and the productive and distributive industries are subject to national regulation of various sorts." "Although interest groups have not overlooked the continued importance of the states (for example, as taxing jurisdictions, or in regulation of such diverse matters as banks, motor carriers, and labor), they now center their attentions

on Washington as the major source of policy affecting the economy."⁸

The initial concept of the American economy was one of free enterprise, with a large number of relatively small producers; putting forth goods, primarily, and services; into a market which the price mechanism together with the supply and demand of a product would objectively determine its price and the distribution or allocation of goods would take place on this basis. Much has changed in this early conception. Some producers in a range of industries do supply a substantial portion of the total production. This led to the concepts of imperfect or monopolistic competition.⁹ The regulatory agencies were created to help minimize these imperfections in the market. However, some of the functions and activities performed by the agencies do influence production and prices thereby adding to any existing imperfections. The net result is that prices are administered more or less by the coordinate activities of large-scale organizations. The regulatory agencies of big government together with big business, big unions, big associations, and other large scale organizations join in varying combinations to influence

⁸E. S. Redford, op. cit., pp. 21-22.

⁹Joan Robinson, The Economics of Imperfect Competition (New York: The Macmillan Company, 1933); and E. H. Chamberlin, The Theory of Monopolistic Competition (Cambridge, Massachusetts: Harvard University Press, 1933).

production and prices. These factors coupled with the monetary and fiscal policy of the Federal government emphasize the extent to which the economy is being "managed."

Regulation in the "public interest" is the common basis for the creation of the independent agencies. What is in the public interest is frequently a matter of conjecture. The process of regulatory action implies that conditions are not perfect in the operations of a free market and that compensatory measures must be taken through public authority. Questions arise as to what constitutes the public interest. Is the accounting system of railroads, the location of a branch bank, or the use of certain words in an advertisement all of public concern? Cases undoubtedly can be made for each of these examples. However, the question can be asked: Is this the only way the members of the agency view themselves and their work?

To answer the question, a reexamination of the nature of these government agencies is necessary. Frequently referred to as the fourth arm of the government, the independent agency being directly responsible to neither the President or the Congress has generated a separate status for itself. Theory supports the observation that once these organizations are established they will tend to perform in such a fashion as to persist. Given an independent status and the usual motivation to survive and grow, it is said

that many of these agencies are primarily responsible to themselves.

Earlier, it was established that the rational processes being applied to these agencies meant that they now approximated the bureaucratic model. The body of research and literature bearing upon the effects of the bureaucratic structure upon human behavior is relevant. The literature on bureaucratic administration tends to emphasize the pathological aspects and the creation of the pathological bureaucrat. Thompson offers the following explanation and definition of this type of pathology:

Authoritarian management resulting from the owner-tool doctrine plus the desk-class bureaucratic orientation often resulted in the past, and still does occasionally, in a certain pathological quality in administration. This pathology was (and is) characterized by excessive official aloofness and disinterest, unwillingness to change, reification of administrative procedures to the point of sacrificing governmental goals, excessive delay and buck-passing, petty officiousness and self-importance. It is my belief that this pathology results from the personal insecurity of officials in the authoritarian, monocratic organization.¹⁰

The extent to which this exists is not certain. However, as long as some aspects of the theory exists, decisions being made by the administrators of these independent agencies may

¹⁰Victor A. Thompson, "Bureaucracy in a Democratic Society," Public Administration, ed. by Roscoe E. Martin (Syracuse, New York: Syracuse University Press, 1965), p. 224.

not always be in the public interest. Given the relatively independent status of these regulatory agencies, what can be done to make the organizations responsible to the society and operate in terms of the public interest?

The concept of countervailing power has been offered as stated in Chapter I. This thesis has been challenged as not being a sufficient theory to cover this complex area. However, in a democratic society it seems that the influence of the interest in the private sector will be continuously exerted on the public-policy makers, the balances between public and private action will depend on what the competing interests in society feel they need from government and are able to get through the means now existing or through other means yet to be devised.¹¹ Additional evidence beyond the scope of this research is needed.

Conclusions and Future Research

The independent regulatory agency was created to exercise standardized control over the big business firms which were extending themselves nationally and internationally. Local and state government had difficulty and were ineffective in trying to exert control over these transcontinental firms. Fear that these large businesses were not

¹¹E. S. Redford, op. cit., p. 148.

operating in the public interest and that the mechanisms of the marketplace were not sufficient to force them to behave properly; Federal regulatory agencies were sought by the public and created by Congressional acts.

The analysis of these independent regulatory agencies focused on the structural-functional evolution of these organizations. The evidence indicates that they proceed similar to other types of formal organizations. This apparent similarity in development yields meanings which are significant to the understanding of the independent agency form as well as to all other types of nationally structured organizations.

As frequently happens, however, there are intended and unintended results related to the creation of any structure. The intended purposes of these independent agencies is (1) to divide and decentralize federal power and (2) to regulate business firms and their activities on behalf of the public. However, the potential for unintended activities exists. The research suggests that these unintended activities resulting from the autonomy given, overlapping authorities, bureaucratic administration, and the combination of prosecuting and adjudicatory functions limit the usefulness of the independent agency. Future research must explore the more complex set of relationships between structure-function and individual personality.

A related but separate problem needing additional investigation centers around the movements within large-scale organizations towards decentralization. Two basic questions needing attention are: (1) Are these movements somehow inherent in all large-structures and (2) Is decentralization a matter of decree by the administration or is it a matter of philosophy and personality requiring training and development for those operating within decentralized structures for the concept to become effective?

Last, there is the problem of power of each of the various types of large-scale organizations which have been developing simultaneously as a part of the emergent processes at work in the whole society. The questions are in regard to the power relationships existing between the structures and to whom are each of the structures responsible? These are questions which deserve further attention and study.

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APPENDIX A

APPENDIX B

FUNCTIONS OF THE FEDERAL GOVERNMENT

Definitions

A. Protection of Rights

1. Civil rights--the performance of activities to promote, protect and secure the rights of the individual.
2. Granting patents and copyrights--administration of programs granting protection to individuals or other legal entities in regard to creations developed or purchased.
3. Indian services and protection--administration of programs dealing with the promotion and protection of the welfare of the American Indian in regard to his lands, vocational and education opportunities.
4. Protection of working condition rights--administration of programs to enforce provisions of laws dealing with industrial safety, hours of labor and other programs to protect the welfare of labor.
5. Protection of workers' rights--performance of functions designed to protect, promote and secure the rights of laborers (strikes, minimum wage, right to work).

B. Law Enforcement

6. Tariff enforcement--control and enforcement of duties on imported goods and prevention of illegally imported goods.
7. Vice control--enforcing legislation in regard to moral behavior as defined by law (gambling, prostitution, Mann Act).
8. Liquor control--enforcing Federal laws concerning the manufacture and distribution of alcoholic beverages primarily related to the enforcement of Federal taxes on alcoholic beverages.
9. Firearms control--enforcing the provisions of the firearms tax laws and regulation of producers operating under the law.
10. Narcotics control--enforcing Federal laws dealing with the creation, importation, distribution and illegal use of narcotic drugs.

11. Maritime control--enforcing regulations involving vessels in regard to harbors, navigation rules, and running rules.
12. Immigration control--jurisdiction over and processing of immigrants to this country and prevention of illegal entry.
13. Fish and wildlife protection--enforcing game laws designed to protect wildlife.
14. Internal security--vigilance and enforcement of Federal laws involving sabotage, treason, protection of the President and espionage.
15. Federal investigation--Federal agency investigation of interstate crimes, suspected non-conformance with Federal law, and assisting state and local law enforcement agencies.
16. Enforcement of pure food and drug laws--insuring conformance to the provisions of the Pure Food & Drug Act by manufacturers of such goods.
17. Operation of penal institutions--administration, maintenance and jurisdiction over Federal penal institutions.
18. Probation and parole--maintenance of a system of probation, parole, and pardon for Federal prisoners.
19. Labor dispute injunctions--enforcing provisions of the Taft Hartley Act and other acts in regard to labor disputes and disturbances.
20. Territorial law enforcement--administration and control of American territories, colonies and trust territories.
21. Federal law enforcement--execution of functions by Federal law enforcement agencies to prevent and prosecute Federal crime.

C. Space Research and Exploration

22. Space research programs--operation of research and vehicle launch facilities for the peaceful exploration and exploitation of space.

D. Recreation

23. National parks--maintenance, operation, promotion and perpetuation of all Federally controlled park areas.
24. National monuments--maintenance, operation, and promotion and perpetuation of all Federal battle, political and other monuments.
25. Other recreational areas--maintenance, operation, promotion and perpetuation of Federal water, game, forest, and other recreational areas and preserves including historical sites and buildings.

E. Culture and Arts

26. Libraries--operation, maintenance and perpetuation of the library of Congress and other Federally controlled libraries.
27. Museum and art galleries--operation, maintenance and perpetuation of the National Museum, Smithsonian Institute, National Art Gallery and other Federal museums and art galleries.
28. Zoological parks--operation, maintenance and perpetuation of the botanical zoo.
29. Botanical gardens--operation, maintenance and perpetuation of the National Botanical garden.
30. Culture development and advice--development of the National Capital and advice on proper development of Federal architecture.

F. National Defense

31. Air force protection--operation and maintenance of all United States military units and establishments designated as Air Force and maintenance of forces thereof.
32. Naval protection--operation and maintenance of all United States military equipment and installations designated as Navy and maintenance of forces thereof.
33. Army protection--operation and maintenance of all United States military equipment and installations designated as Army and maintenance of forces thereof.
34. War material production and economic mobilization--promotion of crucial materials production and mobilization of productive factors during times of emergency.
35. Civilian defense and mobilization--promotion of civilian defense programs and jurisdiction over civilian protection and evacuation during times of emergency.
36. Post emergency mobilization--promotion of economic stability and civilian production after National emergencies.
37. Armed force member selection--promotion, conscription and selection of eligible civilians for armed force membership.
38. Defense coordination--activities performed by certain agencies to coordinate the defense activities of the various armed forces.

G. Health and Medical Protection Services

39. Inspection of food and drug producers--maintenance of field offices to perform inspections of food and drug producers to insure compliance with Pure Food and Drug Act and other laws concerned with the wholesomeness of ingested products.
40. Control and prevention of disease--maintenance of regional facilities to prevent, control and combat public disease.
41. Child and maternal health services--medical functions performed in regard to the welfare of children and mothers.
42. Handicapped services--services performed for the aid and welfare of handicapped persons.
43. Operation of hospitals--Federal aid and maintenance of various hospitals (Freedman's Hospital in Washington, D.C., etc.).
44. Veterans health and medical services--governmental services given to United States veterans when in need of medical services.

H. Housing

45. Operation and promotion of low rent housing--construction, maintenance, operation, aid and promotion of low rent housing developments.
46. Slum clearance and urban renewal aid--promotion of and aid of the clearance of slums and redevelopment of such areas.
47. War housing--creation and maintenance of necessary housing during periods of emergency.
48. Loans and guarantee of loans and mortgages--direct Federal corporation loans for home ownership and guarantee and insurance of other private loans for home ownership.
49. Housing advisory services--services performed to secure private loans for prospective home owners.

I. Educational

50. Administration of school lunch program--coordination and distribution of food stuffs and administration of requirements for schools to receive such aid.
51. Aid to public education--aid for school construction and facilities and determination of such aid.
52. Aid to vocational education--extension of awards and grants to encourage higher educational and vocational education in certain areas.

- 53. College land grant activities--extension of land grants for college facilities and aid to existing facilities.
- 54. Aid and promotion of extension programs--aid and encouragement of continuing education in certain areas and the distribution of educational materials.
- 55. Aid and promotion of adult education--aid and promotion for adult education within public school systems.
- 56. Educational research--conduct research programs to determine efficient educational methods, national educational standards and to evaluate American educational procedures.

J. Public Assistance and Social Services

- 57. Administration of old age insurance programs--performing functions for the formulation of requirements, payments and detail of governmental social security insurance programs.
- 58. Administration of unemployment compensation programs--coordinating, determining compensation policy and distributing funds for programs to assist workers out of employment.
- 59. Administration of workman's compensation programs--determining claims, amounts to be paid and other policies in the administration of programs dealing with workman's accident claims for workers under the law.
- 60. Placement and employment services--maintenance and operation of facilities to assist workers in obtaining employment through the various states.
- 61. Insurance of bank deposits--performance of functions to determine what banks will be insured, to govern proper bank operation and to determine and authorize payment of claims.
- 62. Services to veterans--maintenance of facilities to assist veterans who need assistance of various kinds.
- 63. Aid to dependent children--determination of policy and approval of aid plans through the various states for assistance to children economically distressed.
- 64. Aid to special groups--determination of policy and aid programs through the various states for persons suffering from disabling handicaps such as blindness and deafness.
- 65. Legal service--maintenance of a legal defender system for economically unfortunate persons in need of legal assistance.

- 66. Vocational rehabilitation--maintenance of programs to retain persons engaged in declining trades.
- 67. Disaster relief and aid--Federal assistance in terms of reconstruction help, rescue operations and food and medical services for victims of natural disaster, fire and famine.

K. Public and Industrial Safety

- 68. Maritime safety protection--operations by federal agencies in the interests of safety and protection of life and property at sea.
- 69. Transportation navigational aids--operation and maintenance of devices and aids and regulation of private aids to insure the public safety with public transportation.
- 70. Promotion of safety for industrial workers--formulation and promotion of safety codes for the protection of workers and inspection of industrial conditions to insure conformance with safety principles wherever the law permits.
- 71. Promotion of public safety--formulation and promotion of safety standards for public practice in terms of highway and household safety.

L. Assistance and Counsel to Business

- 72. Government publications--printing and distribution of the results of Federal research, extension materials and other helpful information for the benefit of the public and for special groups.
- 73. Consultation and research services--assistance to the small business man in the form of technical business counsel and assistance to all businessmen with the availability of government research facilities for technical studies of every nature concerning business problems.
- 74. Loans and aid to business--direct subsidies to vital industries, transportation systems and other vital productive enterprises threatened with failure without such aid; loans to small businessmen for capital improvement and other purposes.
- 75. War risk insurance--providing insurance on private enterprise property during periods of national emergency when such property is used for the curtailment of such emergency.

M. Regulation of Business Activities

76. Regulation of securities and exchanges--performance of functions and administration of requirements dealing with the operation of security exchanges and the issuance of securities which must conform to law.
77. Regulation of competitive practices--administering requirements to prevent unethical business practices to preserve free enterprise.
78. Regulation of banks, banking activities and credit institutions--administration of requirements in the banks and credit areas designed to keep interest rates at certain levels, to prevent unethical banking practices and to prevent banking practices which could cause failure.
79. Regulation of insurance companies--performance of functions designed to protect the public in terms of coverage, rates and insurance practices. Cooperative with states which determine most insurance company regulations.
80. Regulation of transportation systems--performance of functions to regulate public carriers in terms of fares and rates charged, methods of operation, types of service and points served.
81. Regulation of public utilities--administration of functions to regulate utilities in terms of rates charged, of service and methods of operation.
82. Regulation of communication systems--performance of functions for the regulation of communications systems in assigning frequency and operating space, establishing operating standards and in requiring minimum standards of public service. In the case of telephone communications, prescribing rates and types of service.
83. Regulation of mineral and natural resource industries--performance of regulatory functions to prevent wasteful practices and to insure proper use and development of the nations natural resources.
84. Labor relations regulations--administration of regulatory requirements under various labor-management acts requiring disclosure of information concerning labor, compulsory arbitration during labor disputes and other requirements to prevent unfair and harmful practices in the labor area.

N. Conservation and Development of Resources

85. Forest fire protection, reforestation and forest conservation--performance of functions to protect, preserve and increase the nation's forest resources.

- 86. Mineral and natural resource conservation--promotion of programs to conserve natural resources.
- 87. Agricultural research--establishment, support and maintenance of research facilities and programs to examine all areas of agriculture.
- 88. Agriculture development loans and insurance--administration of programs to assist farmers in proper crop development and protection.
- 89. Agricultural market and information services--publishing information of help to farmers in marketing their products at best prices.
- 90. Agricultural products price maintenance and stabilization--operation of programs to stabilize farm good prices through subsidy programs, market purchases and stock piling programs.
- 91. Land conservation--administration of federal land preserves and promotion of farm programs designed to conserve and increase the fertility and utility of land and soil.
- 92. Water conservation and utilization--operation of programs to prevent stream pollution, to conserve water resources, to prevent floods through dam projects and to utilize water resources in the best possible means.
- 93. Fish and wildlife conservation--operation of wildlife preserves, fish hatcheries, promotion of wildlife conservation and utilization and protection of wildlife stocks where necessary.

O. Foreign Relations

- 94. Technical and economic assistance--administration of programs to properly distribute funds to foreign countries to promote the well being economically of that country's inhabitants.
- 95. Military aid--administration of programs extending military aid, materials and manpower to assist in the defense of a foreign land and for mutual defense purposes.
- 96. Negotiation of agreements--performing functions in constructing and negotiating military, trade, and other agreements as necessary.
- 97. Representation--performing functions in regard to representing this country individually to nations abroad.
- 98. Tariff, import and export policy--construction of policy and interpretation of tariff and trade agreements to form tariff rates and regulations.
- 99. Colonial policy and administration--formulation of policy towards colonies or trust territories and execution of functions to preserve lawful government in those colonies.

P. Miscellaneous Public Services

- 100. Time observation--operation and maintenance of facilities to accurately determine, record and report the time.
- 101. Weather information--operation and maintenance of facilities to observe, determine and report the weather.
- 102. Coinage and printing of money--operation and maintenance of facilities to print and coin the nation's money, to distribute said money and to destroy old money it replaces.
- 103. Establishment and administration of standards--operation and maintenance of standards for weight, measure and other standards and to make available facilities to use such standards for general purposes and to insure conformity with such standards.
- 104. Promotion and aid of public highways--promotion and aid for public highways.
- 105. Census service--performing services surrounding a periodic count of the nation's population.
- 106. Conducting continuous research programs--research programs in the national interest such as the coast and geodetic studies, topographical studies and hydrographic research.
- 107. Initiating, supporting and reporting the results of research projects--aid to, coordination of and determination of research projects in the national interest.

Q. Public Service Enterprises

- 108. Post office--operation, maintenance and promotion of facilities to transport and deliver the nation's post.
- 109. Public utilities and rural electrification--operation, maintenance and promotion of public utility enterprises and administration of loan and aid funds to encourage rural electrification.
- 110. Commerce enterprises--operation and maintenance of transportation systems and retail establishments at the Panama Canal Zone and in Alaska.
- 111. Canal, waterway and lock operation--operation and maintenance of the nation's commercial use waterway transportation system.
- 112. Multiple purpose enterprises--operation and maintenance of projects which are operated commercially for various purposes (TVA project with fertilizer, chemical and other works).

R. Intergovernmental Services

- 113. Transportation--operation and maintenance of the Federal government motor pool.
- 114. Accounting and taxation--maintenance of records to record the fiscal activities of various agencies of the government and maintenance of any agency to collect taxes in support of Federal governmental activities.
- 115. Legal and advisory services--exchanging specialized information and services among agencies for the assistance of each.
- 116. Building maintenance--maintenance and protection of Federal buildings.
- 117. Communication--operation and maintenance of systems to provide for communication among governmental functions.
- 118. Personnel supply--operation and maintenance of the Civil Service System to supply the Federal Government with personnel.