
Tilting at Windmills



Recently Jack Anderson reported in shocked tones that General David C. Jones, the chairman of the Joint Chiefs of Staff, had given misleading testimony to a congressional committee. The truth is that executive branch witnesses repeatedly mislead the Congress—consider David Stockman if you need another example. These continuing deceptions are among the primary reasons for the tremendous growth in congressional staffs in recent years. The more Congress suspects it is lied to—and its suspicions grew mightily during the Vietnam and Watergate years—the more it feels a need to have its own staff to check things out, to uncover the real facts it needs to know.

I have a simple solution to the problem: require all executive branch testimony to be under oath. Because almost no testimony is now under oath, the testifying bureaucrat is tempted to gild lilies and otherwise distort the truth in his agency's behalf because he knows all the fellows back at the agency are counting on him to do everything necessary to preserve and protect their budget and their jobs. He knows they will surely indulge whatever lapses from veracity occur in the pursuit of such an unquestionably

worthy cause. But if the bureaucrat is aware that these lapses just might result in a perjury rap, he is much more likely to do what is his clear duty—tell Congress the truth.

Now is a good time to start requiring sworn testimony, since Congress is finally acting to control the size of its committee staffs and more than ever needs other ways of getting accurate information from the executive branch.

Committee staffs have increased 150 percent just since 1970. The House now will hold the line at current levels, and the Senate is actually cutting its committee personnel budget ten percent. Whatever the wisdom of this move for the Republic, it is sure to be welcomed by the people who work on the staffs of individual representatives and senators. Laboring directly under the noses of their bosses, many of them are compelled to work truly horrendous hours. They find it hard not to envy the

less-supervised lot of their brethren on the committee staffs, who, however worthy they may be in both person and function, are suspected of lingering over lunch and leaving before rush hour....

If you ever doubted the wisdom of Oscar Wilde's "Art doesn't imitate life; life imitates art," I call your attention to this story from *The Dallas Morning News* of December 2: "Testimony began Monday in the trial of a 62-year-old Dallas woman charged with murder in the shooting death of her wealthy husband last year—during the 'Who Shot J.R.?' episode of the popular television series 'Dallas.'"...

I had been looking forward to my next trip to New York until I happened to see these two stories in the same edition of *The New York Daily News*. One, headlined "Cabbies took 'em for a ride," began:

"City investigators, posing as everything from cowboys to African diplomats, rode randomly selected medallion cabs from airports, bus terminals, and major hotels and found that nearly two-thirds of the cabbies ripped off their passengers. 'There is a greater inclination to take advantage of the kind of people

who frequent these areas because they are unsophisticated and far more vulnerable than the average New Yorker,' City Investigation Commissioner Stanley Lupkin said yesterday. Lupkin said 42 of the 67 cabbies monitored in the recent Operation Fare Game tried to fleece the undercover investigators."

The other, headlined "Crime pays for bystanders," began: "No one would help the middle-aged secretary yesterday as she ran through the streets of Brooklyn pleading for someone to stop a knife-wielding thief who had just assaulted her two elderly bosses and stolen the firm's \$5,200 payroll. Her cries for help were ignored until the robber began to scatter the loot as cops closed in on him. Suddenly the street was filled with about 100 helpers—all helping themselves to the scattered greenbacks."...

The Pentagon, as we all know, has great difficulty designing guns and tanks and planes that work. Now we learn it can't even produce a decent pair of shoes. The army began to plan a new boot in 1970. After 11 years of development, testers at the Aberdeen Proving Ground and at Fort Benning have found the boots become water-soaked and take hours to dry, have soles that wear out too quickly and rubber cleats that become clogged with mud. ...

As one who always looks to academia for moral leadership, I am happy to report that the University of Pennsylvania has established the Joseph Kolodny Professorship of Social Responsibility in Business. It is funded by a grant from the National Association of Tobacco Distributors. The New School for Social Research in New York is doing its part by engaging Steve Rubell as a lecturer. Rubell, the former owner of Studio 54, not long ago was found guilty of tax evasion. ...

Ronald Reagan told Barbara Walters that his greatest disappointment as president has been the inability to control the leaks that "just seem to be

constantly coming no matter what efforts you make." This was the same concern that prompted Richard Nixon to hire "the Plumbers," which was his first step along the road to impeachment. In a country with a free press, it is folly for presidents to worry about leaks—except on the rare occasions when they truly compromise national security. ...

The federal government is now the world's largest credit institution. It is owed \$175 billion, more than half of it by students, farmers, businessmen, and others who have borrowed from the hundreds of government loan programs. In fiscal year 1979 alone, according to Senator Charles Percy, who has introduced a bill designed to improve the government's debt collection procedures, over \$25 billion that was due to be repaid was not collected. Percy asks:

"What can we say to the straight-A student at the University of Illinois who is losing his student loan? Why should he sacrifice while those who are delinquent in paying back old student loans, an astonishing 81 percent of the borrowers, are not?"

"What can we tell the CETA worker in East St. Louis who is losing her job? Should she lose her paychecks while almost 80,000 federal employees who have defaulted on government debts cannot have even one cent of their paychecks set aside to recover the unpaid debt? I should add that some of these defaulting federal workers make nearly \$50,000 per year. ...

"Let me mention one other consequence of allowing so many debtors, many of them young Americans, to ignore their obligation to repay their government. How can we expect them to respect their government? What kind of example are we setting for them?" ...

After all the Reagan talk about cutting back federal employment, how many people have actually been fired? As of December 1, the figure was 5,300. And what about Reagan's crusade against

bureaucracy? Here is how the Office of Personnel Management is being reorganized, according to the office's official publication:

"The five major groups will be headed by Associate Directors, with Assistant Directors for all major subunit components reporting to Associate Directors (except for the Deputy Associate Director of Compensation). Independent office heads who report to the Director will also be Assistant Directors.

"The next levels of management will be standardized in the order of division chief, branch chief, section chief, and unit chief."

In case you haven't guessed the main reason behind this organizational system, it is to give as many bureaucrats as possible titles with the word director or chief in them, which in turn means the maximum number of bureaucrats with salaries above \$50,000 a year. This may seem relatively harmless in just one agency, but consider that this is the agency that sets personnel management policies for the entire federal government. ...

At the recent conference of the American League of Lobbyists, Lucien Nedzi, who retired last fall after 20 years as a representative from Michigan, told this tale about Pentagon lobbying:

"I was on the House Armed Services Committee, and 'courtesy calls' by military personnel were pretty common. The army once offered to make me a major in the army reserve. I was 36 at the time, and their rationale was that major was the rank an active officer should achieve by 36. I declined. A colleague of mine 20 years older accepted a commission as a full colonel in the air force reserve, even though he had no military experience. His record on support of armed services expenditures was a little better than mine." ...

On several separate occasions, both to the police and on television, Barry Braeseke confessed that he had murdered his parents. Yet, because his first

confession was improperly obtained, an appeals court ordered his release. Mark Rogers was caught carrying 65 pounds of marijuana—an amount even those of us who sympathize would have to concede is a bit in excess of reasonable personal use requirements—through Miami International Airport. An appeals court ordered him released anyway, since he had been stopped, not because the police knew he possessed dope but because his behavior conformed to a psychological profile of a drug courier. These are the kinds of stories that make people contemptuous of our legal system. Why ever let the clearly guilty off? Errors in procedures should never excuse the guilty—only help free the innocent or those whose guilt is not beyond reasonable doubt.

Another reason for cynicism about criminal justice is the widespread suspicion that if you can afford an attorney who is smart enough you can beat any rap. Take Barry Ivan Slotnick, a 42-year-old New York City lawyer whose clients include Mafia dons and who has not lost a case since Thanksgiving eve 1972.

"In a win a few years ago that he will never forget," reports *The American Lawyer*, Slotnick defended a client who was accused of having accepted \$100,000 from members of a podiatry association in exchange for his promise to reach public officials with the money and kill a regulatory bill that was in the works. The FBI had three months of taped phone conversations backing up the charge, and the bill was indeed killed. But Slotnick argued to the jury that his client was guilty not of bribery but of grand larceny, since he'd kept the \$100,000 for himself. A jury acquitted him on the bribery charge, and when the prosecutors tried to retry him for grand larceny, Slotnick got him off on double jeopardy.

"You should call it the perfect crime," says Slotnick. "Get the money, and get acquitted."...

A few months ago we noted that the tax-deductible 1981 Fall Faculty Workshops of the University of Michigan's Institute of Continuing Legal Education just happened to be held in the mornings of the six Saturdays on which Michigan played home football games in the afternoons. Now I learn that Nebraska Continuing Legal Education is planning its own deductible seminar in Hawaii in December 1982. The session just happens to coincide with the Nebraska-Hawaii game and is offered as part of a seven-day "Polynesian Delights" tour...

Lyn Nofziger recently told a private group—and only he knows if he was jesting—that he saw Nixon just after Reagan was shot and Nixon cautioned him not to let Reagan make any major decisions during his convalescence. Nofziger asked why. Nixon replied, "It was when I had pneumonia that I decided not to burn the tapes."...

Did you have the impression that the Hatch Act prohibits political activity by civil servants? So did I until I saw the following story in the December 9 issue of *The Washington Post*:

Senior Executives Lobbying for Raise

"Many senior U.S. executives will be on leave on Capitol Hill today lobbying for language that would give many of the \$50,000-per-year careerists their first pay raise in three years."

Of course we should have known that the civil servants who write the regulations interpreting the Hatch Act have made sure the law will not hamper their pursuit of their own vital interests...

You may recall the case of Robert E. Lee, an employee of the Montgomery County, Maryland, Department of Environmental Protection. Having heard that employees with Hispanic surnames were entitled to preferential promotion, he had his name changed legally two years ago to Roberto Eduardo Leon. Recently *The New York*

Times decided to check on Senior Leon's progress in the Montgomery County bureaucracy. Back came the answer: No, he had not received preferential treatment; he had gotten the same raises as other similar employees in his division.

What struck us at *The Monthly* was that those raises took Senior Leon from \$27,867 in 1979 to \$36,727 in 1981. It is the kind of salary (and pension) increase that is exhausting the resources of local governments throughout the country...

As Gregg Easterbrook points out in his article beginning on page 11, the potholes that are rattling your teeth and wrecking your car go unfilled because the money is devoted to salary increases. When my car failed to pass District of Columbia inspection last month because of a steering and wheel alignment problem, the attendant said it was caused by potholes, which, he added, is now the most common reason cars fail to pass inspection.

What is the District doing with the money that isn't being used to fill potholes? You guessed it. Salary increases again. Over the next three years, the D.C. police, for example, will receive a 50 percent increase...

Have you heard about the arrest of Harry the Hawk? Harry is not a character out of Damon Runyon but a real live hawk who was seized by New York State conservation officers just a few hours before he was to appear in a New York City Opera production of *Der Freischutz*. Harry's trainer was not charged with mistreating the bird but with "illegally keeping" him. The state says the bird should be retrained by a "licensed rehabilitator" and then set free in the wild. Harry's owner, an internationally known expert on birds of prey, told *The New York Times* that the state's plan to send Harry back into the wild would be "the equivalent of killing him. Harry is a tame bird used to humans and has never hunted for himself."

What Reagan Should Know . . . But Doesn't

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Actually the federal government seems to have been acting in collusion with the state in Harry's case—and that gets us to our point. The bureaucratic problem now infects all levels of government in this country. And rather than put our faith in the state and local levels as the conservatives would have us do—or in the federal as the liberals advocate—we need to focus our energies on restoring accountability and dedication to the public interest to all levels. . . .

In John Ehrlichman's book, *Witness to Power*, to be published in April by Simon & Schuster, there is considerable defensiveness about the author's involvement in Watergate, but there are also some intriguing news and interesting observations about government.

The news items include the one about Warren Burger acting as White House spy inside the Supreme Court and the story that Henry Kissinger, when asked by Ehrlichman how long the South Vietnamese could survive under the peace agreement negotiated by Kissinger, replied, "I think that if they're lucky they can hold out for a year and a half."

But more significant than the news are Ehrlichman's observations about the way Washington worked when he was here, many of which continue to be true today. One example:

"Professional Washington lobbyists who go to work for a President can't afford to offend congressmen. Once the President leaves office the lobbyist must return to representing a private clientele, and his effectiveness will depend on his good, continuing relationship with the members. As Clark MacGregor did, the White House lobbyist rationalizes this potential conflict. It is good for the President to have an aide who gets along with every member, he argues. If the President instructs his aide to get tough with a member, the aide disregards the instruction because, of course, he best serves the President by doing

so. And incidentally, when one leaves the President and the White House, one can go to work for the corporations. Great are the rewards of good congressional relations.

"At the same time, every President needs some staff people who do not intend to make Washington their life careers. He needs people immune from such considerations of self-interest, who will make it possible for the President to prod and goad, boldly trade for votes or send a little chill of fear rippling through the legislators."

And on the subject of the inevitable conflict between White House staff and the cabinet, Ehrlichman describes the first cabinet meeting:

"Nixon led off with a rambling speech in which he exhorted his Cabinet to work hard, seize their departments from the control of their dastardly bureaucracies, save time for their families, and stay in touch with the American people. The President made it sound as if he intended to give his Cabinet full freedom to run their departments without White House interference. At the time, that might have been Nixon's real intention.

"But before too many weeks it was obvious that he'd changed his mind. Some of the men he'd selected for the Cabinet soon embarrassed him by what they said or did, and he began to instruct them via his senior staff: Bob Haldeman, Dr. Arthur Burns, Daniel P. Moynihan, Bryce Harlow, and Henry Kissinger. Nixon knew he was reneging; but as he said to me, none of his Cabinet had been elected—only Richard Nixon had been elected, and only he would have to stand for reelection. If he had to pay the political price for his Cabinet secretaries' mistakes, then he, by God, had the right and obligation to correct those mistakes."

This conflict between president and cabinet has been true of each of the four administrations that have come to Washington since this magazine published its first

article on the subject, "The White House Staff v. the Cabinet," 13 years ago. Yet each administration has proclaimed it would be different. Ronald Reagan was the most recent to swear he would let his cabinet members run their departments. Why then, one wonders, do we see these headlines (all from December editions of *The Washington Post*):

Baldrige Angrily Assails Stockman Budget Slash

Energy Secretary Appeals Budget Slash

OMB Seeks Big Cuts in Job Training: Donovan to Appeal to White House

Administration Deeply Split Over Further Budget Cuts

The last story, in addition to confirming Secretary of Commerce Baldrige's opposition to cuts in his department, went on to report, "Health and Human Services Secretary Richard S. Schweiker also is openly fighting some suggested cuts. . . . The Department of Housing and Urban Development has appealed cuts proposed by OMB, and Attorney General William French Smith is engaged in a behind-the-scenes fight with Stockman over new reductions."

What inevitably happens is that the cabinet secretaries become prisoners of the constituencies served or affected by their departments and of the bureaucracies they administer. Sometimes they are right in opposing the president, sometimes they are wrong. But what is almost certain is that they will oppose him, openly or covertly, in whatever actions he favors that might threaten the interests of their departments. . . .

If you are persuaded by Deborah Fallows's article, beginning on page 50, that the *quantity* of time a mother spends with her children is just as important as the quality,

you will be troubled by the figures in a recent report from the Bureau of Labor Statistics: 54 percent of children under 18 have working mothers, a 40 percent increase since 1970. More disturbing are the figures about preschoolers: nearly 45 percent of them have working mothers.

Clearly, some women can both mother and work, and obviously many women *have* to work (and those who do should be paid the same as men). But one only has to look around to see that many can afford not to work. I hope they read the Fallows article. And I hope they won't misunderstand it as a number of women have misunderstood other items we have published on women's issues.

On page one, for example, you will find a letter alleging that I urge women to "service randy youth." This was in response to my defense ["Tilting at Windmills," October] of a 31-year-old woman who slept with a teenage male and was charged with rape even though there was absolutely no evidence of force. I said that it was absurd to put the woman in jail for something that would have inspired nothing but gratitude in most teenage males I have known. But this definitely does not mean that I think any woman has any obligation to "service" any male, young or old.

The other letter on women's issues says that I blame the women's movement for unemployment. This is in response to my belief ["Tilting at Windmills," November] that women who don't need money should think twice before they take paying jobs from people (men or women) who do need it. My basic complaint here, and one that consistently arouses some female hostility, is that liberation seems to have freed modern women to imitate the worst qualities in men—the search for status, the equation of fancy titles and material reward with accomplishment. Thus when I

"It is all here: the story of our time—with the bark off."

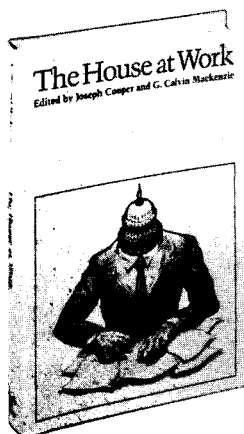


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criticized the tenet of the women's movement that work was not worthy unless it was paid, women replied that men were guilty of the same sin. The curious thing is that I said that in the last paragraph. Here it is:

"Men have done the same thing—and for much longer—taking salaries they really didn't need simply for the ego gratification involved. There have been exceptions, like the business executives who came to Washington to work for the government for a dollar a year during World War II, and who should be an example now for everyone who can afford to work without pay. Working without pay, for those who can afford to do so, should be a badge of honor, not a cause for disrespect. Let's leave the salaries to those who need them. If you are fortunate enough to have money and not have to work for it, why not free yourself from the chains of paid employment and seek work that satisfies your heart and soul?"

Apparently what happened is that a lot of women saw red before they got to the last paragraph. I think they ought to consider why they saw red so quickly. Some women who don't need the money tell me they have to take home a big salary in case their husbands do them wrong, or in order to have dignity in dealing with their husbands. My answer to that is simple—marry a man who will respect you for what you are and what you do, without regard to how much money you make. You might just be able to have such a marriage when you're able to respect your husband on the same basis.

But even if life doesn't often work out so well, my basic point remains the same: Do the work you feel is the most worthwhile and the best use of your talents; don't feel that you have to be paid for it if either you or your spouse or your ex-spouse provides an income that makes your salary unnecessary. Truly liberated women should feel no obligation to join the money-grubbing rat

race. Instead of imitating men, they should help them become more human—help them imitate what has been best in women. . . .

We have complained before that the editors of *The New York Times* do not understand the significance of events in Washington. The latest example: they ran their first story about David Stockman's historic series of confessions to *The Atlantic* on page D9. To their credit, however, they have recognized their own ignorance and have given their Washington bureau a page of its own. And the Washington bureau is taking advantage of its opportunity. The page is usually good—very good, in fact. It takes the kind of anthropological look at the nation's capital that has always seemed to me to be the most fruitful. . . .

In this month's *Atlantic*, Garry Wills appears to be arguing that John Kennedy, instead of trying to get around the bureaucracy, should have led it, as FDR did.

Kennedy inherited two million bureaucrats who had been hired by someone else. He could hire but 2,000 of his own choosing. Roosevelt hired 500,000 in his first two terms and two million more in his third. He could lead the bureaucrats because they were his people. But subsequent presidents have been faced with his legacy—people who were loyal to FDR and committed to his objectives but who were not necessarily loyal to the presidents who followed him. Indeed, as the years went by—and especially after the McCarthy period—they became committed primarily to their own survival, which also meant to the survival of the bureaucratic units for which they worked—for they could be fired only if the budget of their agency was cut and their jobs were abolished. So presidents after FDR, whether they were up to good or evil, soon realized the bureaucracy had other priorities.

Wills thinks Kennedy should have followed the recommendations of the chain of

command, of the bureaucracy, just as Dwight Eisenhower did. But what happened to Kennedy when he did just that and ratified the decision to invade the Bay of Pigs? That was a chain-of-command decision by Allen Dulles and the CIA, approved by the Joint Chiefs of Staff. It was stupid, it was disastrous, and it taught Kennedy a lesson: always second-guess the bureaucrats, which is exactly what he did a year and a half later when it came time to confront the Cuban missile crisis. In that instance, he circumvented the bureaucracy by seeking advice from outside the chain of command. The result was peace instead of war.

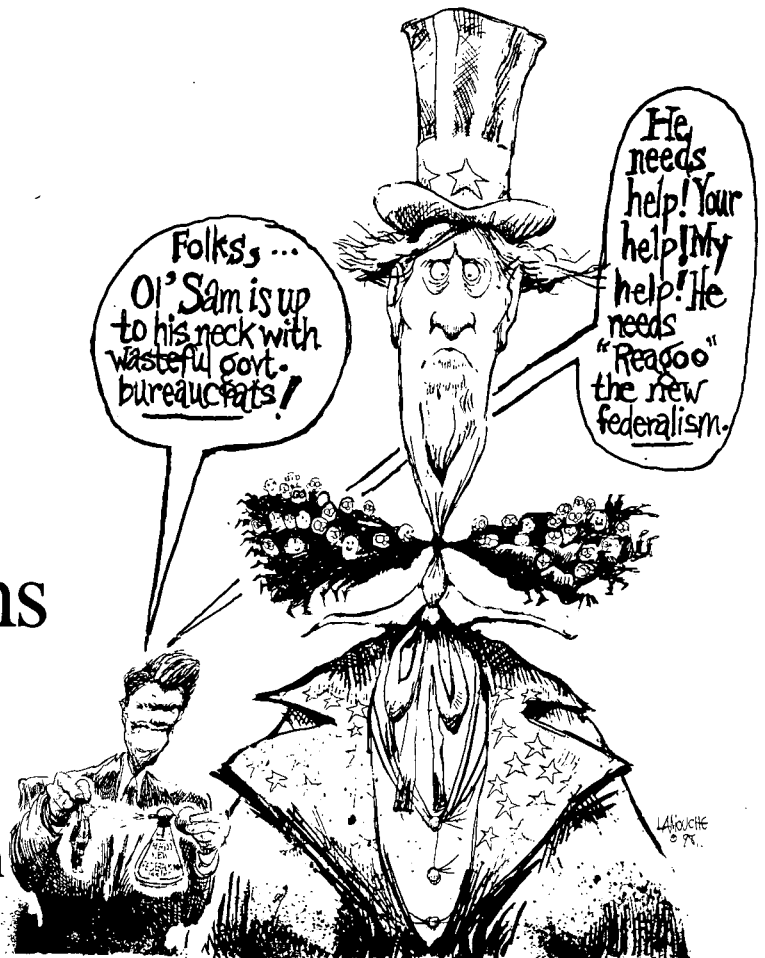
The irony Wills neglects is that FDR was the originator of such bureaucratic end runs. He had served as assistant secretary of the navy for seven and a half years when he came to the presidency. Because the assistant secretary level is the point where political authority and permanent government intersect, he knew the bureaucracy as has no other president of modern times. So when he was confronted with 500,000 civil servants organized in old-line departments, he hired 500,000 new people, put them into new agencies, and got the country moving again. Even then, aware as he was of the danger of overnight bureaucratization, he concocted a ruling modus operandi that included constant end runs, incessant irregularity, and endless discomfort for the conventional bureaucrat. If you were a Harry Hopkins at the Department of Commerce or a Harold Ickes at the Department of the Interior, however highly esteemed you might be, your programs would not be automatically accepted because of your position in the chain of command. Instead, FDR would pick up the phone and say to Harry, "What do you think of this proposal of Harold's?" and to Harold, "What do you think of this idea of Harry's?" This is what Garry Wills doesn't understand.

—Charles Peters

50 Miniature Washingtons

The flaw in Reagan's New Federalism

by Gregg Easterbrook



A lot of people view state government with more alarm than they do Washington," Senator Paul Laxalt observed recently. Whoa! That will never do. To the woodshed with you, Paul. Surely you've heard about New Federalism, strategic fulcrum of former governor Ronald Reagan's master plan to end government incompetence and strangling bureaucracy. Reagan considers states the most efficient and proper units of government; he wants to turn significant amounts of federal authority over to them. The president likes to suggest that this would solve once and for all the problems of "unmanageable, unaccountable" government agencies. New Federalism, Reagan has said, "is my dream."

What does Laxalt, also a former governor, know that Reagan doesn't? Perhaps some basic figures. For instance, state government is a larger and much faster growing organism than federal

government. There are 3.5 million state workers compared to 2.8 million at the federal level. While federal employment changed little through the 1970s, state employment grew more than three percent annually. In fact, during the last decade, when Reagan was pounding the stump with his anti-Washington message, federal employment as a percentage of total government employment *declined* steadily.

Laxalt probably also knows about state spending. Last year state government broke the \$1,000 barrier, spending an average of \$1,010 per capita (North Dakota spends \$1,307 per resident, Delaware \$1,378, Hawaii \$1,594, and Alaska \$4,827). To obtain this kind of money, states have begun borrowing at a furious rate. Total state deficits hit \$119 billion in 1980; the percentage increase in state deficits has run *ahead* of the federal deficit seven of the last ten years. State and local govern-

Gregg Easterbrook is a staff writer for The Atlantic and a contributing editor of The Washington Monthly.