

THE RULE OF LAW IN THE URBAN COMMUNITY: A SYMPOSIUM

THE EXTENSION OF POLITICAL AND LEGAL ORDER TO THE METROPOLITAN AREA COMMUNITY

JOSEPH S. CLARK †

The idea of a metropolitan area legal and political order surely has its roots deep in history. The Greek city states encompassed far more than the core city and dealt in terms of both law and politics with both the city and the whole surrounding area of the state as a unit. There were no complications such as jurisdiction-jealous first- and second-class townships, boroughs, unincorporated areas, school districts, the tax level, and the like to make life miserable for Attic metropolitan area planners. The Roman Republic grew from a small city to an almost universal empire without, so far as we know, running into difficulties of either a legal or political nature when it built its aqueducts from the Apennines to the center city, or its system of highways which resulted in all roads leading to Rome. No embattled citizens' committees contended for or against an imperial Blue Route which would bypass Sienna on its way to Rome from Florence. The Italian city states usually controlled a substantial area outside the city walls. It would have been an intrepid peasant leader who told Cosimo de Medici that he could not do exactly as he saw fit with all the land around Florence. So long as the city was the center of political loyalty and the source of law, there was no problem of community. The elite of the city did as they pleased with the surrounding countryside; they often lived in it themselves in times of peace. The urge for country houses antedates Jean Jacques Rousseau by many centuries.

It was not until the growth of national states in the sixteenth century that both loyalty and law outside the city took on more than a merely urban aspect. When a suburban citizen acquired the feeling that he was as good as the next fellow living in the city a few miles away, and when protection of his rights came from a national government which also controlled the core city, the seeds of breakdown of metropolitan area community were sown.

† United States Senator from Pennsylvania.

But it was mass ownership of the automobile, four hundred years later, that reaped the harvest of separatism. When my father graduated from the University of Pennsylvania Law School in 1885, he used to ride his horse to town from School Lane and Wissahickon Avenue in Germantown to work at his office at 321 Chestnut Street. Thanks to the Consolidation Act of 1854, his trip was entirely within the city limits. But his brother Percy Clark of the Law Class of '99 used to do the same thing at the turn of the century from his house in Bala-Cynwyd a few hundred yards west of City Line in Montgomery County. The accident of residence was unimportant to either of them.

But ownership of the horseless carriage became widespread in the twenties and almost universal after World War II. It spewed a host of horrible social, economic, sanitary, and political problems out of the same exhaust pipes that first introduced massive injections of carbon monoxide into the urban atmosphere. People began to worry about the location of expressways, the need for public housing, where minority groups should live, suburban sprawl, where water was coming from to serve the manifold needs of hundreds of thousands of new residents, or whether it was necessary for sanitary purposes to build a sewer system. The mass transit problem became critical. So did the need for more open space. The railroads began to go broke. The wage tax as a method of financing new needs raised its ugly head. In short, the question of legal and political community suddenly became pertinent to civilized metropolitan area living.

But there was no adequate political or legal order to deal with these problems on a comprehensive geographical basis. There was, to be sure, a body of municipal law developed over several centuries in this country from the basic English common law we inherited. It consisted largely of statutes founded on frameworks of county and municipal government prescribed in colony and state constitutions. But there was no thought of a political or legal metropolitan area community. It simply was not needed before mass ownership of the automobile.

In the pre-automobile world, a host of vested political interests had arisen—townships, boroughs, third-class cities, counties, school districts—each carving out of the whole certain governmental functions, each the creature of the state. But none of these created road blocks to good government. No more far-reaching legal or political authority was required to do whatever needed to be done to preserve law and order and perform relatively simple governmental functions of a purely local nature. There was no real conflict between country, suburb, and city which needed to be reconciled by higher authority. To be sure,

the legislature was dominated by rural interests. But whenever anything involving city and suburb did arise it would eventually deal with the problems without the need to create a permanent administrative structure.

All of this was changed by mass ownership of the automobile. Families of modest means began to live outside the core city and work within it. Their housekeeping needs were filled by thousands of others who both lived and worked in the new communities. Thousands of square miles of hitherto quiet countryside turned into a jungle of new housing and new highways and streets, destroying farm land and forest, overlapping political boundaries until none could tell, except for small signs on the roads, where one city or borough or township began and another ended. Soon there was the unrelieved monotony of urban growth stretching for mile after mile in all directions from the core city. In the process, the rural gaps between established towns in the area were absorbed. And the movement was industrial and commercial as well as residential. The one-story aluminum factory and the supermarket were as much a sign of metropolitan growth as the split-level ranch type "home."

A new kind of physical community arose—the metropolitan area. It consisted of the core city and its suburban satellites, a social and economic but not a political unit. And its needs stretched beyond its boundaries to the geographical region, frequently an entire watershed, in which it was located. Sometimes, as in the case of the New York metropolitan area, it spilled over into a second watershed. But no sense of community accompanied the physical growth. The part outside the old city limits was, in a sense, a community *malgré soi*. It didn't want to acknowledge a community interest with the core city from which so many had fled. And, by gosh, those city slickers and their planners weren't going to create a legal or political community where none had existed before. The suburbanites and exurbanites had the law and the local politicians on their side. So far they have had pretty much their own way. As a result, we are in many areas on the verge of legal and political chaos.

So the metropolitan area properly takes its place in this symposium as one of the three levels of human community which exists, which needs a legal and political order, but within which powerful forces with much popular support are strongly opposed to the creation of what most serious thinkers believe necessary for the well-being of the area, the international economic region, and the world. We lawyers are taught to believe that civilization without law is impossible—certainly in the long run. And law could not get along without strong

political institutions, even when it was developing in Rome and in medieval England. So perhaps the metropolitan area will have to get law and political institutions or wither. Actually the extension of community is more apparent in the areas with which Mr. Cordier¹ and Ambassador Herter² concern themselves. In the world community and the European regional economic community, the necessary political institutions may be weak but they are identifiable. In the metropolitan community in North America they are, with few exceptions, nonexistent on anything other than narrow, limited, functional bases.

But do we really need a political and legal order for metropolitan areas? Or can we continue to muddle along dealing with each area-wide problem on an *ad hoc* basis as it arises and requires action? Setting aside political reality for a moment, the planners were long of the view that metropolitan government was essential to orderly urban development. It is easy to see why.

To be sure, most of the simple conventional functions of government can continue to be performed piecemeal within the area by existing political units. It would be neater and possibly more efficient to have a metropolitan area police force. But there is something to be said in terms of civil liberties for keeping the cops decentralized; and with modern methods of communications the present system works reasonably well. There wouldn't be much sense in having a metropolitan area fire department if local units will combine to support a paid fulltime fire company; and local streets and welfare institutions can be built and administered adequately on a local basis; so can local city parks and playgrounds. Education does not require metropolitan area-wide organization, particularly with the state directing that school districts be large enough to enable them to pay adequate salaries and provide a broad curriculum and providing state aid to local districts in some rough inverse proportion to their tax base.

But how about the more sophisticated functions which overlap municipal governmental borders? Shelter for everyone, rich and poor, transportation, water, recreation, air pollution control, sewage, trash, and garbage disposal are a few examples. And how about planning for the future? Isn't it necessary? And can it be done with any assurance that the plans can become reality without some area control over land use and finance? And what about metropolitan areas like New York, Philadelphia, and Washington, which slop over state lines?

A monumental study of the New York Metropolitan Area and its future, financed with foundation funds, has recently been completed

¹ Page 892 *infra*.

² Page 884 *infra*.

under the direction of Professor Raymond Vernon. It holds forth little hope of governmental action significantly affecting the orderly growth of this our largest metropolitan area in any significant way. The studies of the Philadelphia metropolitan area sponsored by Penjerdel are not yet complete. But those of us who try to stay in touch with their progress hear little talk of drastic governmental solutions to area-wide problems except on an *ad hoc* basis. It looks as though things may have to get much worse before efforts to solve the problems can succeed. Certainly no consensus seems to be developing as to what should be done. That same political lag which haunts us on so many fronts—the problem of how the social sciences can come forward with feasible political solutions to meet the drastic changes in living conditions which the rapid growth of invention, research, and development have brought us in the natural and physical sciences—is preventing progress at the metropolitan area level.

And consider the problems megalopolis creates for the ordinary citizen. Comes now Richard Roe, a successful attorney, forty years of age, who several years ago moved with his wife and two school age children from a small house in the city to a pleasant modern home in a new suburban subdivision which cost him thirty thousand dollars. Richard is unhappy. His reasons for moving were, first, that he wanted to get his children away from the city streets and into a good school. Second, the neighborhood in which the Roe family had formerly lived was beginning to run down. Professional and business people who were “getting ahead” were moving out. Minority groups were moving in, old houses were being cut up into apartments, the local schools had a high percentage of Negro pupils. It was hard to hold competent teachers. Finally, the house in the new subdivision was attractively planned with a lawn and a garden and a two-car garage, accessible to and yet removed from the highway system leading to the central city. It was occupied by families who provided a pleasant social life and “appropriate” children for the young Roes to grow up with. At first it was fine.

One February morning, however, Richard awoke to find a blizzard had deposited two feet of snow on the subdivision. The township's snowplow didn't show up. Richard couldn't get his car out to the expressway, built largely with federal funds, which had been cleared by the State Highway Patrol. He slogged his way in his galoshes through the snow, carrying his briefcase in one hand and an overnight bag in the other, to a bus stop on the feeder highway built and maintained by the county with some state aid. Before he left home word had come over the radio that school would be closed because the

school busses, supplied by the consolidated school district administered by an elected school board, couldn't get out on the streets in the parts of the three townships over which the school district spilled. When he got to the bus stop, Richard found a large group of angry fellow commuters cursing the fact that the private bus company, which many thought was about to go bankrupt, had not had a bus down the line for the last half hour. They complained that the suburban branch of the railroad no longer ran an adequate commuter service, and all a fellow would be able to do in a few years would be to creep, bumper to bumper, to town over what they called the "Surekill Expressway" because of the high accident rate.

Richard noticed that a good many of the men and women waiting for the bus were neighbors who worked in the oil refinery which was located down the road two miles in another township and a different school district. He remembered that his school taxes had gone up twenty percent last year, but those of his partner, Peter Poe, who lived in the school district in which the oil refinery was located, hadn't gone up at all. Peter had been a bit smug about the fact that *he* had moved into a school district which had a good deal of industry within its borders and hence did not have to rely on a school tax levied entirely on residential property. He remembered, also, that the prevailing wind blew up the road from the oil refinery across his subdivision, depositing smog and bringing smell. He had investigated what air pollution control measures could be taken against the refinery and found that there were none, other than a common-law action for maintaining a nuisance which, as a lawyer, he felt would be unsuccessful because the refinery had been operating long before his subdivision was built.

While he waited in the cold for the bus, he noticed first smoke and then flames from a building located up the road in his township. One of the men waiting near him cursed again and ran off up the road towards the station of the volunteer fire company of which he was a member. Richard was standing uncomfortably in his late bus, trying to keep his balance and protect the other passengers from tripping over his suitcase, and well on his way to town long before the civic minded volunteer firemen had assembled a crew to drive their engine through the heavy snow, only to find the building destroyed before they got there. Traffic congestion on the expressway slowed the pace of Richard's bus to not much more than a walk. It was an hour before, in some disgust, he walked two blocks from the bus stop and rode sixteen floors up in the elevator to his comfortable office with a view towards the suburbs from which he had just come. Inside

the city limits his view was over block after block of slum dwelling, whose monotony was relieved by an occasional high-rise apartment—public housing built with federal funds in an urban redevelopment area.

On his desk was a city wage tax form with a note from the office bookkeeper giving him the total of his withdrawals from the law firm the previous year so he could compute his self-assessing tax. The telephone rang. It was his wife reminding him to make a substantial deposit in their joint bank account so she could pay the county personal property tax, the township real estate tax, the school district school tax. She also inquired whether she should make a contribution to the volunteer fire company. The morning mail had been delivered through the snow, and she told him it contained his federal income tax form and a notice that the township authorities were placing on the ballot at the spring primary a proposal to borrow five million dollars to build a sewer system and another ten million dollars for a sewage disposal plant to meet the requirements of the State Sanitary Water Board which had found that overflow from the cesspools which served the subdivision was polluting the water in the river from which the local private water company derived its water supply for the local residents and the oil refinery down the road.

He reached morosely for a cigarette, remembering as he did so that he had paid a state and federal sales tax on the package he drew from his pocket. He remembered, with mounting fury, that, because of state expenditures, the bottle of whiskey he had bought at the State Store the night before had cost him fifty cents more than it would have across the river in a neighboring state where the school system and state highways were notoriously bad but, by gosh he thought, they don't tax a fellow to death and industry is moving *in* not out. Then he remembered that John Doe, another of his partners, was about to move *out* of his suburb in the neighboring state because the local police were paid so little that corruption was rife, trash collection was breaking down, there was no incinerator, and nothing was being done to cope with rising juvenile delinquency. Moreover, this state across the river had no planning commission; no open space was being reserved for family recreation; zoning was so primitive and corrupt that many owners of fine houses were being surrounded by suburban sprawl, commercial skid row, and a chemical factory, cement plant, and tannery. Well, he thought, I suppose we could always move further out in the country. But then, he reflected, we would no longer be able to come in town at night for dinner and the theatre and my family wouldn't have the cultural exposure to the art museum, the orchestra, the free library, and the contacts with educational and civic organizations they now en-

joy. And, moreover, getting back and forth to the office would drive me nuts.

That afternoon he set off with his bag and briefcase in a taxi to the fine new airport built by the city with the aid of a state and federal subsidy (runways being extended to serve the new super-jets) and flew across the country to Washington in three hours for a conference with clients over a government contract which, if successful, would bring a new plant hiring fifteen hundred men into the township in which, by coincidence, he lived. He ruminated, as the plane flew over the mountains, what additional complications a successful negotiation would bring to his private life. Perhaps, he thought, I ought to try to "do something" about the complications of living in a metropolitan area in the modern world. Surely the human brain can evolve a workable plan to bring some order out of this chaos. Surely we lawyers can lead the way towards creating a political and legal order for this, our community. But what, he thought in despair, can we do? It is all so complicated I don't know where to start. Cheer up, Richard Roe. Most of these problems which plague you can and will be worked out. To be sure, it is not easy to answer all your questions or even to suggest what you should do about it. And before an effort is made to answer them, even on a purely empirical basis, we must attempt to appraise the possibilities of solving the political problems inherent in creating a community out of the metropolitan area.

What are the political prospects of doing something to make Richard Roe's life less frustrating? The simplest and most logical solution would be for the core city to annex the surrounding metropolitan area or to consolidate with it.

Atlanta, thanks to the political genius of Mayor William Hartsfield, finally succeeded, after several failures, in annexing much of Fulton County and arriving at a working agreement with county officials for consolidated services. It thus solved its most pressing area problems although parts of DeKalb County are within metropolitan Atlanta and have not joined in the program. Oklahoma City has recently annexed its suburbs. Nashville and Davidson County, Tennessee have consolidated into one local government. But these are exceptions to a general rule that annexation or merger are not politically feasible methods of extending community. Surely no sane politician in the greater metropolitan New York, Philadelphia, or Washington areas would suggest such a solution as being feasible in the foreseeable future.

Well, then, how about a sort of federated metropolitan area government with limited purposes? Toronto, Canada got away with

it by threatening to cut off its inland suburban communities from the water they badly needed from Lake Ontario. The plan is cumbersome but it seems to be working fairly well. Miami got its "metro" government by referendum after a hot political fight, and at the moment seems likely to keep it despite the strong opposition of vested political interests whose power was crippled by the plan. But all of "metro" is in Dade County and more than half the inhabitants have lived in the area for less than five years. This made matters much easier. Seattle is the only other major American city which has made progress federating with its metropolitan area local governments. And the Seattle plan is not yet effective. An excellent plan for Allegheny County, which presently has 129 municipalities, 110 school districts, 71 sanitary authorities, and 18 public water authorities, was soundly defeated at the polls some years ago.

There are three principal reasons for the failure of effective metropolitan area government to emerge. First, almost all local politicians are against a consolidation or annexation plan and sniff suspiciously at a federation plan because their power and perquisites would be adversely affected. Local political party organizations tend to control the thinking of state legislators, thus making state legislative action to override local political opposition unlikely. The structures of state and local political parties do not lend themselves readily to making metropolitan area government a partisan political issue. Second, a citizen revolt against vested political opposition is hard to arouse and organize in a metropolitan area and even harder to finance. Third, suburban citizens are suspicious of core city domination of any metropolitan area government—note the cries of resentment in the Philadelphia area at the "Green grab" and the false fears of "annexation" raised in Montgomery, Delaware, and Bucks counties in the 1962 election.

The political facts of metropolitan area life appear, for the foreseeable future, to foreclose any annexation, consolidation, or even federation of local governments in most large metropolitan areas. And as the areas surrounding, but not politically part of, the center area increase in size and wealth, the prospects of approval of a general across-the-board political combination with the core city, from which much of the leadership and wealth has already fled, become dimmer.

Are there, then, any politically feasible alternatives which might get the job done? The most promising line of progress would seem to be on an *ad hoc* functional basis.

The ocean ports along the Delaware River have solved not only their waterborne traffic problem, but also part of their interstate

bridge problem through the creation by the states of New Jersey and Pennsylvania of the Delaware River Port Authority, which is presently branching out into interstate mass transit. It would be nice, but it is not necessary, to have Wilmington, Delaware in on the act. New York and New Jersey did the same thing earlier with the New York Port Authority. By federal interstate compact,³ approved by Congress and the President in 1961, the Delaware River Basin Commission was created by the states of New Jersey, New York, Pennsylvania, Delaware, and the federal government, with broad governmental powers to deal with the all-purpose use of all of the waters of the Delaware and its tributaries. This governmental agency is regional, rather than merely metropolitan, in its scope, for its actions will affect the use—economic, residential, and recreational—of water in the most populous area in the United States, if not the world, including oyster beds in Delaware, trout streams in the Poconos, and the water supply of cities as far removed from each other as New York, Trenton, Bethlehem, Allentown, Reading, Philadelphia, Camden, and Wilmington.

Objection is frequently made to the non-democratic nature of these authorities. In fact, the state or participating states take back from local governments the home rule authority delegated to them in the first instance and redelegate the power over a particular function to an administrative agency over whose activities the local governments concerned have no direct control and the people no control whatever. This is frustrating to those who believe deeply that the people of a given community, no matter how large or small, should have a direct voice in determining what should be done about matters of substantial local concern; but it does help to get things done. Of course, the authority will not succeed unless it plans carefully for the future, has adequate borrowing authority, is given some method of raising money to service its debt and operating expenses such as imposing tolls on highways and bridges or rates on water and sewage services, and in the end enlists public support for its program.

Greater Boston has for many years dealt with its water problem on a metropolitan area basis through a district authority. But Boston's metropolitan area problems are among the most serious in the nation. Work is progressing on cooperative arrangements for metropolitan area mass rail transit in the Greater Philadelphia area. The surrounding Pennsylvania counties seem slowly but surely to be responding on a voluntary basis to the seduction of the core city where so many suburbanites earn their living. The ghastly congestion and high

³ Delaware River Basin Compact, 75 Stat. 688 (1961).

accident rate during rush hours on the most modern if not the best designed of expressways has given a big push to these efforts. So has a promised federal subsidy.

This, however, is doing things the hard way. A coalition of mutually suspicious governmental units, the core city Democratic, the suburban units Republican, is not the most efficient way to get things done. The problem of supplying enlightened leadership is rendered far more difficult. As in the Security Council of the United Nations, the veto raises its ugly head. And there is no direct popular control. But the difficulties are not insuperable. If the need is great enough, disagreements about representation, executive management, voting, and finance will eventually be overcome.

Of course, many of the most critical problems have been solved by kicking them upstairs to the state or federal governments, or both. Thus, major highway construction is planned and executed by a combination of the states and the federal government. Urban renewal is a combination of federal and local government action. A spur to area-wide planning has recently been given by the provisions of the Housing Act of 1961⁴ requiring that mass transit projects must, to secure federal assistance, be in accord with approved area plans which take into account the effect of the project on the various components of the area. In fact, the federal government is bribing local jurisdictions to cooperate in metropolitan area planning. It provides direct assistance to metropolitan area planning commissions. It allots an extra 10% of the cost of acquiring open space for recreational purposes if the acquiring agency has metropolitan area-wide jurisdiction. Approval of a federal subsidy for water and sewer plants is conditioned on the plan fitting into area needs. Many sewer and water problems have been solved by one local unit contracting with another to provide required services. More recently, we have in Pennsylvania "Project 70," a proposal which would embrace federal as well as state funds to provide a state or federal recreational area or park within easy motor-ing distance of every urban community in the state. Federal and state legislation and appropriations and approval of a constitutional amendment by the legislature and the voters are still required before the project can get under way.

Thus, in varying ways, workable procedures have evolved for solving on a functional basis the more serious of metropolitan area problems. If a situation gets bad enough something turns up. The tragedy is that it turns up far later than it should, so the cost is in-

⁴ 75 Stat. 149 (1961) (codified in scattered sections of 12, 15, 40, 42 U.S.C.).

creased and the solution not as good as if adequate action had been taken earlier. It is the price we pay for political lag.

Where, then, does this leave us? I conclude that a political and legal order is developing in the metropolitan area much as the common law developed in Anglo-American jurisprudence—as new conditions arise, ways are found to deal with them. Pin prick by pin prick the area is occupied by law and order, slowly, far too slowly, but nonetheless surely. As in other legal fields, the essence of the spread of community is not logic but experience. And the cost of operating in so leisurely a manner is high indeed. So far it has not proved to be too high, all things considered.

Yet there are serious dangers inherent in following the same method in the future. We should have learned from our experience in the last hundred years what happens when there is no effective land use planning. It will take us at least another fifty years to clean up the mess our grandfathers made of our cities in the years after the Civil War because they did not have the foresight to create city planning commissions with teeth. The uncontrolled acquisitive instinct in their day created the need for expensive slum clearance and urban renewal in ours. Similar but more irreparable injury is being done to sensible metropolitan area growth and for the same reason. Suburban sprawl chews up needed open space. New communities are born with no adequate transportation facilities and without the economic base to provide streets, sewers, water, or schools. Blight strikes wide areas adjacent to city boundaries because there is no sensible zoning ordinance. A fast buck can be made by buying land cheap from residential or farm owners and selling it dear to an economic interest which can absorb the seller's speculative profit and still show a handsome gain itself, as long as "starry-eyed" planners don't interfere. Once the damage is done the cost of restoring the blighted district to civilized uses is enormous as every student of slum clearance and urban renewal knows.

The question recurs: Do we have to make the same mistake twice? If the answer is in the negative, can there be any solution except an area-wide land use planning board reporting to an area executive subject to democratic control with authority to enforce his decisions? It is only fair to note that city, suburban, and county planning bodies have made enormous strides in the last twenty years. But the progress has been piecemeal, leaving wide areas within the metropolitan area with no real planning authority at all; and many of the planners are naturally thinking of their own limited jurisdiction, not of the metro-

politan area as a whole. There is no overall board looking at the needs of the whole area.

A second neglected area where the spread of a legal and political order may be stymied is finance. The financial resources of every American metropolitan area are substantial indeed; but within each such area there are extraordinary variations of prosperity and poverty. Lower Merion Township in Montgomery County, Pennsylvania is one of the wealthiest in the world. It can afford, at relatively slight cost to its residents, anything they may want in the way of public services, including schools. There are similar suburban oases of prosperity in most metropolitan areas, small as well as large. There are other local units which, to understate the case, are somewhat less fortunate. With low income families and no industry to tax, they cannot without outside assistance possibly afford first-class public services of any sort. And the tendency seems to be for the rich communities to get richer and the poor poorer; for as soon as a man begins to make money he moves his family away from the run-down community to an area where not only public facilities but personal status are improved.

Thus the question arises: Should the metropolitan community be a single community for tax purposes? And, if not, how can we assure a floor for public services beneath which we will not permit any part of the community to fall? And where will we get the money to do the things the metropolitan planning commission concludes are necessary for the health and well-being of the area? It can still be argued that there is enough wealth within the core city, together with what the federal government provides, to maintain an acceptable level of services within the city limits—although this conclusion is becoming somewhat dubious as well-to-do families and industry leave the city limits to be replaced by low income families and marginal industry; but how about the suburban slum? Who will assure its residents minimum standards of living if a higher level of government does not step in? And what about those public services such as water and transportation and air pollution which acknowledge no local boundaries?

Lacking metropolitan government, state and federal subsidies provide a rough and ready equalization of cost of services of certain sorts. Major highways, public housing, schools, urban renewal, a source of relatively unpolluted water are a few examples. But the aid is haphazard and has no real rationale. Usually rural areas are favored at the expense of both suburbs and city. Yet a good case can be made for the proposition that it is the old core cities with their blighted areas and their newly acquired low income families which

need the aid most. There is still a lot of anti-big city bias in the Congress and state legislatures. Just last year the Department of Urban Affairs Bill was defeated, as was further aid for metropolitan mass transit systems. And to secure the enactment of such programs as area redevelopment, housing for the elderly, and emergency public works, it has been necessary to earmark for rural areas benefits far larger than could be justified by either need or population. Perhaps the redistricting of congressional and state legislative seats as a result of *Baker v. Carr*⁵ will remedy some part of this anti-urban fiscal bias.

The potential of state aid is insignificant in most areas other than schools and highways because of the limitations on state tax sources. So the main financial hope for the future in meeting other needs lies with the federal government. But in President Kennedy's State of the Union and budget messages there is a "holding of the line" on federal aid in the immediate future. Having resolved on a substantial tax cut to stimulate the economy, the Administration appears to have decided to curtail the size of the anticipated deficit by a policy of no expansion in appropriations for existing federal programs other than defense and space. Individual residents in metropolitan areas may well profit from the tax cut. But public services in the areas themselves will be the chief sufferers. And the sensible and planned development of the metropolis may be delayed at heavy final cost.

Before turning to suggestions for speeding the solution of the legal and political problems of community in the metropolitan area, it should be noted that probably the most profound living student of urban life, Lewis Mumford, expresses grave doubt as to whether the city's, and with it the metropolitan area's, problems can be solved at all. In the chapter on *The Myth of Megalopolis*, in his authoritative book *The City in History*, he says:

Those who believe that there are no alternatives to the present proliferation of metropolitan tissue perhaps overlook too easily the historic outcome of such a concentration of urban power: they forget that this has repeatedly marked the last stage in the classic cycle of civilization, before its complete disruption and downfall.⁶

Even if we are saved from a nuclear holocaust which might well destroy civilization itself, there is grave danger that the unrestricted growth of the metropolitan area will get so far out of hand that the abilities of mortal man to create a meaningful and livable civilization within its borders are doomed to failure. Nevertheless, those of us

⁵ 369 U.S. 186 (1962).

⁶ MUMFORD, *THE CITY IN HISTORY* 525 (1961).

who are charged, to some degree, with responsibility for finding a civilized solution to the problems created by the facts of modern metropolitan life must do the best we can.

How, then, can we speed the process by which a legal and political order spreads to encompass and deal realistically with the metropolitan area community? The law, politics, and public opinion in each metropolitan area is, to some extent, *sui generis*, so one is reluctant to generalize. What appears to be working in Toronto and Atlanta probably would never be feasible in Philadelphia or New York. Nevertheless, a few broad guidelines can be suggested.

(1) Like-minded citizens should combine in civic groups to publicize and lobby for needed changes in local, state, and federal legislation and administrative programs dealing with the needs of metropolitan areas. The individual citizen acting by himself is lost. Richard Roe will never get anywhere until he joins with other citizens throughout his metropolitan area in an organization which will have sufficient membership and finances to impress politicians and administrators at all levels of government.

(2) Perhaps the single most important immediate objective is to press for equitable legislative reapportionment at both the state and national level. The fairer representation of the suburbs will bring needed political power to bear on the problems of the metropolitan area. This will not hurt the core city's representatives; most of the bite will come out of the rural areas. A friendly Congress and sympathetic state legislature can emancipate the urban areas from bondage.

(3) Metropolitan area citizens should press for a federal Department of Urban Affairs and Housing.

(4) Similar state departments should be added to the governors' cabinets. Governor Hughes of New Jersey has recently moved to establish a Department of Community Affairs. These departments, at state and national levels, will be able to coordinate the efforts to solve all of the problems discussed in this paper.

(5) At the metropolitan area level itself the first order of business would appear to be to obtain an effective metropolitan area-wide planning group, adequately organized and financed. At first, this may require an uneasy coalition of local planning groups within the area and a joint sharing of cost. Sometimes foundations and civic groups will privately finance such a group on an interim basis, hoping it will so prove its utility that it can eventually be taken over by a public body. Frequently, creation of a sort of holding company con-

trolled by county planning commissions, perhaps meeting first on a voluntary basis, can get the scheme rolling.

(6) Direct the attention of the planning group first to area-wide land use and, having agreed, perhaps in fairly broad general terms, to major land uses, endeavor to get zoning ordinances enacted by local governmental units which will put legal teeth in the area-wide land use plan.

(7) Press public bodies to make maximum use of state and federal subsidies. These, in turn, will require, in many instances, as a condition to receiving them, a speeding up of area-wide planning.

(8) Wage an unceasing public campaign through civic groups, newspapers, magazines, pamphlets, radio, and television to educate the people of the area to the advantages of spreading the legal and political aspects of community to the metropolitan area. In political campaigns, endeavor to get commitments from all candidates to support the program.

These suggestions are hardly revolutionary. They are, in fact, merely a general summary of how public programs are initiated and carried into effect through the process of American democracy. The way is unquestionably long, the road hard. But there are few shortcuts in the task of eliminating political lag. And eliminate it we must if the metropolitan area is to join Mr. Cordier's world and Mr. Herter's economic region in achieving the benefits of a legal and political order in the modern world.