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REORGANIZATION IN THE EXECUTIVE-ADMINISTRATIVE
BRANCH OF MONTANA GOVERNMENT

by

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for the degree of

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INTRODUCTION

The executive-administrative branch of Montana government is an extremely complex arrangement. Several factors contribute to the complexity of Montana's administrative organization. The principal factors are, the existence of several elected executive officials in addition to the governor, the reliance on boards and commissions for administrative purposes, and the growth in number of unrelated administrative units.

It is the purpose of this thesis to describe the executive system and to explore and analyze the three major attempts to reorganize the system. To conduct this analysis, a model administrative plan has been constructed to be used as an analytical and comparative tool. This model plan represents a logical and integrated executive system based upon administrative theory and practice.

In developing a model plan for a single branch of state government it is easy to neglect consideration of the other two branches of the government. Development of a model plan presupposes a commitment to reorganization. Reorganization however, is a composite procedure, taking into account the interrelationship of the legislative, judicial and executive branches. Any broad attempt at reorganization of Montana's state government must consider the problems present in the legislative and judicial branches as well as the problems in the executive branch.

This thesis is restricted to a study of Montana's executive organization. It is predicated upon the basic assumption that the

present executive-administrative structure in Montana is inferior to structures found in other states and to systems advocated by both students and practitioners of state government. Underlying this basic assumption is the writer's belief that executive authority must be commensurate with executive responsibility. In state government the governor should have authority to administer the laws and he should be commensurably accountable to the people for that administration. Authority and responsibility for executive action should be centered in the governor.

Montana's executive branch is characterized by the diffusion of executive authority and responsibility among several elected executive officials and among many boards and commissions. This diffusion is a result of the historical period during which the State of Montana became a political reality.

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CHAPTER I

ADMINISTRATION GROWTH AND THE REORGANIZATION MOVEMENT

At the close of the nineteenth century, the prevailing theory of the state executive was the offspring of Jacksonian democracy. President Jackson represented the frontier farmers and the new laboring class. Jackson advocated the idea that the legislature represented the interests of the old aristocracy, while the executive was a representative of all the people. "As Jackson fought with the Congress and the Supreme Court, the chief executive became the champion of the people in the eyes of the people."¹ As a result of the Jacksonian image of the chief executive, a movement began in the states to strengthen the chief executive. The colonial fear of the governor began to dissipate.

Jackson's argument that long retention of officials in office was detrimental to good government found expression in his advocacy of rotation. According to Jackson, officialdom must be changed after each election. The states altered this concept of rotation in office and instituted the practice of filling state administrative offices by election. If the governor was truly the representative of the entire electorate, officialdom could also be made responsive by allowing only

¹Allan R. Richards, "The Traditions of Government in the States," The Forty-Eight States; Their Tasks as Policy Makers and Administrators (Harriman, New York: The American Assembly, Graduate School of Business, Columbia University, 1955), p. 45.

those persons receiving the mandate of the people to serve in office.² This movement for the popular election of administrative officials grew until the usual procedure in the state was to elect a governor, lieutenant governor, a secretary of state, an attorney general, and a treasurer. Thus, the voter was faced with the so-called long ballot, consisting of many elected executive, judicial, and administrative officials. As a result of this practice the dominant role of the legislature declined. There was, however, no corresponding increase in the power of the governor. Instead, the legislature's dominance was replaced primarily by the voter, rather than by the chief executive.³ Supreme executive power was now diffused among several elected officials. Either as members of boards or as individuals, these officers were charged with the administration of state government. The role of the governor as the responsible officer for executing the laws and administering the state activities was now being played by several actors simultaneously.

In addition to multiplicity of elected executive officials, another political phenomenon appeared in the executive branch. This was the concept of citizen control of state administration by means of boards and commissions rather than by appointed administrators. It also produced a tendency toward the diffusion of executive power. As Lipson points out in this regard:

Similar problems are presented by the existence of boards and commissions. Prior to reorganization the states were 'commissioned

²Ibid.

³York Willbern, "Administration in State Government," The Forty-Eight States: Their Tasks as Policy Makers and Administrators (Harriman, New York: The American Assembly, Graduate School of Business, Columbia University, 1955), p. 115.

to death,' and the governor had inadequate power of control.⁴

The main argument for the introduction of boards and commissions as executive bodies was that a board will keep politics out of an administrative agency. It was argued that if the governor was allowed to select an agency or department head, administration would suffer due to the political ties implicit in such an appointment. According to Lipson the remedy was:

Place at the top, a board, whose members are appointed by the governor for long overlapping terms. The board acts as a 'buffer' between the governor and the executive head . . . this argument and the fear which prompts it, is similar to the motives of the long ballot advocates.⁵

A second argument for the board and commission form of government was continuity. When the membership of boards and commissions were appointed for long overlapping terms, it was felt that "their collective experience would be preserved."⁶ Another argument was that a group decision was superior to the decision of any single individual; wisdom would reign in a council of minds. The advocates of commission government also felt that a department would serve the public best if representatives of effected groups and sections made the decisions.

Executive power at the close of the nineteenth century was thus characterized by diffusion. The many elected officials executing administrative functions and making administrative policy decisions contributed to this diffusion. Employment of boards and commissions for

⁴Leslie Lipson, The Governor from Figure Head to Leader (Chicago, Ill.: The University of Chicago Press, 1939), p. 182.

⁵Ibid., p. 183.

⁶Ibid., p. 184.

administrative purposes spread the executive function among still more individuals. The governor was the chief executive in name only. His power lay primarily in the degree to which he could exercise his political prowess.

Montana

It was in this atmosphere that the executive branch of Montana state government was created. When the Montana Constitutional Convention met in 1889 to draft a constitution and erect a government for the new state, the concepts of elected administrators and diffused executive power were, indeed, present. The executive branch of Montana government was conceived as an executive department.⁷ Within this department the executive power was to be diffused between seven elected officials: a governor, lieutenant governor, attorney general, secretary of state, treasurer, a superintendent of public instruction, and a state auditor, all of whom were to be elected by the people for four-year terms.⁸

The multi-headed executive concept was not the result of the Montana convention's ingenuity. It was in keeping with the prevailing concept of state government and the article erecting the executive department was drawn almost exclusively from the Colorado Constitution.⁹

Dispersal of the executive power left the governor in a somewhat anomalous position. The adopted constitution stated that: "The supreme

⁷Montana, Constitution, Art. 7, Sec. 2.

⁸Ibid.

⁹Elbert F. Allen, Sources of the Montana State Constitution (unpublished paper compiled by Frank Woody. Library, Montana State University), p. 3.

executive power of the state shall be vested in the governor, who shall see that the laws are faithfully executed."¹⁰

However, the members of the convention did not seriously believe the governor would actually act in this lofty role.

Mr. Collins of Cascade: I think in the first place that the office of Governor is more ornament than anything else. The duties are less than that of any other officer mentioned in this section, and the compensation should be in accordance with the duties performed. The Secretary of State, State Auditor, State Treasurer, or Superintendent of Public Instruction, either one of them, do a great deal more work—two or three times more work and some of them ten times more work than the Legislative assembly will ever impose upon the Governor.¹¹

This statement was made regarding a proposal to reduce the salary of the governor. No objection was raised to Mr. Collins' conception of the governor's office; it was felt that although the governor was not going to be burdened with work, he would have to entertain visiting officials. If his salary was too low, only a rich man could possibly afford the governorship.¹²

This ostensible concurrence in an inactive role for the governor was accompanied by several provisions further emasculating the supreme executive power of the governor. Notable among these was the provision establishing the Board of Examiners.¹³

¹⁰Montana, Constitution, Art. 7, Sec. 5.

¹¹Montana, Proceedings of the Constitutional Convention, Helena Montana, 1889, p. 442.

¹²Proceedings, pp. 442-443.

¹³Note: This body is established in Article VII, Section 20 of the Constitution as adopted. Mr. Allen was unable to discover the exact origin of this section (Allen, p. 4). Oregon has a similar board however (Lipson, pp. 336-337).

This board passes on all financial claims against the state. The board consists of the governor, attorney general, and the secretary of state. Here, the executive control over matters financial is diffused among two other members of the executive department.

Another example of this concept of executive power related to the pardoning power of the governor. The Constitution provided that:

The governor shall have the power to grant pardons absolute or conditional

However, the section goes on to say that the governor has this power except that:

Before granting pardons, remitting fines and forfeitures, or commuting punishments, the action of the governor concerning same shall be approved by a board, or a majority thereof, composed of the secretary of state, attorney general and state auditor, who shall be known as the board of pardons.¹⁴

Here, also the executive power was divided among the members of the executive department and the "supreme executive power" of the governor reduced accordingly.

The members of the convention erected the multiple executive. They charged the governor with the responsibility of executing and administering the laws of the state, but in actuality placed the authority for that execution in hands of all seven members of the executive department.

Generally, the convention delegates felt that state services should be administered by boards and commissions. Some boards were to be presided over by the elected members of the executive department. Other boards were to be appointed by the governor. As state functions

¹⁴Constitution, Art. 7, Sec. 9.

increased, there was a corresponding increase in the number of boards and commissions to administer these services.

There are numerous ex officio boards upon which members of the executive department serve. The number of these boards has increased greatly as new services were added. In 1890 there were five ex officio boards; in 1953 there were fourteen.¹⁵

In addition to these ex officio boards, combination ex officio and appointive boards have increased from none in 1890 to twenty-nine in 1953. Strictly appointive boards increased from two in 1890 to twenty-seven in 1953.¹⁶

A compilation of all boards and offices in 1953 resulted in a total of 135. As Dr. Renne points out, "The state administrative machinery is far from a simple structure and the chief executive or governor of the state has a difficult job working out a smoothly functioning and well coordinated administration."¹⁷

These boards and commissions have grown with the state; as new functions were added by the legislature new agencies were erected to deal with them. Little attention seems to have been paid to the idea of incorporating additional functions into existing units of administration. Nineteen separate boards are engaged in examining and licensing

¹⁵David Smith, An Outline of the Development and Growth of State Administration in Montana 1890-1953 (unpublished research paper, Library, Montana State University), Table No. 1.

¹⁶Ibid.

¹⁷Roland R. Renne, The Government and Administration of Montana American Commonwealth Series, ed. W. Brooks Graves (New York: Thomas Y. Crowell Company, 1958), p. 89.

individuals for various vocations and professions.¹⁸ Financial duties are carried on by six boards and one commission, included here are the State Depository Board, the State Board of Equalization, the State Board of Examiners, the State Board of Supplies, the State Insurance Commission, and the State Furnishing Board.¹⁹

Twenty-three boards and commissions or councils are engaged in public health and welfare activities. There are twenty-one boards and commissions participating in various ways in the education of the people of Montana. Some twenty boards and commissions are engaged in activities relating to the development and control of natural resources of Montana. In addition there are some eight other boards and commissions covering such diverse activities as athletics and aeronautics.²⁰

Most of these boards and commissions are made up of citizens who are not salaried state officials. Many of the boards and commissions have only three members but range in membership as high as fifteen.²¹ A rather large share of the governor's time is required in attempting to fill these positions on the many boards and agencies. In 1890 the governor appointed thirty-eight people to staff his administration; due to the prevalence of the board and commission concept of administration in Montana, the governor, in 1953, had to select personnel for 287 positions.²²

¹⁸Ibid., p. 106.

¹⁹Ibid., pp. 108-109.

²⁰Ibid.

²¹Ibid., pp. 105-106.

²²Smith, p. 2.

The Reorganization Movement

Other states also found growth to be a problem. Administrative machinery to deal with new activities increased with each legislative session. Perhaps one of the most striking illustrations of this growth in state activities is shown in terms of expenditures. In 1913 the total cost of operating all the states amounted to only \$378 million. State expenditures in 1955, however, were nearly \$16 billion.²³

Accompanying this growth was a feeling that perhaps the new services were not being administered economically or efficiently. This feeling began rather early in the twentieth century and has continued to the present. As state services and the facilities for their administration increased, people began to express a new interest in the study of governmental organization:

In the early 1900's a group of men centering around the newly organized Bureau of Municipal Research in New York City had begun to feel government was sufficiently similar everywhere (at least in the United States) to permit certain generalizations about the goals of administration.²⁴

A movement for reorganization began in 1909. The Peoples Power League of Oregon published a proposal in 1909 and again in 1910 for reorganizing the executive branch of that state, concentrating the executive power in the governor.²⁵

On January 5, 1910, Governor Charles E. Hughes of New York

²³Harold F. Alderfer, American Local Government and Administration (New York: The Macmillan Co., 1956), p. 171.

²⁴The Council of State Governments, Reorganizing State Government (Chicago, 1950), p. 2.

²⁵A. E. Buck, The Reorganization of State Governments in the United States (New York: Columbia University Press, 1938), p. 6.

suggested a solution to the problem of administration in his annual message to the state legislature.

It would be an improvement, I believe, in state administration if the executive responsibility were centered in the governor who should appoint a cabinet of administrative heads accountable to him and charged with the duties now imposed upon elected officials.²⁶

In 1911 President Taft's Commission on Economy and Efficiency was established to study administrative reorganization at the national level. The Taft commission (though not particularly successful in attaining reorganization at the federal level) did advance the idea that problems of administrative organization could be studied in a systematic fashion. This was immediately appealing to the states.²⁷

New York was one of the first to study its administrative system and many new recommendations were included in a series of proposed constitutional revisions which were defeated at the polls in 1915. Massachusetts and New Jersey also set up commissions for studying executive functions.

By 1917 there had been extensive reorganization studies conducted in fifteen states, and Illinois, under Governor Frank O. Lowden, adopted an extensive statutory reorganization plan.²⁸ Fifteen states had adopted reorganization measures by 1925. The movement continued through the 1920's and 1930's and at the beginning of World War II approximately thirty states had effected substantial reorganization.²⁹

²⁶Cited in Buck, pp. 6-7.

²⁷The Council of State Governments, p. 2.

²⁸Buck, p. 7.

²⁹Willbern, p. 113.

Since the Second World War the results of reorganization attempts have been very modest. By 1953 there had been postwar studies in twenty-four states; however, legislative adoption of the recommendations was limited.³⁰

With some exceptions and qualifications the general temper of the reorganization proposals and plans in all the states was to emphasize the governor's responsibilities and attempt to give him authority commensurate with those responsibilities.

Montana has had no extensive reorganization along these lines. However, there has been, from time to time, a feeling that perhaps the plural executive, commission type of administration was not the proper kind of administrative organization for the state. Joseph M. Dixon, who became governor in 1921, expressed this attitude rather candidly as early as 1919:

It is my opinion that in order to strike at the root of the present difficulty in the way of coordinating the various branches of the state government that a constitutional amendment is necessary. The governor of the state, as the responsible executive, should have the right to name the purely administrative [sic] state officers, in exactly the same way as the president names his responsible cabinet.

Good government comes from placing full responsibility in the hands of the fewest administrative officers possible and then holding the appointing power responsible for their individual actions. To my mind it is not possible to have effective government, as long as responsibility is scattered throughout a dozen different heads, each of whom has equal power in the matter of determining policy. Our present administrative state government is a veritable patchwork of pieced-on boards, with overlapping duties and responsibilities³¹

³⁰Ibid., p. 113.

³¹Letter from Joseph M. Dixon to Frank Eliel, June 11, 1919, Collected Papers, Montana State and Territory, Efficiency and Trade Commission, 1919, Montana State University Library, microfilm.

This feeling led to the establishment, in 1919, of the State Efficiency and Trade Commission. This commission had two primary functions. First, it was to study the government of Montana and make recommendations which would promote efficiency and economy. The second function had to do with an investigation of commercial activities in the state.

A second major study of Montana's governmental system was started in 1941. The legislature created the Governor's Committee on Reorganization and Economy and authorized the governor, with the aid of a citizen advisory committee and a consulting firm, to make a comprehensive study of the entire organization and structure of Montana government. This committee was allocated \$20,000 and employed Griffenhagen and Associates, a professional governmental consulting organization, to conduct the study. The extensive study made by this group resulted in a voluminous report published in 1943.

In 1951 the Commission on Reorganization of the State Government of the State of Montana was established. This commission was composed of state legislators. The commission was delegated authority to make recommendations for reorganizing Montana government. In cooperation with the Montana Taxpayers Association, the commission employed an executive director to conduct its study. In 1953 the commission submitted its report to the legislative assembly.

The Model

It is the purpose of this thesis to analyze these three major reorganization studies conducted in Montana with regard to their conformity with, or departure from, the generally accepted principles of

administrative organization for state government.³² In order to systematically analyze the work of the three studies, it is necessary to construct a model administrative organization based upon these accepted principles.³³ The model here proposed is based upon what A. E. Buck calls the "integrated type of administrative organization" as opposed to the present Montana system or the "commission or plural executive type."³⁴

The executive branch of government is responsible for administering the functions performed by the government; it should be organized to perform its duty effectively and efficiently and it should be politically responsible for the performance of that duty. To achieve this objective it is necessary to have a short ballot, that is, elect only two officials from the same party to the executive branch, a governor and lieutenant governor, and place the power to direct in one of them—the governor. When the authority for the performance of executive functions is diffused among several elected officials, administrative conflicts result. Conflict is likely when these elected officials are members of different political parties.

The history of Montana is crowded with cases of political division in the executive department. In the eighteen elections held between 1889 and 1956, the seven elected officials of the state have been of

³²Willbern, p. 114.

³³This model is based primarily on the principles embodied in Chapters I and II of Reorganizing State Government, Council of State Governments, op. cit., pp. 1-67.

³⁴Buck, p. 29.

the same party affiliation only seven times.³⁵ In 1956, for example, the governor and superintendent of public instruction were Republicans; the other five elected officials were Democrats. In the eleven elections in which there was a political division, the governor has been in a minority seven times.³⁶ Political division may have significant consequences for administration if the elected officials jointly constitute an important administrative board.

The Montana Board of Examiners made up of the governor, secretary of state, and the attorney general has extensive financial control over state activities; it has been said that the board: ". . . in reality constitutes a triple-headed executive system."³⁷ Political division on this board may result in great difficulty for the governor to maintain any control over the policies of the board. The fact that all the members of the board presumably have the mandate of the people encourages them to act somewhat independently even when political unity obtains. In connection with this specific board Leslie Lipson has written:

. . . This board has great power and holds frequent meetings. A former attorney general of the state told the writer that the governor by no means rules the board. The triumverate indulges in 'trading' and 'logrolling,' and the governor may be overruled.³⁸

A short ballot would eliminate this diffused type of administrative mechanism. The short ballot is not without precedent. In addition to the federal government, several states also use this system.

³⁵Compiled from Renne, p. 112.

³⁶Compiled from Renne, p. 112.

³⁷Ibid., p. 113.

³⁸Lipson, pp. 36-37.

In New Jersey, for example, the governor is the only publicly elected member of the administrative branch of the state.³⁹ Alaska also has a short ballot, the only elected officials in the executive branch are the governor and the secretary of state.⁴⁰

Another and integral part of the model is the idea of departmental consolidation. This plan involves the consolidation of all administrative agencies into a small number of departments organized by function. The purpose of functional integration is to eliminate overlapping, duplication, and to define the authority and scope of the directing head. A large number of unrelated agencies making up the administrative structure leads to divided responsibility.

In addition to the grouping of agencies into departments on a uni-functional basis, the heads of all departments should be appointed by, and responsible to, the governor. Department heads should be appointed on the basis of their integrity and ability. In order to insure their responsibility to the governor they should serve at his pleasure. The governor's power of appointment and removal tends to identify those responsible for the action or inaction in the administration.⁴¹

Another and important part of the model concerns the elimination of boards and commissions for purely administrative tasks. Multi-headed

³⁹Bennett M. Rich, The Government and Administration of New Jersey, American Commonwealths Series, ed. W. Brooke Graves (New York: Thomas Y. Crowell Company, 1957), p. 85.

⁴⁰The Constitution of Alaska Adopted February 5, 1956 (Fairbanks, Alaska: Commercial Printing Co.), pp. 13-14.

⁴¹Buck, p. 17.

agencies divide responsibility and contribute to indecision. Single administrators should direct the operative affairs of an administrative agency.

Where citizen interest is great or where a council of minds is felt necessary, advisory boards can be erected. However, advisory boards should in no way be allowed authority or responsibility for the actual direction of operations. If an agency performs functions primarily of a quasi-legislative or quasi-judicial nature, a plural-headed agency should be instituted. This type of administrative body should be integrated as closely as possible into the executive branch and should be appointed by the governor.

Another important tenet of this model administrative organization is to complement the governor's powers with the authority to require reports and investigate administrative activities.

Accompanying the above mentioned control functions, the governor should have the necessary staff instruments. The governor should have an adequate personal office staff, including adequate clerical help, advisors, and administrative assistants.

The appointed department heads should be organized in a governor's cabinet. Collective discussion of the problems confronting all the agencies would promote better coordination of the state's administrative apparatus.

A central budgeting agency with the authority to prepare an executive budget should be included in the governor's staff group.

Another fiscal agency required is a central accounting office to set up the accounting system for the state. It should also allot

appropriations, settle claims, and make a pre-audit of all expenditures. This office also should be responsible to the governor.

Central purchasing is an additional staff service that the governor should have. This office should obtain and distribute supplies for various state activities. Quantity purchasing on a bid basis can reduce the item cost of supplies used commonly in state agencies.

A central personnel office with a sound merit system should be linked to the governor's office. Stressing the principles of civil service at the federal level, this agency should attempt to recruit and retain qualified personnel for the entire state administration.

The final agency attendant to the governor's staff contingent is a planning agency. This staff unit should be instituted to research and evaluate state programs with regard to coordination, trends, and possible future administrative needs.

The final part of the model is designed to provide the legislature with a tool for surveillance over the executive branch. A means for control over the fiscal operations of the executive department can be provided for by the establishment of an independent auditor. This auditor should have the authority to require of the executive branch all information needed to conduct a post-audit of the state's expenditures. This officer would be entirely responsible to legislature--not to the governor.

The governor and his subordinates must be responsible and accountable to the people and the legislature for the conduct of the executive branch. However, as the Hoover Commission found in investigating the executive branch of the federal government in 1949:

Responsibility and accountability are impossible without authority-- the power to direct. The exercise of authority is impossible without a clear line of responsibility and accountability from the bottom to the top. The wise exercise of authority is impossible without the aids which staff institutions can provide to assemble facts and recommendations upon the execution of decisions.⁴²

The state governments of New Jersey and Alaska approximate the structure of this model. Alaska is perhaps closer than New Jersey. In Alaska the executive appoints the heads of a small number of departments (according to the constitution, the number of departments shall never exceed twenty); the department heads are responsible to the governor and serve at his pleasure. In addition, the constitution provides that operating agencies be organized by function into major purpose departments.⁴³

In summary, the model plan contains these principles:

1. Shorten the ballot and place the power to direct the state administration in a single executive officer--the governor. In this way both the responsibility and authority for action are centered and identifiable.
2. Consolidate administrative agencies into a small number of departments, organized by function, to prevent overlapping and duplication of services.
3. The heads of these uni-functional departments should be appointed by the governor and should serve at his pleasure.

⁴²The Commission on Organization of the Executive Branch of the Government, General Management of the Executive Branch, a report to Congress, February, 1949 (Washington, D. C.: U. S. Government Printing Office, 1949), p. 1.

⁴³Alaska, Constitution,

4. Single heads should direct the affairs of administrative agencies. Boards and commissions should be eliminated from purely administrative tasks.
5. Staff services should be placed at the disposal and under the control of the governor. Included among these services are:
 - a) The authority of the governor to require reports.
 - b) A personal office staff for the governor including adequate clerical help, advisors, and administrative assistants.
 - c) A governor's cabinet composed of the appointed department heads.
 - d) A central budget agency to prepare an executive budget.
 - e) A central accounting agency to set up a uniform accounting system for the state. This agency should allot appropriations, settle claims, and make a pre-audit of all state expenditures.
 - f) A central purchasing agency should be established.
 - g) There should be a central personnel agency linked to the governor's office, stressing the principles of civil service found at the federal level of government.
 - h) A planning agency should be instituted to engage in research and to evaluate administrative programs.
6. An independent post-audit of the state's financial affairs should be conducted by an auditor responsible to the legislature.

Some of these principles have been embraced by each of the three reorganization studies conducted in Montana. For various reasons, however, extensive changes along the lines suggested in the model have not been made in the executive-administrative system of Montana. In the succeeding chapters a survey of each of these reorganization groups and their work is undertaken. The principles embodied in the model will be applied to the proposals offered by these reorganization groups in order to determine each group's conception of the executive-administrative branch of Montana government and how these conceptions differ from the generally accepted principles of administration.

CHAPTER II

THE STATE EFFICIENCY AND TRADE COMMISSION OF 1919

As the functions, equipment, and expenditures of state government began to increase, questions were raised concerning the adequacy of Montana's performance. Consideration was given to the idea of studying Montana's administrative facility to determine the presence or absence of a businesslike approach to the administration of state affairs. In 1919, the Sixteenth Legislative Assembly created the three member State Efficiency and Trade Commission. The three members of the Commission were Frank Eliel, the chairman, N. T. Lease, and W. O. Fisk. This Commission was delegated the authority to study the administrative structure of Montana government and offer recommendations for change in that structure to promote economy and efficiency. The other purpose of the Commission was to investigate commercial combinations allegedly engaged in fixing prices within the state.

The Commission was charged with the responsibility of setting up a budget plan and preparing a budget for submission to the Seventeenth Legislative Assembly in 1921.¹ The Board of Examiners was originally responsible for preparing the 1921 budget, but, lacking facilities and funds, the task was delegated to the Commission. The Commission employed Tanner, Gilman and Ellis, an accounting firm from Chicago, to construct a budget system and outline a plan for a uniform system of

¹Montana, Report of the State Efficiency and Trade Commission Rendered on November 1, 1919, to Governor S. V. Stewart, p. 59.

accounting in the state.²

In addition to the budget plan, Tanner and Gilman drew up organization charts showing the administrative structure of several states. These plans were designed to provide the Commission with a working knowledge of the various organization patterns then existing in other state governments.³

Supplementing the work of Tanner and Gilman, N. T. Lease, a member of the Commission, toured several states and inspected their respective administrative systems.⁴ In addition, the Commission members made a general survey of Montana's executive-administrative organization. The Commission's recommendations were based upon the work of Tanner and Gilman, Lease, and the Commission survey.

Generally, the Commission was interested in centralizing state administration and reducing the amount of work required of each elected officer. After studying the activities of the several officers, offices, and boards, making up the administration of Montana, the Commission became aware of the decentralized character of the state's administrative structure.

The Commission determined that the elected members of the executive department were subject to extensive and time-consuming membership on numerous boards and commissions. The governor, the Commission

²Minutes and Papers of Efficiency and Trade Commission, Collected Papers, Montana State and Territory (Montana State University Library), microfilm.

³Ibid.

⁴Ibid., Minutes of June 4, 1919.

concluded, was excessively burdened by his required membership on twelve different boards and commissions. Because of his participation on these boards, the Commission felt that it was physically impossible for the governor adequately to perform the other duties of his office.⁵

Discussing the office of attorney general, the Commission pointed out that the people of the state elected a person to this office on the basis of his legal ability, not on the basis of his abilities as an administrator. The duties of the office, encompassing membership on many administrative boards and commissions, were primarily of an administrative nature. As a result of this analysis, the Commission recommended that the attorney general be relieved of his membership upon these boards and concern himself with the legal aspects of his office.⁶ The Commission did not, however, draft a bill to implement this recommendation as it would have entailed extensive constitutional revision.

In connection with the analysis of the elected officials of the executive department, the Commission also studied the activities of the many state administrative boards. The Commission believed that there were too many agencies erected to deal with increased state activities. They felt that consolidation of agencies into departments would be of great benefit to the administrative organization of the state:

A new office or bureau is frequently created to perform a function closely related to the work already being done by an existing

⁵Report, pp. 4-5.

⁶Ibid., p. 5.

office or bureau, and instead of creating a new office or bureau, the Legislature should have provided for the necessary extension of power of an existing office.⁷

The Commission recommended that six boards having to do with agricultural activities be consolidated into a department of agriculture under a single head appointed by the governor.⁸ Also, the Commission recommended that the Industrial Accident Board, the Bureau of Labor and Industry, and The Board of Arbitration and Conciliation be combined into a Department of Labor. In the case of these proposed departments, no constitutional limitation was evident and the Commission drafted bills to consolidate these agencies.⁹

The Commission, commending the idea of consolidation, was impressed with the cabinet plan of government recently adopted in Illinois. There, boards were consolidated into departments with single heads appointed by the governor and coordinated in a governor's cabinet. However, the Commission believed that the adoption of this system by Montana was impractical on two grounds. First, the Commission concluded that the cabinet form of government, though well established in the business world, had not been tested for sufficient time in state government to merit adoption in Montana. A second conclusion was that the inauguration of the cabinet system in Montana government would involve extensive amendment to the constitution. The obstacles created by the existence of constitutional boards, commissions, and officers

⁷Ibid., p. 53.

⁸Ibid., p. 112.

⁹Ibid., p. 161.

were considered by the Commission to be insuperable.¹⁰ Underlying both reasons was a general reluctance to eliminate any of the elected offices or to institute any "spectacular or revolutionary changes."¹¹

Intensive attention was, of course, given to the important Montana State Board of Examiners. The Board of Examiners was (and is) responsible for much of the state's financial administration. In addition to a monthly accounting of state funds the Board of Examiners had charge of planning and erecting buildings, purchasing all furnishings for the state, awarding contracts, preparing a budget, and examining all claims against the state. The Commission discovered that the number of claims alone amounted to twelve or fourteen hundred a month. The volume of work falling upon this agency was too great, the Commission reasoned, for the members (the governor, attorney general, and secretary of state) to exercise proper control of the duties and perform, at the same time, the other activities connected with their respective elected offices.¹²

After thorough study the Commission came to the realization that the administration of Montana was less than adequate. They asserted that the administration was incapable of dealing effectively with increasing state activities. Boards or commissions, made up of elected and appointed officials, were not considered desirable for administrative purposes. Speaking specifically of the Board of Examiners' role in state affairs, the Commission observed: "The manner of handling

¹⁰Ibid., p. 52.

¹¹Ibid., p. 51.

¹²Ibid., pp. 7-8.

the state's business was effective and satisfactory during the infancy of the state, but we believe that it is rapidly being outgrown."¹³

On July 31, 1919, the Commission presented a partial report of its investigations to the governor. (The reason for this incomplete report was the sudden convening of the extraordinary legislative session of 1919 to deal with the problems of drought in the state and to act on the woman's suffrage amendment to the Federal Constitution.) The primary proposal in this partial report was a recommendation for reform of the executive-administrative organization of the state. Essentially the Commission was concerned with centralizing the "business affairs" of the state. The Commission maintained that centralized control of the state administration would fix responsibility in fewer hands, allow the elected officials more time for their elected offices, and promote efficiency.¹⁴

The proposal for centralizing state administration was based on the Commission's analysis of administrative reforms adopted in other states during the early 1900's. The Commission's proposed State Board of Administration represented a kind of synthesis of these reforms. This plan consisted of a three-man board appointed by the governor. The board would take over the work of the Board of Examiners relating to the audit of claims, purchases, preparation of the budget, and control of the charitable, penal, and educational institutions of the state.¹⁵

¹³Ibid., p. 162.

¹⁴Ibid., p. 48.

¹⁵Ibid., p. 42.

The creation of a Board of Administration was also an attempt to give fiscal control to the governor. Gubernatorial appointment of the board members would theoretically make the board responsible to the governor. Acquisition of the financial duties formerly performed by the Board of Examiners, and preparation of the budget would presumably place the Board of Administration in a powerful administrative position, subject only to the control of the chief executive.¹⁶ General control over state institutions and selection of the executive staff for these institutions would complete the administrative power of the Board.

The Commission attempted to achieve these reforms by legislative enactment. A bill was included in the Report outlining, in detail, the powers of the contemplated Board. Conflicting statutory provisions for establishing such a board were eliminated in the draft of this extensive bill. The Commission, however, was ultimately forced to recommend a constitutional amendment to establish the Board of Administration. It is evident from the report that after submitting the bill for the creation of the Board, a question arose among legislators as to the power of the legislative assembly to establish such a board by mere statutory enactment. Because the new Board was to acquire many of the Board of Examiners' duties and powers, the legislature felt that it could only be established by constitutional amendment. The Commission was not willing to scuttle its proposal however:

So strongly do we favor the creation of such a Board of Administration and considerable controversy having arisen respecting the power of the Legislature to create such a board—whose duties

¹⁶Ibid., p. 49.

would necessarily conflict with the duties imposed by the present constitutional provision upon the Board of Examiners--that we decided to recommend the submission of the accompanying amendment In view of the controversy alluded to, we soon decided that the issue should be put squarely before the people whether such a needed administrative agency should be authorized.¹⁷

The amendment, as submitted to the people of the state, gave the Legislature power to establish a Board of Administration but the amendment specifically stated that the general supervisory power of examining claims would remain the province of the Board of Examiners. The Board of Administration would have the power to make purchases for the institutions of the state but no mention of other control functions over state institutions was made. This amendment, however, was defeated in the November election of 1920 by over 20,000 votes.¹⁸

The general theme of the recommendations and accompanying arguments offered by the Commission was centralization of the administrative affairs of the state. Coordination of administrative and fiscal activities would have undoubtedly been improved under the proposed Board of Administration but "authority--the power to direct" would continue to be diffused. The reluctance to do away with the elected offices and their functions as administrative heads diluted the Board of Administration plan for centralization of administration. The responsibility for the conduct of the administrative affairs of the state would continue to be in the hands of the seven elected officials making up the executive department of the state.

¹⁷Ibid., pp. 161-162.

¹⁸Montana, Secretary of State, Official Montana Election Returns, 1920, Montana State University Library.

Collaterally, the Commission recommendations included only statutory consolidation of a few of the many boards and bureaus constituting the administrative machinery of the state. Due to the existence of formidable constitutional sanction for the commission form of administration in Montana, the Efficiency and Trade Commission was not prepared to recommend extensive departmental consolidation. According to the Commission, the concept of functionally integrated departments with single heads appointed by and responsible to the governor was a sound approach to administration. However the adoption of measures for consolidation and departmentalization and the erection of a governor's cabinet was considered too "spectacular."

The Commission did advocate in its plan the establishment of an executive budget; the budget was to be the responsibility of the proposed Board of Administration. Central accounting was recommended by Tanner and Gilman, and incorporated into the Board of Administration proposal. Central purchasing was also recommended by the Commission. These staff functions were placed in the hands of the proposed Board.

A merit system for testing, selecting, training, and retaining qualified personnel in the state employ was neglected in the Commission's recommendations. The Commission seemed satisfied with the caliber and efficiency of the state's personnel.¹⁹

Generally, the Board of Administration would have relieved the governor and the two other members of the Board of Examiners of many routine activities. The responsibility for the actions of the Board

¹⁹Ibid., p. 47.

of Administration would fall to the governor because of his appointment of the Board members. Final authority of the Board's fiscal activities, however, would be ultimately in the hands of the three member Board of Examiners. Control and supervision by the Board of Administration over state institutions was limited by the retention of the constitutional provisions relating to several boards among which are the Board of Examiners, the Superintendent of Public Instruction, and the State Board of Education.²⁰

Recommendation of a three member board shows the insistence on the concept of direction by a plural headed agency. Due to the overlapping terms of the members of the proposed Board, the governor's control over this body would have been reduced. According to the Commission's report, the members of the Board would not necessarily be professional administrators; indeed, they recommended that two of the members be of the same political party. Such a stipulation in connection with the idea of a plural headed administrative body is a continuation of the checks and balances theory embodied in the concept of government by commission so prevalent in the nineteenth century.

A single responsible executive to direct the entire administrative apparatus of the state is central to the model plan. The Commission's initial departure from this concept was the proposal of an administrative board. Ultimate authority for fiscal management remained with the Board of Examiners by virtue of the original constitutional provisions relating to that body. Control over the administrative

²⁰Ibid., p. 103.

agencies and bureaus could not be delegated to the Board of Administration due to the constitutional position of the elected executive officials and constitutional boards like the Board of Education. Consolidation of agencies, though considered by the Commission to be theoretically desirable, was given up as an impossible task due to constitutional limitations. Also, the idea of citizen participation in administrative boards was a factor contributing to the Commission's reluctance to advocate the elimination of plural headed agencies. The Commission was not prepared to advocate extensive amendment of the constitution to establish the cabinet system adopted by Illinois two years earlier. However, the Commission was willing to submit the Board proposal to the people. It was convinced that the Board of Administration would be an improvement over the existing administrative system, and at the same time would not depart radically from the multi-headed executive tradition prevalent in Montana.

The Commission's proposal for a Board of Administration was entirely in keeping with their desire ". . . to recommend a conservative plan" for Montana governmental administration.²¹ The plan was perhaps not "conservative" enough for the Montana voter of that era judging by its fate at the polls. Some possible explanations for the failure of the constitutional amendment will be offered in the last chapter.

²¹Ibid., p. 48.

CHAPTER III

THE GRIFFENHAGEN STUDY

It was not until 1941 that Montana again approached the problem of the state's governmental organization. In that year, Governor Sam C. Ford recommended to the Legislature that a thorough study of the state administrative structure be made. The Legislature responded to this recommendation with little opposition and enacted Chapter 56 of the 1941 Session Laws giving the governor power to appoint an advisory committee on Reorganization and Economy.¹ Included in Chapter 56 was the express provision for making an exhaustive study to gather information which might lead to specific recommendations relating to the improvement of the state administration and to governmental economies. In addition, the law gave the governor power to employ, with the advice of the advisory committee, a professional firm; "skilled in the science of government,"² to undertake the actual investigation of the state's finances, institutions, and general administrative facilities.

The Legislature appropriated \$20,000 for the conduct of the study and the governor, with the consent of the advisory committee, employed Griffenhagen & Associates, a well known governmental consulting firm.

¹The members of this committee were: W. E. Dowlin, Charles H. Mahoney, Leonard Plank, Ory J. Armstrong, James N. Dougherty, Russell E. Smith, Fred Bennion.

²Montana, Committee on Reorganization and Economy, Reorganization Report Submitted to the Twenty-Eighth Legislative Assembly by Governor Sam C. Ford (Helena, January 1943), p. 1.

This firm was selected on the basis of its experience in conducting reorganizational studies, and as organizational consultants in other state and local governments.³

Griffenhagen & Associates began their investigations on July 1, 1941, and completed their voluminous report on March 1, 1942. The study conducted by the firm was thorough indeed; fifty-nine separate reports were prepared on the various facets of Montana's government; there were 1,415 typewritten pages in the cumulative report. In all, a total of 967 recommendations were made by the reorganization firm.⁴ Recommendations made by the firm ranged from minor references concerning office procedures in the institutions, to major, and far-reaching proposals for state-wide administrative reform. Some recommendations merely required an executive order for their implementation; others would have required a great deal of legislation and even constitutional amendment.

In making the study, Griffenhagen & Associates would conduct the investigation of a given agency or function and submit their recommendations concerning that particular agency or function to the governor. The governor would then refer the recommendations to the advisory committee. The advisory committee met with the official in charge of the agency or function and allowed him to participate in the discussion of the Griffenhagen report. Upon completion of the

³Ibid., p. 5.

⁴Ibid., p. 5.

discussions, the advisory committee in conference with the governor would discuss the report. The recommendations were then approved, amended or rejected by the committee. When a recommendation was approved and where it did not require legislative action, the governor issued an executive order to implement the recommendation. Some recommendations were sent to the legislature for consideration and action after the war; most of these required legislation including additional appropriations. Recommendations requiring legislative action which were approved by the committee were transmitted to the governor who, in turn, submitted them to the legislature. Other recommendations did not receive approval by the committee and were not included in the report to the legislature; they were, however, accessible to the legislators in the state law library, along with the original and complete reports compiled by Griffenhagen & Associates.⁵

The studies conducted by the reorganization staff were divided into three major divisions. The first division included the department or agency studies; activities, functions, and internal organization of all the units of Montana government were included in this study division. Operating policies, staff, expenditures, value and cost of the services were also object of analysis.

A second division had to do primarily with financial and staff surveys. The accounting system, budget construction and control, expenditure and disbursements, debt administration, pre-audit, post-audit, and

⁵Ibid., pp. 7-10.

personnel policies and practices were considered in this division.

General state organization was the third division of study. This division (the most important for purposes of this study) was a broad survey of the allocation of functions and general administrative relationships existing in Montana's governmental organization. It is within the broad framework of this division that all the reorganization proposals advanced by the firm have their basis.

Griffenhagen & Associates believed that the administrative structure of Montana needed to be reorganized. They were convinced that certain organizational principles were lacking in the executive-administrative structure of the state. In their general report several sweeping reforms of Montana's administrative system were advocated. The advocacy of these reorganizational proposals was predicated on six general organizational principles: simple and definite organization, integration, logical allocation of functions, suitable managing authorities, continuity of operating policy, and competent personnel.⁶

In relation to the first principle--the need for simple and definite organization--the firm explained that there was a need for a clear and specific organizational plan. There should not be numerous agencies, branches and departments erected without reference to an over-all plan. Each of the branches and agencies should be precisely defined and the responsibility for the direction of the agency should be clearly fixed. The firm concluded that Montana's organization was not clear and definite; it was complex, and responsibility for action was hard to

⁶Montana, Griffenhagen & Associates, Report of the Governor's Committee on Economy and Efficiency, General State Organizational Report No. 58, pp. 10-13.

determine. Because responsibility was difficult to determine in the various unconnected agencies, the study group found that the legislature was in the habit of delegating authority for action upon many questions to the Board of Examiners "under the guise of dealing with their financial implications."⁷

Montana, according to Griffenhagen & Associates, was definitely in need of the second principle--integration. Integration in the firm's vocabulary meant the coordination of the state's activities under a central executive authority. Included in the concept of integration was a provision for "facilities for promoting cooperative action among, and providing common services to, the several departments."⁸ The firm concluded that the constitutional investment of the governor with "supreme executive power" was not an actual fact in Montana. The governor is excluded from the use of his power because of provisions in the law:

giving independent authority to boards, commissions, and other elective officers. Under such circumstances the governor is in no position to 'see that the laws are faithfully executed.' Public opinion holds him responsible, but as he does not have the authority necessary to enable him to carry out the responsibility placed upon him by public opinion, as well as by the express mandate of the constitution, he is placed in an impossible position.⁹

Allocating functions on a logical basis was another principle which the reorganization staff advocated. Basically this principle envisions the placing together of functions and activities which are either similar in character, subject matter, or in the type of personnel

⁷Ibid., p. 10.

⁸Ibid., p. 11.

⁹Ibid., p. 11.

performing the tasks. The firm found that similar functions were diffused throughout the various agencies making up the administration of Montana. During their analysis the firm discovered several cases of duplication and overlapping operations.¹⁰

According to the Griffenhagen staff, a single administrator is the basic requirement involved in the principle of managing authorities. The management of most activities should be in the hands of a single directing officer. Such an administrator should have the authority to carry out his task and be provided with adequate counsel and staff aids. The firm recognized the possible necessity for using boards as policy agencies in certain circumstances but even in these cases they advocated a single administrator to implement the decisions of the board. Single executives employed in directing positions, with authority and responsibility for the operation of governmental activities, was, according to the firm, the exception and not the rule in Montana government. Boards and commissions tended to predominate as the instruments for administrative direction and supervision:

Entirely too many straight administrative and executive responsibilities are assigned to boards. Boards in general are not well suited for executive action, and the least well adapted for this type of responsibility are ex officio boards where the members are engrossed in other duties.¹¹ Yet many such boards have been given administrative duties.

This form of administration, of course, had its roots in the constitutional framework of Montana.

Another principle advanced by Griffenhagen & Associates involved

¹⁰Ibid., p. 12.

¹¹Ibid., p. 12.

the idea of a continuing operating policy. Continuity of policy in the management of state affairs is primarily enforced through employment practices. Montana, the firm concluded, had a history of interest in continuity; continuity was provided, however, by the appointment of people to boards and commissions for overlapping terms. A principle advocated by the group having a collateral relationship with the principle of continuity was the principle of recruiting and retaining competent personnel. While finding no evidence of ". . . widespread incompetency among the state's employees. . .", the firm concluded that there was no systematic approach to the problems of selecting qualified personnel and retaining competent employees.¹²

When the firm's principles were applied to Montana the evidence of divergency was abundant. The executive-administrative branch of Montana government was found by Griffenhagen & Associates to violate nearly all the principles.

The organization is such as to defy accurate charting that would truthfully show the relationships among the various agencies.¹³

A basic reason for the diffused character of the state's administrative system was the Legislature's attempt to control administrative activities. In connection with the "supreme executive power" allocated to the governor by the constitution, the firm pointed out:

. . . the existing organization is so designed as to go far in nullifying rather than implementing this section of the constitution. This situation results from various devices that have been used deliberately, in establishing agencies to carry on

¹²Ibid., p. 6.

¹³Ibid., p. 6.

administrative functions, to weaken the governor's influence over the agencies involved. . . .¹⁴

Primarily the devices used to weaken the governor's control were the establishment of boards for directing administration. Correspondingly, there was a restriction of the governor's power to appoint responsible single heads to direct the activities of the several governmental units. The governor has complete authority for the appointment of members to these boards in only about half the agencies over which these boards preside. However, according to the reorganization staff, this power does not insure control over the operation of a given agency:

This does not mean that he [the governor] can always exercise control because many of the boards are made up of members whose terms are longer than that of the governor, with only a fraction of the membership up for appointment at any one time.¹⁵

Another abridgement of the principles outlined by the firm regarded the composition of membership upon these boards.

According to the provisions establishing many of the boards in Montana, membership upon the boards must be drawn from the areas of the economy or society served by the boards. The governor in many cases must appoint people engaged as private citizens in the activity controlled by the board. Griffenhagen & Associates considered this inconsistent with good government:

Such provisions overlook the principle that if the state government is to conform to the high ideals upon which the state constitution is predicated, the purpose of government regulation and government activity in general must be the protection and improvement of the welfare of the citizenry as a whole.¹⁶

¹⁴Ibid., p. 7.

¹⁵Ibid., p. 8.

¹⁶Ibid., p. 26.

The staff found that there were at least fifteen boards where one or more members were selected in this fashion.¹⁷

Another type of administrative device with which the firm took exception was the ex officio board. Montana, in keeping with the idea of internal checks and balances in the executive branch, has made extensive use of this type board for administrative purposes. The popularly elected members of Montana's executive department are required to sit on these boards to supervise the operation of certain state activities. The purpose of this kind of administrative or executive unit is to eliminate the possibility of total authority accruing to one individual. These ex officio duties are an addition to the duties imposed upon the officers in connection with the respective constitutional offices for which they were elected. Regarding the ex officio activities of these elected officers, the reorganization staff concluded that these officials:

. . . are selected for particular jobs. Under any sound plan of organization they should be fully occupied with such jobs. The diversion of their time and energies to other frequently unrelated matters can only result in that much neglect of the basic responsibilities of their original positions. The duties now assigned to ex officio boards should be assigned directly to the agency with which their activities are associated most closely, and the boards should be eliminated.¹⁸

As pointed out above, ex officio boards were inconsistent with the firm's idea of good administration; boards are inferior to single administrators and ex officio boards are least effective for purposes of directing activities.¹⁹

¹⁷Ibid., p. 7.

¹⁸Ibid., p. 21.

¹⁹Supra, p. 6.

The Reorganization Plans

To implement reform in Montana government along the lines suggested by these principles would have involved extensive constitutional amendment. The analysis of Montana's administrative system indicated the need for extensive reform according to the firm. However, the practical obstacles to a sweeping reorganization were apparent to the firm's staff. Therefore, Griffenhagen & Associates prepared two plans based upon their analysis of Montana's organization. The first plan was called a "proposed" or "long range" plan, and the second a "modified" or "immediate" plan.

The "long range" plan was based almost entirely on the principles of state administration enumerated by the firm. The structure of this long range plan was simple and precise; responsibility was fixed and authority centered. The governor would be the single elected executive officer and would preside over seventeen departments making up the administrative service. The direction of each department would be the task of a single administrator appointed by, and responsible to, the governor.²⁰

A governor's or "executive cabinet" would be instituted and the directing officers of the departments would comprise the membership of this cabinet. Because certain activities of government are of a quasi-legislative or quasi-judicial nature, the firm agreed that some of the departments should have a board to deliberate appeals from persons affected by certain of these activities. Six such boards were included

²⁰General State Organization Report No. 58, p. 23.

in the long range plan. Agencies would be structured in the departments on a functional basis. The primary function of the plan would be to place the governor in the position of chief executive as formally expressed in the constitution.²¹

The first plan was not presented with any hope of adoption. An awareness of the constitutional and political impediments to such a plan prevented the firm from submitting it as the only proposal for reform of Montana's governmental system.

The first plan [the long range plan] . . . would be desirable to adopt if it were possible to ignore all the constitutional and other difficulties in the way. It is intended for use only as a guide for future legislation and for constitutional amendments needed to clear the way, step by step, for its ultimate adoption. There are too many obstacles to permit its immediate adoption.²²

The long range plan was not adopted by the advisory committee in any case. It was transmitted to the Legislature without recommendation for action. In the final report to the Legislature, the plan occupies only one page in the 132 page report.²³

Generally, the long range plan is in conformity with the model plan contained in Chapter One.²⁴ Based upon the principles formulated by the Griffenhagen firm, the first plan embodies the idea of responsibility commensurate with authority. The vertical arrangement of the organization would insure clear lines of authority from the bottom to the top and from top to the bottom of the administrative structure. At

²¹Ibid., p. 30.

²²Ibid.

²³Committee Report, pp. 118-119.

²⁴Supra, Chapter One, p. 15.

the top of the structure, the governor, as the only elected executive official, would become the real chief executive. Appointment and removal power over the department heads would place the authority and responsibility for administrative policy and action (or inaction) in the governor's hands.

Departments, in the long range plan, were to be comprised of agencies placed in these departments on a unifunctional basis. The number of administrative units, according to the plan, would be substantially reduced as a result of integration into departments. As mentioned above, the board or commission concept of administration would have been effectively eliminated by the institution of single administrators to head departments and agencies. Boards would be retained in advisory capacities with the final decision for action resting with a single administrative officer. Quasi-judicial functions and quasi-legislative activities would be assigned to boards but the administration of board decisions would be carried out through a single administrator.

To insure an adequate staff for the chief executive the long range plan incorporated a governor's cabinet comprised of the appointed department heads. This provision corresponds to the model. Other staff aids including a provision for a personnel agency were advocated by the firm. This, also, is in keeping with the model. Central budgeting, another staff function, was included in the plan as was a provision for a central accounting organization. Furnishings and central purchasing were to be included in the executive branch under administrators responsible to the governor.

A post-audit of the state's expenditures by a legislative post-auditor was also advocated in the plan and conforms specifically to the model. Perhaps the only provision not included in the long range plan which does appear in the model is a provision for a planning agency as part of the governor's staff contingent.

As conceived, the long range plan would have implemented the principles expressed by Griffenhagen & Associates and would, with minor exceptions, conform closely to the model. Indeed, the administrative principles advanced by Griffenhagen are in direct conformity with the model. Some differences as to number of departments or in names and place of an integrated agency within the structure might occur among advocates of this model concept, but, generally, the firm's principles and the principles embodied in the model are not divergent.²⁵

The Modified Plan

Because the long range plan was considered impractical a second plan was introduced. The second or modified plan presented by the Griffenhagen people was an attempt to improve the administration of Montana within the framework of the constitution. As much of the basic plan as could be enacted by statute was retained in the modified plan. The elected members of the executive department and the powerful Board of Examiners were continued in this plan. The modified plan included twenty departments, seven appointed boards and seven ex officio boards. While the modified plan retained all the constitutional boards, offices, and agencies, it did reduce the total number of administrative units in

²⁵Renne, p. 116.

the state administration from 136 to 53.²⁶ This lower figure was achieved primarily by consolidating several functions, similar in nature, into single departments.

The modified plan retained the executive cabinet proposal found in the long range plan. In some cases the constitutional provisions for boards necessitated the utilization of these boards as the directing authority for a department instead of the more acceptable single head. Where a board presided over the department, the executive officer of the board would be a member of the cabinet. The purpose of the cabinet would be to acquaint the various department heads with the over-all functions of the state primarily with regard to fiscal matters.²⁷ The erection of a cabinet and the use of integrated departments with some single heads appointed by the governor was intended to place the governor in a position of greater control over the executive branch. Within Montana's constitutional limitations this plan attempted to give the governor authority more nearly commensurate with his responsibility.

Montana's elected executive officials were utilized for administrative purposes in the modified plan. A department of law was created, the functions of which would be the same as those performed by the attorney general's office. According to the Griffenhagen firm, several state agencies were hiring their own legal counsel. The new department of law would handle all the legal work for every part of the state government and the practice of hiring additional legal staff by agencies

²⁶Report No. 58, p. 8.

²⁷Ibid., p. 36.

would be abolished. In the long run the firm advocated the abolition of the attorney general as an elected office. This was in keeping with the principles embodied in the long range plan.

Another elected officer, the state auditor, was placed in the modified plan as a post-auditor. The auditor is, according to the constitution, a member of the executive department. Griffenhagen & Associates stated that the office properly belonged in the legislative branch, performing the function of an independent post-audit of the state's expenditures. However, due to the constitutional provisions placing the auditor in the executive branch, the firm retained the position but altered the function. The purpose of the auditor in the modified plan was to conduct a post-audit of the state and submit it to a proposed legislative audit committee. These duties would require the absorption by the auditor of functions previously handled by the state accountant and the state examiner. In addition, the auditor would, under the plan, be relieved of all ex officio duties and membership on all ex officio boards where possible without constitutional amendment.

A department of state, headed by the secretary of state, was recommended in the modified plan. The duties of this department were primarily the same as those usually performed by the secretary of state's office. These functions are related to the keeping of the state records, preparing voting tabulations and other matters relating to elections. In the view of the reorganization staff, the office was of such a nature that the policy of selecting the secretary of state by election was without merit.

Aside from the duties imposed upon the boards of which he is a member, the duties of the secretary of state are largely of a

ministerial character. They involve little discretionary power and almost no responsibility for important matters of state policy. Election is an expensive and inefficient method of selection of administrative officers . . . it is recommended that the constitution be amended to provide for filling the office by appointment of the governor.²⁸

Included in the departmental concept of the modified plan was a department of the treasury headed by Montana's elected treasurer. Primarily, the duties of the department were a continuation of the former duties performed by the office of the treasurer with the addition of some responsibilities in the area of investments. This additional function was designed to center the investment activity in one state office rather than continue the dispersal of various investment procedures among several agencies. In addition, the constitutional Board of Examiners would reside in the proposed department of the treasury and would constitute a board of finance. However, the reorganization staff advocated the abolition of the Board of Examiners as soon as possible. The firm also recommended the elimination of the elective office of treasurer, ultimately transferring the department of treasury functions to a department of revenue under the control of the governor.²⁹

Another fiscal department, a department of finance, would deal with the general management of Montana's finances including: budget preparation, pre-audit personnel administration, purchasing, and accounting. Agencies which had formerly performed these functions would be transferred and integrated in the finance department. The department would be headed by a single administrator appointed by the governor,

²⁸Ibid., p. 39.

²⁹Ibid., p. 43.

however, constitutional authority for the performance of all these functions had to be provided for by including the Board of Examiners in the department. Here, also, the firm continued to urge the eventual abolition of the Board of Examiners.³⁰

The modified plan as outlined in the final report was an attempt to consolidate the many administrative functions of the state into a logical pattern of departments within the constitutional framework. This was to be affected by integrating agencies into departments under single heads where possible and by creating an executive cabinet. The cabinet was an attempt to provide greater authority and control by the governor over the state's administrative system. However, the retention of constitutional boards and elected officers of the executive branch departed from the idea of concentrated authority and responsibility. The modified plan was the offspring of expediency and reflected the formidable constitutional and political obstacles to any reform of Montana government. Discussing the problems of reorganization, Griffenhagen & Associates observed:

Necessarily, any change can be expected to meet with some opposition because there are always those who are so reluctant to give up anything to which they are accustomed for anything unfamiliar to their experience that they will simply not go into the merits of what is proposed. This type of 'blind' opposition often can be met only by a stronger force.³¹

The modified plan also departs from the model described here in Chapter One. Retention of the elected administrative officers; dispersal of authority for administrative action among several boards and

³⁰Ibid., pp. 43-46.

³¹Ibid., p. 14.

commissions; and fiscal control by the three members of the elected executive are all examples of the departure of the modified plan from the model.

Departmentalization based upon functional integration is in keeping with the model, but in the modified plan authority for directing is placed in the hands of a board or commission; thus, the principle of single heads with authority and responsibility for action is absent. In the case of those proposed departments where an elected officer is the head, responsibility to the governor is absent. Coordination of policy would rest upon the willingness of these independent elected officials to follow policy recommendations made by the governor.

Fiscal control in the modified plan is vested (as in the constitution) in the independent, elected officers comprising the Board of Examiners. Post-audit of the expenditures of the government would be conducted by the state auditor. But the auditor, being an elected official, would not necessarily be responsible to the Legislature. In addition, authority for the conduct of a post-audit would not be entirely in the hands of the auditor unless a constitutional amendment was passed, allowing the auditor to exercise some of the accounting duties constitutionally allocated to the state examiner and the state accountant.³²

The proposed staff aids in the modified plan are similar to those in the model. A budget division in the department of finance and a division of personnel administration conform in principle to the model. However, because the Board of Examiners is the executive head of the

³²Ibid., p. 35.

proposed finance department, authority and responsibility for the fiscal operations of the state would be subject to possible compromise among the members of this multi-headed executive body. Retention of the Board of Examiners is definitely inconsistent with the model plan; authority and subsequent direction would rest on a collective decision. Collective responsibility would also be imposed. The Griffenhagen staff was well aware of this situation when they wrote:

It has been clearly demonstrated and is generally conceded that administrative functions cannot in the average case be exercised with continuing effectiveness by boards. Action on countless details, involving innumerable personal contacts and immediate decisions, rather than group judgment, is called for in the exercise of such functions. Doubts as to authority to act, unwillingness to assume responsibility, the need for consultation, explanation, and compromise--all these--slow up action. . . .³³

Such a situation, coupled often with a diverse political complexion, makes the Board of Examiners, as an instrument of administering staff and fiscal functions, particularly divergent from the model.

The long range plan, as mentioned, was not recommended to the Legislature for adoption. Included in the modified plan were several recommendations extracted from the long range plan, but these recommendations were offered as goals for future amendment and legislation. A long and detailed bill was drafted encompassing the recommendations offered in the modified plan. The bill, however, was defeated in the Legislature in 1943.

Generally, the principles enunciated by the Griffenhagen people correspond to current administrative theory. Movements within other states have resulted in the adoption of similar proposals. Several

³³Ibid., p. 18.

factors contributed to the failure in Montana of even the modified version of the Griffenhagen plan. The study conducted by the firm was too detailed; the fundamental problems and the proposed solutions to these problems were obscured by the firm's emphasis on minutiae. Perhaps the temporal aspect of the study also contributed to its failure. Proposals to expand the authority of the executive branch, offered during a time when the world was engaged in an armed conflict over totalitarianism, were not destined for a rational discussion. Political factors were responsible in large part for the failure of the proposals; they will be discussed in the concluding chapter.

The evidence of diffused authority and responsibility found by the firm was abundant. The reasons for this diffusion were clearly and accurately described by the firm. Most of these problems remain extant in Montana today, though subsequent efforts on a more limited scale have been made to rectify them. It is to one of these more recent efforts that we now turn.

CHAPTER IV

THE COMMISSION ON REORGANIZATION

In 1951, another commission of major importance, the Commission on Reorganization of State Government of the State of Montana, was created to survey the entire structure of state organization. The members of the Commission were all legislators (differing in this respect from the advisory committee in the 1941 study).¹ Not only was the composition of the Commission legislative in character, but the responsibility of the Commission was to the Legislature and not the governor.² The political complexion of the group was bi-partisan with an equal number of members from each political party on the Commission. Supplementary task force committees composed of citizens outside the Legislature, and members of the Commission, did most of the actual survey work.³

The Commission was charged with the task of making a complete study of the organization and structure of Montana government. The Commission was authorized:

. . . to review and analyze the various activities, functions, departments and boards of the state government and recommend the

¹The members of this Commission were: Glenn H. Larson, chairman, E. F. McQuitty, vice chairman, Donovan Worden, H. A. Tibbals, Winfield E. Page, John J. MacDonald, William R. Mackay, and Melvin E. Magnuson, secretary.

²Montana, The Commission on Reorganization of State Government of the State of Montana Report to the Thirty-Third Legislative Assembly (January, 1953), p. iv.

³Ibid., p. iv.

consolidation, reorganization or abolishment of those not deemed essential to the welfare of the people of the state.⁴

Armed with this rather broad grant, the Commission began its work.

One of the initial acts of the Commission was to employ an executive director to head and coordinate the work of the Commission and task force committees. The Montana Taxpayer's Association offered the services of a member of its staff, Frederick Gillette, as executive director. Mr. Gillette's salary was to be paid half by the Taxpayer's Association, and half from Commission funds; this arrangement was accepted and Gillette was retained.⁵

Of primary concern to the Committee was the organization of the executive-administrative branch of Montana. In the meetings of the Commission several of the problems inherent in the general structure of the state's administration were discussed. The governor, the various agencies, their growth in number and complexity, and the important State Board of Examiners were objects of extensive deliberation. The Commission had no particular plan or set of principles to guide it in its study of the executive organization. Because no broad principles were formulated, the Commission relied on the feelings expressed by the membership and upon testimony of citizens and officials interested in the organization of the executive-administrative branch.

⁴Ibid., p. iv.

⁵Note: This unusual salary arrangement was prompted by expediency. The Montana Taxpayer's Association was interested in the Commission's work, particularly any aspect of it that would result in economies in government. It was due to this interest that the Association offered the services of Gillette. The Commission accepted this offer primarily on economic grounds. Conversation with Winfield E. Page, September 3, 1960, Missoula, Montana.

Generally, the question with which the Commission was dealing had to do with the location of authority and responsibility for the administration of state activities. This question ultimately led to a discussion of the merits of investing the governor with sole responsibility and authority by consolidating operating and control agencies into departments headed by administrators appointed by, and responsible to, the governor. An alternate question logically followed regarding the merits of retaining the existing allocation of authority and responsibility among the elected officials, the Board of Examiners, and other constitutional bodies. Testimony was taken from several people regarding the organization of the executive branch. An invitation was sent to the members of the former advisory committee participating in the Griffenhagen study in 1943 to gain their assistance and advice on this matter. For various reasons these people were unable to attend.⁶

Many conflicting opinions were expressed by the members of the Commission and by witnesses; some supported, in varying degrees, retention of the constitutional form of organization; others recommended a departure from the constitutional form. After hearing this testimony the Commission adopted an amended motion stating:

. . . That the Commission go on record as proposing to study the executive branch of state government with the view to reorganizing it along functional lines, using constitutional offices so far as possible.⁷

⁶Montana, The Commission on Reorganization of State Government of the State of Montana, Minutes, November 15, 1951. Collected Papers, Montana State and Territory (Montana State University Library), Microfilm.

⁷Ibid.

Adopting this approach, the Commission began considering proposals in a more restricted frame of reference.

One of the bodies of primary concern in the state's organizational fabric was the powerful Board of Examiners. Because the Board was composed of the governor and two other popularly elected members of the executive branch, some question of precise designation of authority and responsibility among the members was raised. A letter was received by the Commission from the clerk of the Board of Examiners, Mr. Fitzsimmons. He proposed a board of control appointed by the governor to replace the Board of Examiners. In an interview with Mr. Fitzsimmons, the Commission was given a general review of the work of the Board. Mr. Fitzsimmons pointed out that not all the Boards of Examiners in his experience (nearly thirty years) had been in harmony. Mr. Fitzsimmons suggested that his proposed board of control have responsibility not only for claim approval but be in charge of the custodial institutions as well. Some question as to the feasibility of such a radical change was voiced in the interview:

Mr. Larson asked if Mr. Fitzsimmons really believed that a constitutional amendment abolishing the Board of Examiners, as presently constituted, stood much chance of passage. Mr. Fitzsimmons said he didn't know the answer to that. He said it was amazing how few people in Montana knew what the State Board of Examiners was. He said people, when he tells them he works for the State Board of Examiners,⁸ will ask him if he doesn't mean the State Board of Equalization.

Mr. Fitzsimmons indicated that in his opinion such an amendment, if made by the Commission, stood a stronger chance of passage than at any other

⁸Minutes, January 16, 1952.

time.⁹

A member of the Commission who supported, in part, the proposal to abolish the Board of Examiners said that he felt there would be little opposition from the elected members of the Board. His reasoning was that abolition of the Board would allow them more time to conduct the affairs of their respective elected offices. In this, Mr. Fitzsimmons did not entirely concur:

Mr. Fitzsimmons said while that was true in part, it still should be remembered that there is a matter of prestige and power involved, and that no official within his experience has ever been happy to relinquish his prestige and power.¹⁰

The proposals to abolish the Board of Examiners and to make the governor the chief executive in fact, evidently gained some support in the Commission. In June of 1952, consideration was still being given by the Commission to the proposal though they had previously agreed to the idea of retaining the constitutional structure as far as possible.

In a conference with Governor John Bonner the Commission outlined a proposal for the elimination of the Board of Examiners. Generally, this discussion centered on three main points. The first of these related to the abolishment of the Board of Examiners and placing its authority in the governor. A second point involved the appointment of a board responsible to the governor to handle the administrative tasks formerly carried on by the Board of Examiners. The third point involved

⁹Note: This statement was perhaps made regarding the strictly legislative composition of the Commission. It was felt that a group composed entirely of legislators would receive better treatment at the hands of legislature than one appointed by the governor.

¹⁰Ibid.

the erection of staff facilities for the governor. Governor Bonner's reaction to these proposals was;

. . . that he concurred in them fully. He said under the present arrangement with the splitting of responsibility [for] the state's affairs between the chief executive and the attorney general, and the secretary of state, it was a wonder that the state government held together as well as it did.¹¹

In subsequent meetings of the Commission support was voiced for this plan but division among the members as to the theory of executive power became increasingly evident.¹² Opinions from former state officials indicated that transfer of the powers of the Board of Examiners to the governor would not be in the interests of the state:

Mr. Gillette then reported to the Commission the views of Governor Ford and Associate Justice Bottomly, who were governor and attorney general respectively during most of the 1940's. Their view was that the judgment of three men on matters of important state policy is better than the judgment of one man. Neither of them would favor the elimination of the Board of Examiners.¹³

The feeling among the members toward the theory of executive power began to solidify around retention of the constitutional form. Some of the duties which had accrued to the Board of Examiners were considered to be primarily the responsibility of the governor. However, a sweeping proposal for the transfer of the duties was not acceptable even to those Commission members who felt the Board of Examiners organization inconsistent with good administration.

Mr. McQuitty said he had long ago come to the opinion that the people of the state in voting for an attorney general and a secretary

¹¹Minutes, June 19, 1952.

¹²Minutes, August 28, 1952 and Minutes, October 14, 1952.

¹³Minutes, October 17, 1952.

of state do not vote for those officers on the basis that such officers are going to be the state's top executives, but they voted for them on the basis of qualifications for the job of attorney general, and the job of secretary of state. He said a change would be a far-reacting [sic] thing, and that he did not believe as a result of the work of this Commission, that we were in a position to go to the Legislature and propose it because we did not have a sufficiently well-developed plan to serve as an alternative.¹⁴

Contained within the Commission's final report to the Legislature were a few recommendations transferring from the Board of Examiners to the governor minor statutory powers concerning automobile usage and allocation of money between budget classifications within departments.

Some very significant legislation was drafted proposing the transfer of extensive power from the Board of Examiners to the governor in the areas of contract awarding, printing, and supply purchase:

Generally, the State Board of Examiners have had the general supervision, direction and control of the subject matter of . . . contracts for supplies, printing, furnishing of the legislative assembly with furniture and letting of contracts for public buildings and improvements. The proposed legislation will transfer these contracting powers to the governor with the controller as his administrative agent for the purpose of performing all of the acts required and fully advising the governor of the need, the costs and any other particulars with regard¹⁵ to the accepting of bids and letting of contracts for the same.

However, this "proposed" legislation was not included in the Commission report and was never introduced on the floor of the Legislature. The members of the Commission changed their minds and it was dropped. The reason for this collective change of mind lies in the expressed reluctance of the new governor, Hugo Aronson, to see the introduction of

¹⁴Ibid.

¹⁵Letter from Frederick Gillette, executive director of the Commission, to Fred Martin, executive secretary of the governor, Helena, Montana, January 23, 1953.

such legislation. This reluctance was born of the governor's fear that a proposed transfer of these powers from the Board of Examiners would alienate the other two members of the board--the attorney general and secretary of state--and cause friction in his future associations with them on the board.¹⁶

In the final report to the legislative assembly the Commission expressed its belief that the governor should have authority commensurate with his constitutional responsibility. They felt that in Montana the power to direct the state administration had been diffused in several ways:

. . . (1) failure to give the governor general powers of direction and supervision over state administration. (2) Corollary to this has been the granting of powers to a multi-headed executive--the State Board of Examiners. The governor bears public responsibility for the administration of legislative policies in the eyes of the public and yet he has not been given the authority. . . . The other two members of the State Board of Examiners--the attorney general and secretary of state--have little if any responsibility in the public mind for administration of state affairs, but nonetheless possess the management authority. . . .¹⁷

However, as pointed out above, the recommended transfer of power from the Board of Examiners to the governor was not introduced in the legislative assembly. Therefore, the Commission's analysis of misallocation of authority and responsibility was not supplemented by the introduction of corrective legislation. The Commission also felt that the growth of state agencies and the character of boards and commissions contributed to a lack of executive supervision.¹⁸

¹⁶Interview with Winfield Page, former member of the Commission, Missoula, Montana, August 2, 1960.

¹⁷Report, p. 2.

¹⁸Ibid., p. 3.

Commission proposals for reform of the several administrative agencies in Montana were based on two major conclusions. In the first place, the Commission felt that there were a number of boards which were no longer of any value to the state, or that the functions of a number of boards could be transferred to other agencies. The Commission recommended the abolishment of thirteen boards and transfer of any remaining active functions to some other agency.¹⁹ The second conclusion was related to the board or commission structure of many agencies in Montana. Many members felt that the commission form of government was acceptable:

In general, however, the commission tradition is very strong in Montana government. This strength grows from the sound ground of citizen interest, and citizen willingness to participate in state government. Some commission members bring years of experience and judgment to their tasks, qualities which no single administrator, however qualified or zealous, could match.²⁰

However, the Commission reasoned that in order to identify responsibility for board decisions, and to give the governor some control over these boards, the appointment of board members should be for the same period as the governor's term of office. Overlapping terms, they felt, made the governor an heir to the previous administration's appointees. Therefore, the Commission advocated four year terms for members of boards and that composition of boards should be of a bi-partisan character with a preponderance of the board membership being from the party of the governor.²¹ This affected a compromise; on the one hand, the commission

¹⁹Ibid., p. 9.

²⁰Ibid., p. 5.

²¹Ibid., pp. 5-6.

tradition could be preserved, and at the same time the governor's control would be assured. Apparently the Commission favored the retention of a board member selection process in which the governor was required to select members from the economic category served by the board.

In a meeting with Dr. John Sly, Chairman of the Department of State and Local Government at Princeton University, the problem created by the existence of a large number of licensing and examining boards was discussed:

Dr. Sly said, 'don't try to consolidate them and wipe them off the organizational chart.' He said, 'you will have every dentist, every doctor, every accountant, every plumber, every beautician, every barber, and every food distributor landing right square on the legislature's neck if you start that.'²²

This counsel evidently prevailed because the Commission's only recommendation regarding this subject of examining boards was that some future council or legislative committee "undertake a thorough study of the various licensing and examining boards."²³

The Commission was aware of the lack of coordination among the large number of agencies in Montana government and sought a plan which would minimize this condition.²⁴ To improve coordination and restrict the possible occurrence of overlapping and duplication, the Commission proposed three inter-departmental advisory councils. These councils were to function in the areas of health and welfare, natural resource development, and agriculture and livestock. Erection of them was aimed

²²Minutes, April 14, 1952.

²³Report, p. 9.

²⁴Ibid., p. 5.

at providing the institutional equipment for a "teamwork approach" to problems common in all three areas.²⁵ Such a plan was a kind of cabinet institution below the level of the chief executive. In the subsequent legislative session, legislation was passed erecting these councils.

Possible staff assistance for the governor was also considered by the Commission. From their studies, the Commission concluded that there was an urgent need for a personnel system in the state. A merit system was in operation in Montana, but this system covered only state employees working in agencies in which both federal and state funds were being expended. The federal government required these agencies to adopt a merit program, but the major portion of state employees were under no personnel system. The Commission recommended the creation of an agency to administer personnel, set up position classifications, and establish pay scales. The proposed agency was to have a commission of four members appointed by the governor for four year terms and an executive director appointed by the commission was to direct the activities of the agency. This recommendation was subsequently enacted into law.²⁶

✓ There was a great deal of discussion over the important staff function of budget preparation. In 1951, a law was passed removing the

²⁵Ibid., p. 7.

²⁶Note: The personnel commission operated between 1953 and 1955. However, opposition in the Legislature to the commission's choice of commission director and opposition by state officials to the personnel plan submitted by the commission resulted in its destruction. The 1955 Legislature refused to appropriate funds for the commission's continuance; the law creating the commission remains on the statute books but the commission is, at present, inoperative.

power to prepare a budget from the Board of Examiners and placing the responsibility with the state controller, an appointee of the governor. However, the controller is not necessarily responsible to the governor as his term of appointment is for eight years. Thus, it was possible for a new governor to inherit the previous administration's budget director. The Commission discussed the desirability of transferring responsibility for budget preparation to the chief executive since the overlapping term of the controller might effectively eliminate the governor's control over the budget.' In the meeting with Dr. Sly, this situation was deliberated:

It was pointed out that the power of the budget making has, through enactment of the Comptroller Law [sic], been removed from the hands of the executive and placed in the hands of an official who is strictly neither legislative or executive. Dr. Sly's comment was that it is better to adhere to the constitutional divisions of power, as between the executive and legislative and judicial. He said that departures from long established forms are certain to lead to eventual trouble. He said in long run, the state will be better off with an executive budget prepared by the governor. . . .

Dr. Sly said that it is a mistake to let subordinate officers determine fiscal policy . . . officers, such as the comptroller [sic] who are outside the traditional framework of government, do not have the responsibility to the people upon which the determination of fiscal policy must rest.²⁷

However, the proposals of the Commission relating to the budget in the final report did not transfer the budget functions to the governor but rather added new functions to the controller in his continuing role as the chief officer in budget matters.²⁸

²⁷Minutes, April 14, 1952.

²⁸Report, pp. 24-27. Note: The controller law was repealed in 1959, and responsibility for budget preparation was transferred to the governor.

The Analysis

Generally, the Commission on Reorganization indicated in its final report that the governor's office was entirely too weak. In the early meetings of the Commission there was evidence of a genuine desire to strengthen the office, never, however, to the point of eliminating any of the elected executive officials. The subsequent recommendations indicated a change in the Commission's thinking.

The possible elimination of the Board of Examiners was never strongly considered, and the proposal to transfer some of the Board's important powers over purchasing and contract functions was not introduced into the Legislature for consideration. Thus, the Commission, though considering various proposals for making the governor's authority commensurate with his responsibility, made no concerted legislative effort in that direction. The authority for directing the administrative apparatus continued to be diffused among the members of the elected executive department. The Commission recommendations did little to discourage or ameliorate this situation and thus are not in conformity with the model plan mentioned in Chapter One.

Another and similar departure from the model plan also resulted from the Commission's decision to retain the constitutional framework of the state. Consolidation of administrative agencies into single headed departments responsible to the governor was not advocated by the Commission. Some integration of the functions of dormant boards into existing agencies was recommended, but no extensive departmental consolidation resulted. In order to achieve some semblance of control by the governor over these departments the Commission advocated that the

boards governing them be comprised of members, the majority of whom were from the governor's party. In addition, all board members were to serve only during the governor's incumbency. Single headed departments were not considered feasible or desirable by the Commission; adherence to the board and commission concept of government prevailed in the recommendations made by the Commission--this is also a direct departure from the model.

The Commission attempted to overcome problems of agency and department coordination by proposing interdepartmental advisory councils. These councils were subsequently established by the Legislature but are considerably short of the governor's cabinet proposed for this purpose in the model. In fact, the governor was excluded from participation on these inter-departmental councils because it was feared he would dominate them.²⁹ Thus, the professed desire for greater authority for the governor was circumscribed. Extensive proposals for consolidation were considered politically unpalatable; one of the task forces engaged in studying the possibility of consolidations reported:

. . . that any change such as that embodied in the Griffenhagen Report No. 58 would meet and involve considerable opposition . . .³⁰

Expanding the personal staff of the governor was at one time proposed by the Commission. Governor Bonner endorsed this proposal. However, no legislation on the subject was introduced.

The budget function was retained under the controller; indeed, additional duties of a budgetary nature were assigned to the controller

²⁹Minutes, August 28, 1952.

³⁰Minutes, June 8, 1951.

and effective supervision by the governor was not implemented. This is a substantial departure from the model which advocates that the governor have the authority and responsibility for preparing a budget.

Accounting also came in for consideration. As existing constitutional provisions prevented a complete central accounting system, the Commission recommended that, where possible, the accounting system should be centralized under the controller. Included in the Commission's conception of a central accounting system was a provision that the post-audit function also be carried out by the controller. This officer, because of his eight year appointment, was not necessarily responsible to the governor who served only a four year term. It could not be said that the controller was responsible to the Legislature because of his appointment by the governor. As pointed out by Dr. Sly, the controller's office was independent of either branch. Therefore, the recommendation that the controller perform the post-audit departs from the model because the office is not responsible to the legislature.

One proposal made by the Commission was in direct conformity with the model. Prompted by the desire to insure an effective force of state employees and eliminate costly personnel turnover in the state, the Commission recommended creation of a personnel commission. The later controversy over the appointment of the director and the plan submitted by this commission ultimately eliminated any desirable effects the commission might have had.

Generally, the recommendations which the reorganization Commission drafted and submitted to the legislature were adopted. It should be noted, however, that those recommendations which were adopted were

generally technical in character. Organizational changes affected by the Commission were slight due primarily to the determination to retain the original constitutional structure.

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CHAPTER V

CONCLUSION

By initiating the three studies of Montana's governmental organization, the legislature indicated an awareness that certain organizational problems existed and all three of the studies confirmed the existence of these problems. Surveying the basis upon which each group made its recommendations, a parallel becomes apparent. It is evident that all three studies were dealing with problems having a common origin. Generally, the problems with which they were dealing emanated from the constitutional structure of the executive-administrative branch.

In the early 1900's the multi-headed executive system may have been adequate but, as the services performed by the state increased in number and complexity, a corresponding growth in organizational apparatus was inevitable. State expenditures record this growth rather dramatically. Total state expenditures in 1920 were only \$7,883,531.43.¹ Twenty years later, total expenditures had grown five times the amount of the 1920 figure.² In 1958, the total state expenditure exceeded \$153,000,000. Between 1921 and 1958 there was an increase in Montana expenditures of over 1800%.³ Administration became vast and complex

¹Montana, 1921 Legislative Budget of the State of Montana, p. xv.

²Figures compiled from the 1941 Legislative Budget of the State of Montana, p. 16.

³Figures compiled from the 1959 Legislative Budget of the State of Montana, p. 96.

to handle the functions implicit in this expansion of Montana's fiscal outlay.

As the number of administrative units began to grow, responsibility for making decisions affecting these units became obscure. Two factors contributed to this obscurity: first, the constitutional division of executive power among the seven elected officials and the various boards upon which they sat prevented any direct line of authority running from the top directly to the bottom of the administrative system. A second factor contributing to the lack of responsibility lay primarily in the character of the growing administrative system. Single administrators with the authority and responsibility for directing the operation of a given administrative unit were not employed. In their stead, the legislature in setting up new administrative units applied the traditional board or commission as the decision making head. The members of these commissions were appointed by the governor but usually did not serve at his pleasure and often served terms longer than the appointing governor. Responsibility to the governor as the chief executive was abbreviated. Isolated pockets of authority grew up and consequently diffused responsibility became institutionalized.

Important executive tasks allocated by the legislature and the constitution to the Board of Examiners exemplify the structured diffusion of authority and responsibility. Executive functions commonly handled by the chief executive at the national level of government are performed in Montana by three popularly elected, state executive officials, having equal voting power on Board decisions. Popular election makes the attorney general and the secretary of state independent of the governor;

frequent political party difference among the members compounds the effects of this independent status. The number of important executive functions performed by this board has increased. The legislature, in an attempt to center responsibility without giving up the traditional aversion to concentration of authority, has chosen the Board of Examiners as the depository of extensive executive power. The Board presently administers forty-one different sections of Montana law. Placing power in the hands of the Board does not, however, center authority and responsibility for action—it perpetuates diffusion.

Properly, the function of the chief executive in state government should be performed by the governor. Departments headed by officers responsible to the governor should carry out the administrative policies of the governor. Checks and balances between the three branches of government—legislative, executive, and judicial—has proven to be a sound approach to a dynamic but controlled government. However, the ideological ancestors of checks and balances, Montesquieu, Locke, and Jefferson, did not conscience the theory of checks and balances within each branch of the governmental system. In Montana, the election of several executive officials, and the creation of administrative boards with these officials acting in ex officio capacities has, in fact, created a system of checks and balances internal to the executive branch.

Thus, the execution of laws has devolved to a group of officials who may, by virtue of being popularly elected, act independently of each other in the administration of the law. When these independently elected officials are joined together on a board to make decisions concerning administrative policy, compromise becomes inevitable. As a

consequence of this situation, the governor, as chief executive possessing supreme executive power, is something of a fiction. The deficiencies of a weak chief executive are compounded as the scope of administration increases in response to the felt needs of the people in Montana.

The Approaches

In Montana, the three major reorganization groups sought, in various ways, to obviate the problem of diffused authority and responsibility in an expanding administrative apparatus. The 1919 Efficiency and Trade Commission made an attempt to center the powers of the executive in the governor. This was to be accomplished by the erection of a board of administration appointed by the governor to handle many of the duties formerly performed by the Board of Examiners. This plan would have placed the governor in a somewhat more responsible position. However, the maintenance of the commission type of administrative system with elected officials continuing to head important administrative areas would have frustrated much of what the Board of Administration plan was aimed at achieving. Because the Commission was disinclined to recommend constitutional amendments eliminating the Board of Examiners, the multi-headed administrative boards, and the elected executive officers, actual centralization of authority in the governor would have been very limited. There is a certain irony surrounding this Commission's proposals. Though the Commission was reluctant to propose constitutional amendments to secure a centralized administrative system, ultimately even the limited plan had to be put before the people in the form of an amendment.

The second major study performed between 1941 and 1943 by the

Griffenhagen people resulted, as explained, in two plans. The first or basic plan would have involved an extensive alternation of Montana's executive-administrative system. This plan corresponds almost precisely to the model plan. Its adoption would have resulted in the elimination of six of the seven elected executive officers; only the governor would have been retained. Under this plan, departmental consolidation with single administrators responsible to the governor would have effectively eliminated the present confusion surrounding responsibility and the line of authority in the state's administration. These proposals implied a complete revision of the sections in the Montana Constitution relating to the executive branch. The citizen advisory committee did not, however, recommend this plan to the legislature. A modified version of the plan, less sweeping in character, was recommended.

This second or modified plan retained all the constitutional officers and institutions. Generally, the modified plan aimed at reducing the number of administrative units and at placing similar functions in unifunctional departments, headed by the elected state officials. Within the scope of this plan were reforms directed at strengthening the governor as the chief executive. Proposals for transferring statutory duties from the Board of Examiners to the governor, eliminating boards and commissions from purely administrative tasks, conferring upon the governor the responsibility for preparing a budget, attempting to centralize the accounting functions of the state and attempting to establish at least a limited legislative post-audit were all designed to center executive functions in the chief executive without altering the

Montana Constitution.

The proposals offered by the Commission on Reorganization in 1953 were somewhat more limited than those of the two earlier studies. Some of the reasons for the less sweeping character of the Commission recommendations have already been given. Included in the minutes and the report of this Commission is conclusive evidence that the problems in the state's administrative structure were the result of diffused authority and responsibility. The limited efforts toward reorganization made by the 1953 Commission were in the direction of ameliorating these problems. However, the insistence of retention of boards and commissions as administrators continued to retard actual, effective, control by the governor. The creation of the inter-departmental advisory councils was designed to improve the coordination among units of the government discharging functions similar in nature. Proposals for over-all coordination were neglected. No recommendation was made for actual functional integration of agencies into departments with department heads comprising a coordinated governor's cabinet. Members of the Commission expressed an awareness of the problems and a desire to see the traditional structural deficiencies corrected. But, the Commission, for a variety of reasons, did not propose effective reforms to eliminate the problems which some of its members clearly recognized.

The Opposition and Its Effects

Both the destiny and character of the proposals presented by these groups were affected by the opposition to reorganization in Montana government. Opposition to changes in the structure of Montana government can be roughly divided into three classifications. First,

there is opposition by the affected members of any reorganization scheme. These people are both administrative officials and elected officials whose duties, span of control, and general influence may be decreased. Administrators are reluctant to give up any activity or personnel which, through the years, they have acquired. This is not merely the operation of an administrative ego; many administrators genuinely feel that the activity which they are performing cannot be properly handled by any other agency or combination of agencies. They may be in favor of reorganization of the state government, but they consider their particular activity to be, in a word, different. This response usually issued from the fact that individual administrators fail to comprehend the administrative system in its totality.

Opposition from elected officials has at least three manifestations. If reorganization reduces the areas of activity of an elected official, his political prestige suffers. In addition, the official may also feel that he is performing the tasks of his office adequately and attempts to remove duties from him are a reflection on his abilities. If reorganization proposes the abolition of an elected office, these two aspects of opposition are intensified. Added to them will be the realization that elimination of the office destroys a possible political stepping stone toward other state or national offices.

A second classification of opposition comes from outside the government. Interest groups of all kinds have, over a period of time, established access to the government by a myriad of institutional and personal contacts. Shifting or reorganizing the government may dry up or alter these channels of access; services formerly performed by

friends and well known agencies may, after reorganization, be handled by a new organization and perhaps different officials. The rapport which the interest group has created may be altered or destroyed entirely. Efforts toward reallocating duties, responsibilities, and functions through reorganization may be resolutely opposed by these interest groups.

A third classification embraces both inter-governmental and extra-governmental opposition. It is generally conceded that people are reluctant to dispose of patterns of activity to which they have become accustomed. In administrative terminology this is called inertia to change. Perhaps quantitatively this is the most formidable area of opposition. Several factors contribute to inertia to change. There is a tendency to resist a break with tradition, due in part to the general social sanction given things traditional, and in part from reluctance to permit disturbances of existing relationships. Insufficient information concerning the need for change also contributes to the lack of support for reorganization. Very little has been done in the way of explaining, on a state-wide basis, the problems in Montana's executive-administrative system. If the citizenry is unaware of the institutional impediments to proper administration, they will not enthusiastically support proposals for reform. Indeed, the response to reform will be negative because the inertia to change phenomenon is extant.

The general character of the proposals submitted by the 1919 committee were affected by the committee's appraisal of the opposition. Any substantial effort to alter the constitution and achieve centralization of administration was considered impossible by the committee.

The major reform that the committee did propose was defeated at the polls. This defeat stemmed from several interrelated factors. The sudden convening of an extraordinary session of the Legislature did not allow the Commission time to publicize its reform proposals. The people of the state were confronted with a constitutional amendment, the reasoning behind which had not been thoroughly explained. There was no movement of any significance at the grass roots to support the reform proposals. Thus, opposition to the proposals was the only force actively operating.

The proposals of the Committee on Reorganization and Economy in 1943 were affected by the opposition forces. Both the advisory committee and the Griffenhagen firm were aware of the potentially strong opposition to the sweeping character of the first plan. Because of this opposition the basic plan was altered; the resultant modified version was subsequently recommended by the committee. A member of the committee reflecting on this procedure pointed out:

I believe that the committee of which I was a member made a mistake in trying to judge the politics involved and in trying to compromise so that the committee proposals would be generally accepted.⁴

However, even the compromise plan failed in the Legislature. Fundamentally the failure stemmed from the fact that the only group actively advocating reform was the advisory committee. There was no effective organization, either in the Legislature or at the grass roots, attempting to achieve enactment of the reform measures. The opposition had a rather free hand as Smith pointed out:

⁴Letter from Russell E. Smith (a member of the advisory committee) to F. B. Gillette, October 18, 1951.

. . . the head of every department involved will make vigorous objection to anything that involves his department . . . every elective officer will fight to the bitter end to preserve the prerogatives of his office. The only way that a Committee on Reorganization can accomplish anything very substantial is to decide upon a course of action, and then carry their recommendations directly to the people so that the issues involved in reorganization are before the people and the legislators at the time of the election. Unless there is a demand that literally comes from the grass roots, reorganization bills will have very slight chance of passage because all the people involved will gang up on every proposal.⁵

The character of the recommendations submitted by the Commission on Reorganization in 1953 was affected by the Commission's analysis of the opposition. The Commission did not recommend any alteration in the basic executive-administrative structure. Members of the Commission were aware of the underlying problems in Montana's organization but attempted to avoid offering proposals which would have attracted an organized opposition. The failure of the Commission to submit its drafted proposals (transferring important executive powers from the Board of Examiners to the governor) indicates the respect that the Commission had for the opposition forces. Because the Commission's recommendations were generally limited in scope, their proposals had greater success on the floor of the legislature. However, even this Commission felt the impact of the opposition on what was perhaps their most significant recommendation--the personnel commission. Appointment of a personnel director repugnant to members of the legislature enabled a coalition of administrative officials opposed to the personnel commission to solidify legislative support for abolishing the commission. The legislature destroyed the personnel commission by ultimately refusing to

⁵Ibid.

appropriate funds for its continuance.⁶

If reorganization of Montana's executive-administrative system is considered desirable (and the creation of the three studies indicates that some support for reorganization exists), an active force for reform must be created. To achieve reorganization, education of the voters and the legislature is necessary. The people and the legislature must be appraised of the administrative problems existent in Montana. The merits of alternative administrative plans must be explained, and efforts made to show how a modern system could be applied in Montana government. There are several approaches to education of the citizen and the legislator regarding the need for reform. The only effort presently being made is directed toward the Legislature. The Legislative Council, created in 1957, is attempting to study the problems of Montana government including the problems of state administration. This group, composed of members of the Legislature, meets during the interim period between legislative sessions. It has a permanent research staff headed by an executive director. According to the executive director, reorganization proposals are offered by the research staff to the legislative members of the council. The members of the council then have a chance to survey the recommendation in light of the facts supplied by the staff. In this way, the council member has a chance to work out in his own mind the logic of the recommendation.⁷

⁶Conversation with Winfield E. Page, a member of the 1953 Commission and a legislator, August 2, 1960.

⁷Conversation with Eugene C. Tidball, executive director of the Legislative Council, June 22, 1960.

Generally, the Legislative Council staff agrees with the administrative concepts embodied in the Council of State Government's model administrative organization. The Montana Legislative Council, however, has never formulated and issued a statement of its goals concerning administrative organization. In 1959, the council proposed the transfer of the budget making powers from the controller to the governor and the legislature enacted this recommendation into law. Presently, the council is working on a proposal to transfer the claim approval function from the Board of Examiners to the governor.⁸ Both of these proposals are steps in the direction of the model plan.

The approach of the Legislative Council is somewhat different than the procedure followed by the three major reorganization studies. Primarily, the council attempts reorganization in a piecemeal fashion. Statutory changes are recommended by the council and, through a judicious use of the three constitutional amendments each legislative session, a step by step reorganization is envisioned along the lines of the model plan.

This approach, however, has serious shortcomings. No extensive effort to publicize the desired changes is made by the council. As a result, there is no auxiliary citizen movement to augment the council's attempts at reform. As pointed out in connection with the three reorganization groups, this may be fatal to recommendations for reorganization. The council relies on its legislative members to clarify and support its proposals on the floor of the Legislative Assembly. These

⁸Ibid.

efforts are not assisted by any citizen group appealing to the legislators as a whole for the enactment of reform legislation. On the other hand, the opposition elements actively work for the defeat of proposed reorganization legislation. Ultimately the success of the Legislative Council's efforts will rest upon the ability of the council members to convince the majority of the legislature of the need for reform. If they are not successful in this, and there is no supplementary movement from voter groups, the very existence of the council may be threatened. If the council proposes an amendment which substantially alters the executive-administrative structure of the state, the offended administrative and elected officials comprising the opposition may be able to solidify enough support in the legislature to have the council abolished or at least restrict its latitude.

Another approach to reorganization lies in the possibility of a constitutional convention. Revision of the constitution to implement modern administrative practices would require a thorough and widespread educational program. If such a program were undertaken by various citizen groups, there is a possibility that the climate for reorganization might be affected. A constitutional convention was proposed in the 1959 Legislative Assembly but was defeated. Unless there was extensive and intensive preparation precedent to such a convention, the ultimate value would be questionable in any case.

The singularly important area where information concerning reorganization has been neglected is at the citizen level. No political party has campaigned, in recent years, on a platform advocating reform of Montana's administrative system. Little activity among Montana

citizen groups has ever been undertaken regarding administrative reform. Until efforts are made in this direction, the opposition to reform will be able to perpetuate the nineteenth century administrative structure-- they will win by default.

The model plan presented in this paper is derived from the plan advocated by the Council of State Governments.

This model is based upon the results of over four decades of administrative research both in government and in business. It provides what this writer considers to be the best framework for the logical and responsible exercise of executive functions in a modern state government.

Generally, the three reorganization commissions submitted proposals to the Legislature which were somewhat less sweeping than those embodied in the model plan. The first study aimed at centralizing state administration by giving certain powers to a board appointed by the governor. It did not propose consolidation of agencies into unifunctional departments headed by administrators responsible to the governor. A planning agency, a personnel agency staff, and clerical assistance were also neglected in the plan.

The second study completed in 1943 consisted of two plans, the first of which was almost identical to the model. However, the second or modified plan which was ultimately submitted to the Legislature was quite different from the model. The basic reason for the divergence results from the decision to retain the elected executive officers as the directing heads of administrative departments.

The Report of the Commission on Reorganization in 1953 contained only one proposal which was in specific conformity with the model. This

was the plan to create a personnel commission to improve the state's personnel policy.

In the administration of Montana government today only one aspect of the model plan is actually in operation. This is the executive budget instituted by the Legislative Council. Another feature of the model, the personnel commission, remains on the Montana statutes but is inactive.

The three reorganization studies conducted in Montana have pointed out the need for reorganizing the state executive-administrative system. Each study took a somewhat different approach to the problem but generally they concluded that the governor should be given authority more nearly commensurate with his responsibility. The feeling that the executive branch of government should not continue to operate under the pall of divided authority and responsibility is growing among legislators. Efforts by the Legislative Council to explain the deficiencies inherent in the executive branch have contributed to the legislators' knowledge of the problems. A legislative subcommittee on governmental efficiency has recently approved the idea of a strong executive with single administrators heading the various state departments and serving at the pleasure of the governor.⁹ The state of Alaska has adopted a constitution embracing the model plan for the executive branch and the other states have administrative systems similar to the model.

State government today is charged with performing technically

⁹Ibid., (conversation).

intricate activities on a vast scale. The executive-administrative branch of government is properly responsible for the efficient and economical performance of these activities and modern organizational techniques provide the means whereby these functions can be undertaken. "Authority--the power to direct" is a necessity if the functions are to be efficiently performed and democratic government requires that the directing agent be responsible to the legislature and citizen for that performance. Institutional obscurities of authority and responsibility make it difficult for the citizen or the legislature effectively to evaluate the executive branch of government. Effective evaluation of those responsible for administrative policy and practice is required in order that the citizen may intelligently execute his democratic franchise.

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