

August 1967

The San Francisco Bay Area--Regional Problem and Solutions: Introduction

Ira Michael Heyman

Follow this and additional works at: <https://scholarship.law.berkeley.edu/californialawreview>

Recommended Citation

Ira Michael Heyman, *The San Francisco Bay Area--Regional Problem and Solutions: Introduction*, 55 CALIF. L. REV. 695 (1967).

Link to publisher version (DOI)

<https://doi.org/10.15779/Z38Z777>

This Article is brought to you for free and open access by the California Law Review at Berkeley Law Scholarship Repository. It has been accepted for inclusion in California Law Review by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact jcera@law.berkeley.edu.

Symposium: The San Francisco Bay Area— Regional Problems and Solutions

SENATOR McATEER

We regret the recent death of California Senator "J" Eugene McAteer of San Francisco. Of his many legislative achievements, certainly one of the most notable was the creation of the San Francisco Bay Conservation and Development Commission, which he sponsored and which forms the subject for one of the comments in this Symposium. We are confident that the late Senator McAteer's forward-looking efforts on behalf of the San Francisco Bay Area will long testify to his skill, vision and concern as one of California's most prominent legislators.

The Board of Editors

INTRODUCTION

*Ira Michael Heyman**

THE CITY AS A CONCEPT is obsolete. The metropolitan region has taken its place as the context for the analysis and solution of domestic problems. Population growth in the vicinity of major cities and continual technological "advance" in communication and transportation have created complicated interrelationships among people and their institutions in every metropolitan area.

In the San Francisco Bay Area, as in other metropolitan areas, population growth in the past twenty-five years has been enormous. Most of this growth has occurred in largely suburban Contra Costa, San Mateo, Santa Clara and southern Alameda counties—outside the region's historic urban centers. The cities of San Francisco, Oakland, Berkeley and Alameda, which contained four-fifths of the population of the five central counties in 1930, held only one-half the population of those counties in 1960.¹

The enormous growth in population has created a host of problems requiring governmental intervention. There is an accelerating need for

* B.A., 1951, Dartmouth College; LL.B., 1956, Yale University; Professor of Law, University of California School of Law, Berkeley.

¹ J. VANCE, *GEOGRAPHY AND URBAN EVOLUTION IN THE SAN FRANCISCO BAY AREA* 46 (1964).

new roads, airports, schools and hospitals. More water and recreational space must be provided; there are greater problems of pollution and waste disposal. Moreover, affluence, modern technology and mass communication have created higher expectations so that, as population has increased, demands have risen geometrically.

In response to these problems, the California Senate recently passed a concurrent resolution concerning regional government for the San Francisco Bay Area. The resolution establishes a Joint Legislative Committee on Bay Area Regional Organization and a special advisory group composed of public officials and citizens from the area. The two groups are to conduct hearings and make studies in order to determine the appropriate form of regional government for the area; they must report to the legislature in 1969.²

The papers in this Symposium deal with the problems which the Joint Committee will face in designing a Bay Area regional government. After setting the preliminary historical context, the papers describe presently existing regional agencies and explore the problems which create the need for a new regional government.

The population of the Bay Area, as late as 1930, was concentrated in separate communities. While these communities were linked prior to that time—there was a sizable group of ferry commuters from the East Bay to San Francisco before the 1906 earthquake—governmental services and regulation could be provided adequately by each city without adversely affecting other communities. Today's growth and more even distribution of population, however, have created problems which are regional in scope because municipalities alone are incapable of solving them efficiently and equitably. Institutions which operate across municipal boundaries are therefore required. Such institutions, however, are a threat to existing local governments, or, more particularly, to locally perceived social and economic goals.

The San Francisco Bay Area has begun to deal with some of these regional problems. Progress has been most rapid where the institutions necessary for solving such problems were already in existence or where their creation did not seriously threaten existing municipal government. In a few instances, however, regional needs have overcome considerations of local autonomy.

For example, the desire to achieve economies of scale has led to regional provision of services. These include the provision of water, utilities, sewage disposal, hospitals, public health, libraries, tax assessment and collection, and prisoner care. In other cases, coordination and a large

²S. Con. Res. 41, Cal. 1967 Sess.

tax base are required, as in the construction of major transportation facilities like bridges, freeways and transit systems. Finally, regional entities have been created to regulate air and water pollution, flood control, and the filling and dredging of San Francisco Bay because these matters pose concrete and immediate threats to environmental quality.

The Bay Area now has a variety of separate agencies which traverse local municipal boundaries. These include the Bay Area Air Pollution Control Board, the Regional Water Quality Control Board, the Bay Area Rapid Transit District (BART), and the San Francisco Bay Conservation and Development Commission. The Comments in this Symposium on Air and Water Pollution, on the Development of San Francisco Bay, and the Article on BART evaluate these existing agencies. Other bodies which operate on a regional scale include the state government, the counties, special districts and private industry. The state Division of Highways administers the freeway program, while both state and local special districts are responsible for bridges. Counties assess properties, collect taxes and care for prisoners. The East Bay Regional Park District provides regional parks and recreation services. Private enterprise runs the helicopter service. Finally, utilities are regionally administered by the East Bay Municipal Utility District and the Pacific Gas and Electric Company.

The use of regional agencies in dealing with these problems is understandable. In some instances, the agencies pose no significant threats to local self-determination as in tax collection and utility service. At times history determines the result; the state Division of Highways, for example, has always administered the highway and freeway programs. Some problems are so pressing and their solution so obviously impossible through existing municipal structures—rapid transit, bay fill, and air and water pollution—that decision-making power has been given to a government which transcends local boundaries.

Generally, the solution to regional problems has been attempted through the creation of separate agencies rather than the expansion of existing entities to become multifunctional. This use of special agencies is natural. The problems are identified one at a time, they often require immediate solution, and their distribution among many separate agencies creates less of a threat to local municipal government.

The resulting proliferation of agencies, however, is unsatisfactory. Coordination is particularly difficult between functions which, though related, are governed separately. For example, a coordinated approach to regional transportation requires single agency administration of rail and bus rapid transit and bridge and highway development. Yet, at least five

separate and often warring agencies are involved.³ Moreover, the existence of so many different agencies makes it difficult to obtain maximum results for all regional goals. For example, the BART Board of Directors is not particularly interested in furthering social welfare or civil rights if they impede construction of the transit system. Many water companies are unenthusiastic about controlled recreation use of watershed lands or the preservation of such lands as open space.

A multifunctional regional agency, although opposed by local governments, is one method for meeting these inadequacies. The centralization of many functions in one entity would permit that entity to influence regional development to an extent not possible when the functions are fragmented. For instance, a single agency with power to control Bay fill, freeway location and water pollution and to provide sewage facilities, rapid transit and new bridges could indirectly but effectively govern the physical growth of the entire region.

While a multipurpose agency can have great impact on regional development, a more formal metropolitan government is necessary for solving the more complicated problems which have not yet been faced in the San Francisco Bay Area. One of these problems is racial integration. A second is the pattern of physical development within the metropolitan area. A third problem involves equitable financing of government services. To a much greater degree than provision of services and regulation for the general welfare, solution of these problems will require decisions based on controversial social and political values. As the discussion below indicates, adequate treatment of these problems requires a regional government which is both powerful and responsive to normal political pressures.

The San Francisco Bay Area is segregated. Alameda and Contra Costa Counties are good examples. Nearly all the Negroes live in portions of three cities—Oakland, Berkeley and Richmond. The rest of the counties are nearly all Caucasian. San Leandro, for instance, just south of heavily Negro East Oakland, contained 532 Negroes out of a population of about 82,000 as shown in the 1960 census. Hayward, a city of about 122,000 in 1960, had a Negro population of 796.⁴ Integration can occur if Caucasians move to the central cities or if Negroes move to the suburbs. Although central city urban renewal may induce Caucasians to move back to the cities, such movement is not now large scale. Too, movement of Negroes to the suburbs currently is minimal.

³ Alameda-Contra Costa Transit District, Bay Area Rapid Transit District, California Division of Highways, Golden Gate Bridge and Highway District, San Francisco Municipal Railway.

⁴ I. M. Heyman, *Civil Rights U.S.A.: Public Schools—Cities in the North and West—1963: Oakland 2* (Staff Report to the U.S. Commission on Civil Rights).

Regional government itself may not ensure such movements. But they would become possible if municipal governments were prevented from using governmental tools to keep their communities "lily-white." As the Comment on urban renewal suggests, for example, a metropolitan renewal agency would be able to relocate Negro slum residents area-wide rather than only within the city being renewed.

The Comment on land use planning and regulation discusses problems of coordinating land planning between different jurisdictions within the metropolitan area. Because there is no way of implementing regional planning, municipal competition rather than municipal coordination shapes development. Each municipality, in maximizing its position of advantage, ignores costs imposed on other communities. The attraction of industry for tax base purposes without providing minority group housing results either in excluding minorities from that labor market or in subjecting them to unnecessarily high transportation costs. Further, by ignoring the value of regional recreational and scenic areas, municipal competition significantly jeopardizes such goals as open space preservation.

The property tax, a traditional mainstay of local government, has been crippled by the middle-class exodus to the suburbs. Suburban cities use governmental functions like land regulation, building codes, and utility servicing to attract high revenue, low-cost inhabitants and commerce. As the Comment on the property tax indicates, the middle-class movement to the suburbs leaves the cities with the problem of providing services for a large number of relatively impoverished inhabitants. The failure to devise a means of taxing the commuter has resulted in what many believe to be inequitable revenue allocations. Such inequities are minimized if a higher level of government with a broader tax base pays the bills. County administration of welfare, school district consolidation, and state subventions for education help spread costs. Federal grant-in-aid programs also redistribute tax income. But serious problems continue to exist to the extent that local programs are financed by the property tax.

The above problems require treatment of the metropolitan area as an entity in order to maximize coordination, minimize municipal competition, and equalize financial capacities. Such treatment is possible only through a powerful regional government.

There are severe obstacles to such a government, as well as to a more limited multifunctional regional agency. The chief obstacle is "home rule," a phrase which represents a group of economic, political, social and psychological realities. The economic aspect of home rule is perhaps the most important. When there is no countervailing political force within the jurisdiction, city councils reflect the interests of local businessmen. To the extent that a municipality's pattern of development puts it in a com-

petitively advantageous position, local businessmen understandably do not want regulation of their activities transferred to a higher level of government responsible to a more heterogeneous electorate. Controversies over filling the Bay illustrate this attitude. The City of Albany has no desire to restrain Bay fill within its boundaries, because not only would filling produce new enterprises and additional taxes, but also its "costs" would be shared by the whole metropolitan area. Developers and the Albany City Council thus expectedly dispute the jurisdiction of the regional Bay Conservation and Development Commission, which wishes to restrict local activity in the Bay before a regional plan is completed.

Political opposition to regional government is presently being heard from the Negro inner-city community as well as from Caucasian suburbs. Some minority organizations foresee the growing Negro population gaining control of central city governments. To shift functions to a metropolitan government, in their view, would reimpose political subservience to the Caucasian majority. While self-determination for previously disenfranchised people may be an attractive goal, one should not ignore the potential effectiveness of Negro electors at the metropolitan level.

Suburban cities may object to regional government because they fear loss of local autonomy. Opposition for social reasons is based on a fear that regional government will result in the movement of unwanted low-income and minority residents to the suburbs.

A final source of opposition to metropolitan government is the contemporary reaction against bigness and anonymity. In our society, which is becoming increasingly crowded and interdependent, the federal government, which few can influence, constantly makes decisions affecting the lives of all. The radiating consequences of national decisions concerning Vietnam, the Federal Reserve Board discount rate or appropriations for the space program are enormous in consequence. Many people, however, focus primarily on the governmental matters closest to them, perhaps because these are the only decisions which they can hope to influence. Such matters include whether the streets are clean, whether there are places for children to play, whether there is adequate police protection and whether the local board of adjustment will be responsive to arguments made against granting zoning variances. The fear is that the decisions of regional government, like those of national government, will be made from a distant and unresponsive perspective and yet have significant local impact. An impersonal regional bureaucracy will supplant familiar local administrators. Much of this is sentimental yearning for another time. Nevertheless, these attitudes and emotions persist.

If metropolitan government is to succeed, the new Joint Committee must devise means for distinguishing between local and regional functions,

suggest a politically feasible way for organizing a regional agency, and evolve a politically acceptable and constitutional means for selecting its governing body. Opposition will be considerable. The papers in this Symposium are a beginning effort in discussing the problems which must be faced and resolved. They should aid the Joint Committee in pursuing its work.