

RESTRUCTURING PUBLIC HIGHER EDUCATION GOVERNANCE
IN WEST VIRGINIA, 1969 - 1989
A POLICY STUDY

by

Linda S. Dunn

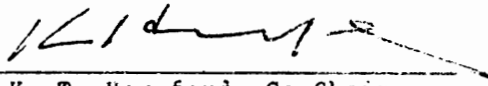
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Virginia Polytechnic Institute and State University
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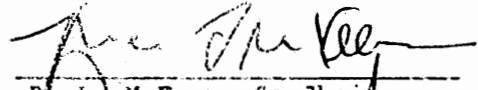
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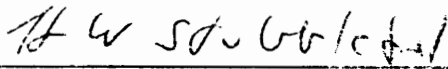
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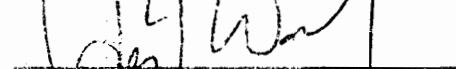
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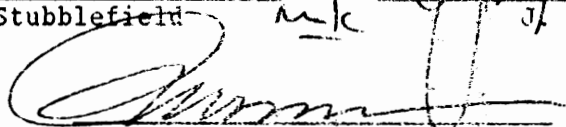
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by

Linda Smith Dunn

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Educational Administration

(ABSTRACT)

The West Virginia Board of Regents, age 20, statewide governing board for higher education, died June 30, 1989 as a result of legislative termination. Like so many of its progenitors, the Board, an abstraction without constituencies or political proponents, was quietly written out of the State Code. There were no eulogies.

In a retrospective search for the cause of death, the enactment, implementation, and termination of the Board were analyzed. The dynamics of the political processes through which the structure of higher education governance was modified during its two decades were documented. The political legacy and challenging cultural bequests of the Board were profiled.

A political epitaph for the Regents included the following inscriptions. The governance structure of higher education in the great state of West Virginia is what the governor, the

legislature, the campus presidents, and their creation(s), the board(s), perceive it to be.

In its finest hours, structuring can be a political coalition, a partnership, dedicated to the public interest, striving for quality, access and excellence.

In its darkest days, Structure can become a political target, an object of control, a source of rivalry and competition.

Restructuring is a ritual within a highly individualistic political culture which reveres higher education as an instrument of government. Restructuring is invoked when one or more of the partners is shunned or shunted and, as a result publicly reveals that structuring is a political process.

Then, structure must be sacrificed to restore trust, to revive public confidence in those entrusted with governance.

Restructuring produces a new governance structure and reestablishes a process of structuring.

ACKNOWLEDGEMENTS

grate' ful, (adj.): appreciative of benefits received;
thankful.

The support, encouragement, and prayers of many have made possible my dream. There is not space to cite them all, nor words to adequately recognize their contributions. The following are those without whom this document would not have been possible.

Three scholarships were truly financial "manna", unexpected benevolence, humbly accepted: the Zora Ellis International Scholarship from the Delta Kappa Gamma Society International; the Founders Scholarship from Alpha Phi State; and the Ruth Bufton National Scholarship from the American Business Women's Association.

The interviews personalized the life of the Board of Regents and were the true joy of the dissertation process. It was an honor and a privilege to interact with former governors, Arch Moore and Jay Rockefeller; the legislative leaders; the Regents; members of their staff; and the campus leaders. Of course, I will always be grateful to Daniel Crowder and James Butcher who afforded me the opportunities to experience higher education administration.

This study was the product of the "suggestions and

corrections of at least five other "minds". All were my teachers and mentors. Each gave uniquely: Harold, a reviewer, counselor and supporter; Wayne, a thorough editor; and Jim, the inspiration for "investigative reporting".

Ron was always there for me, from the pre-admission interview. He forgave my "NT" lows and rejoiced in the scholarship highs. He will always represent the "very best of the Tech experience".

But it was Karl, who listened, reflected, and critiqued. It was Karl's enthusiasm for "the story" that often rekindled my own. I will always wonder how the story would have read if Karl, my fellow West Virginian, had become the president of West Virginia University in 1967.

Without the love of my family and their personal sacrifices, there would have been no doctoral study. I am but an extension of them. It was my Mother, who through illness and injury, prayed for the completion of the "book". It was my late Father who shared his enthusiasm for the State, its history and its politics.

There should be two names on the diploma and on the dissertation. Because of his love, his friendship, and his faith in me, this document and this study are:

Dedicated to KEENAN R. DUNN, the WIND BENEATH MY WINGS.

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Chapter 1
INTRODUCTION

A STATE OBITUARY

June 30, 1989

WEST VIRGINIA BOARD OF REGENTS, age 20, statewide governing board for higher education, died at midnight in Charleston as a result of legislative termination.

Born July 1, 1969 in Charleston, the Board was conceived by the 1969 State Legislature and others. It was signed into law by Governor Arch A. Moore, Jr., who also appointed its first nine lay members.

In addition to former Governors Moore and Rockefeller, it is survived by eleven institutions which were in existence in 1969: West Virginia University, Morgantown (including its two-year affiliate, Potomac State College, Keyser); Marshall University, Huntington; Bluefield State College, Bluefield; Concord College, Athens; Fairmont State College, Fairmont; Glenville State College, Glenville; Shepherd College, Shepherdstown; West Liberty State College, West Liberty; West Virginia Institute of Technology, Montgomery; and West Virginia State College, Institute.

Also surviving are four institutions which the Board created: Parkersburg Community College, Parkersburg; Southern West Virginia Community College, Logan and Williamson; West Virginia Northern Community College, Wheeling-Weirton-New Martinsville; and West Virginia College of Graduate Studies, Institute; and one institution which it adopted at Legislative request: the West Virginia School of Osteopathic Medicine, Lewisburg.

It was preceded in statutory demise by six institutional Boards of Regents, 1909; a state Board of Regents, 1919; a State Board of Control, 1947; the West Virginia University Board of Governors, 1969; and the higher education responsibilities of the West Virginia State Board of Education, 1969.

Its estates, powers and duties are bequeathed to the University of West Virginia Board of Trustees and the Board of Directors of the State College System.

Figure 1: A State Obituary, June 30, 1989

The Cause of Death

Death was expected. It had been anticipated for at least the last five years (1). Indeed, it was planned by some, including Governor Moore (2); it had been prevented on at least two occasions by other interested parties (3). There were no eulogies. Why?

The Board of Regents was not created to fail, although there were outspoken critics from its conception. According to a former president of West Virginia University, Irvin Stewart, the Board was an "administrative monstrosity" and a regression to unwarranted governmental control (4). There were a number of leading educators who would publicly claim no responsibility for the birth of this governing board for they had recommended a coordinating board with limited powers in 1966 (5). Yet the Regents endured for twenty years.

Obviously, there are those who believe the Regents' failure was inherent in its structure because the solution was to replace the Board with a new dual-system of governance (6). The Carnegie Foundation for the Advancement of Teaching recommended such a structural realignment with coordination of the two new systems (7). Curiously, a similar arrangement had been recommended by two other studies: one in 1966 (8), the other in 1979 (9). Neither was adopted by the Legislature.

Other officials pronounce the Board's failure to survive a result of political naivete, an inability to "use the power and authority that was vested in it", this according to the current chairman of the Senate Education Committee, Sondra Lucht (10). Some say the Board was the victim of the political influence that it tried to rebuff. According to a former president of the Board, William Watson, "When the Board did try to take politically unpopular action, it suffered the wrath of the governor and legislators" (11). Still other observers say that board members, even when they made the right decisions, lost their attempts at change solely because "they went headlong into battle without lining up allies" (12).

The battle was often about turf. "College campuses are the state equivalent of a military base to a congressman. No delegate or senator likes to see any institution (in the home district) shorted in terms of the budgetary process", observed John Hoblitzell (13). He was the pre-law student whom Governor Moore attempted unsuccessfully to appoint as one of the first Regents (14). A former senate president and now state supreme court judge, William Brotherton, summed it up this way: "Legislators are still interested in little fiefdoms. I think that's what eventually led to the demise of the Regents" (15).

Then there are those who believe the cause of death was money or lack of money. Watson said money affected or influenced

nearly everything the Board did. In addition to pitting the Board against those who controlled the purse strings, Watson observed that "it pitted school against school and that meant the Board had competing interests to serve" (16).

According to some observers, the death certificate should read failure by intervention in campus affairs. "The Board quickly seemed to get bogged down in administration as opposed to policy making", according to Lucht (17). "The Board was always torn between public demands for consolidation and a great deal of pressure for campus autonomy", reflected Watson (18). The Board was then pitted against the campuses when it did not yield to internal pressure.

Others assert that the fatal flaw was lack of leadership and statesmanship. A former chancellor, Leon Ginsberg, who was fired by the Regents, predicted the demise of the Board was inevitable because the "members were inept, the presidents are selfish, and the political leadership of the state is unwilling to support higher education" (19). He also claimed that the Board, for much of its history, had been the "captive of some college presidents ... too susceptible to their demands ... too inattentive to the demands of the Legislature" (20).

The potential for failure of the Board to accomplish its mission became evident in the turnover in the chancellor's office. From 1969 - 1973, the Board employed five chancellors.

They were followed by three chancellors from 1984 - 1989; two of them were current presidents of state colleges (21).

A veteran politician and state leader, Brotherton, surmises that failure "also came from the caliber of the chancellor and the caliber of the Board (members). They allowed themselves to be influenced by the governor and the legislature" (22). Privately, some people wonder why the Regents never selected a West Virginian as chancellor. Others point out that it was a West Virginian and a college president who was acting chancellor when the death knell sounded (23).

While each of these "causes of death" is individually compelling and well grounded in factual experience, their collective explanation of the failure of the Board of Regents as a state higher education agency is inadequate. If the Board had not been expected to fail, why was the centralization of higher education attempted? If intense conflicts of interests had existed from the beginning, then how was the Board permitted to endure for twenty years? If the necessary resources were far beyond those available, then how did the Board survive for two decades?

In fact, the West Virginia Board of Regents is a case in which substantial initial agreement and fiscal support did exist, but dissolved slowly over time in unpredictable ways. Antagonisms were not evident at the beginning, nor did they emerge

rapidly. Rather the conflicts were covert and became evident only after some time had passed. For twenty years, the governors, the legislatures, and the colleges and university presidents (collectively, separately, and alternating) thought they wanted the Board of Regents, but experience would teach them that they were mistaken.

This study investigates the birth, the life, and the death of the West Virginia Board of Regents, 1969 - 1989. It explores the reasons for and the expectations surrounding the Board's enactment into law. It analyzes the Board's implementation and its subsequent struggle for survival in a retrospective search for clues to the cause of death. Finally, it reflects on what the termination of the Board portends for the status of and prospects for governance of higher education in the post-Regents era.

First though it is important to provide the historical context in which this story unfolds (24). The West Virginia Board of Regents had a unique legislative pedigree and a number of namesakes when it came into existence. These political ancestors left the Board several challenging cultural bequests.

The Board of Regents: Its Legislative Pedigree

The means by which public higher education in West Virginia was governed prior to 1969 had undergone numerous changes (25). Each of these governance structures required an act of the legislature. Some became law at the request of the governor, others without his signature. A few of the reforms resulted from the recommendations of studies, either by legislative committees or outside consultants (26).

At the turn of the century, six distinct boards of regents were responsible for the governance of the state's colleges and universities (27). There was a single board of regents for the management of the six normal schools consisting of the West Virginia State Normal School at Marshall College (considered the parent school) and five branch normals at Athens, Fairmont, Glenville, Shepherdstown, and West Liberty. There was a separate board of regents for West Virginia University, another for its preparatory branch at Montgomery (composed of the university board plus the state superintendent of free schools) and a totally separate board for the university's preparatory branch at Keyser. Yet another board of regents governed the West Virginia Colored Institute in Kanawha County and still another for the management of the Bluefield Colored Institute (28).

Each of these boards acted independently of the other with regard to both policy determination and business affairs, subject to legislative and constitutional restrictions. Each competed with the other for the favor of the legislature. The composition and terms of membership varied widely among these boards (29).

In 1909 the legislature approved a gubernatorial request for a general reorganization of state government. It was for reasons of economy and efficiency that the state university, the university preparatory branches, the normal schools, and the colored institutes were placed under auspices of the new Board of Control and a single state Board of Regents (30).

Ten years later the legislature enacted a comprehensive school law which, among other things, abolished the state board of regents and replaced it with a State Board of Education. A continuity of administrative policy was afforded in that four appointed incumbents on the Board of Regents were appointed to the State Board of Education. Management of the business and financial affairs of the state university, the state schools at Montgomery and Keyser, the state normal schools, and the two colored institutes, as determined by the act of 1909, remained with the State Board of Control (31).

During the mid 1920s, the State Board of Education pressed to require West Virginia University to join the West Virginia

Athletic Conference. Although the president of the University supported this affiliation, fans and alumni mounted strong opposition in resistance to this pressure. As a result, the University did not join the conference, the university president resigned, and the Board of Education lost favor with a number of university supporters, some of whom sat in the state legislature (32).

Thus in 1927, the legislature voted to establish a separate Board of Governors for the university. As noted by the 1928 Survey of Education in West Virginia, "the creation of the Board of the State University undoubtedly resulted from a desire on the part of those who were vitally interested in the university to secure for that institution the vigorous and undivided support of a number of leading citizens". Further, the Survey indicated "it is well known, however, that an important consideration in precipitating the removal of the educational control of the university from the State Board of Education was the disagreement between the State Superintendent and certain supporters of the university" (33).

Business and financial matters pertaining to all state higher education institutions, however remained under the authority of the State Board of Control. Thereby a situation was created in which three boards shared in the responsibility for

the control of public higher education in the state. This tripartite governance structure continued until 1935 (34).

That year the legislature established a Negro Board of Education to replace the advisory council for negro schools which had been formed by the State Board of Education. This Board, in conjunction with the State Board of Education, managed the educational affairs of the West Virginia State College and Bluefield State Teachers College. As such, they were referred to as the Joint Boards of Education (35). Also in 1935, an unsuccessful effort was initiated in the Legislature to create a single, unifying Board of Higher Education (36).

The division of the control of public higher education in West Virginia between the State Board of Education, the Negro and Joint Boards of Education, the West Virginia Board of Governors and the State Board of Control endured both the depression and the war. There were, however, continuing calls for reform. By 1940, the State Board of Education suggested that increased efficiency and greater cohesion would be obtained by a centralization of control (37).

In contrast, the 1945 Survey of Public Education in the State of West Virginia recommended that the state university should have a separate governing board. This report emphasized that "the university was not just another state institution" and that it must be allowed to develop its fundamental differences

"if it is to serve its full purposes". Prepared by George Strayer of Columbia University, the 1945 Report also called for statewide coordination of planning for higher education (38).

The Strayer Study further recommended that the Potomac State School remain under the control of the University Board of Governors (affirming a 1935 legislative action) and that the State Board of Education retain control over the public schools and the state colleges. The Study also recommended that the membership on both the boards be increased from seven to nine, that their terms of office be extended from six years to nine and that board members be subject to removal for cause only which could be accomplished only through impeachment proceedings (39).

The most controversial of the recommendations made was the proposal that the Board of Education and the University Board of Governors be vested with the authority to prepare institutional budgets and to exercise budget control after appropriations were made "subject only to such audit by the State as will insure adequate accounting for funds". Strayer strongly urged that colleges and universities not be subject to the regulation of the Board of Control. He contended that the governing boards should be responsible for fiscal and educational matters of each institution (40).

Strayer's recommendations were not enacted into law until 1947. Concurrently, the legislature also abolished the Negro

Board of Education with the provision that one of the nine members of the reorganized Board of Education be a Negro (41). The voters of West Virginia in 1946 had rejected constitutional status for higher education. A proposed amendment to the state constitution would have given both the State Board of Education and the University Board of Governors preferred legal status (42).

This revised structure of dual administrative control, one board for the university and another for the state colleges, was to endure for twenty-two years. As with its predecessors, the structure was challenged from time to time. The Brewton Report of 1956 resounded the call for all institutions to be placed under the control of a single governing board, designated the State Board of Higher Education (43). The crux of the argument in support of such a board was the apparent lack of coordination between the State Board of Education and the University Board of Governors.

The existence of two state boards that have independent responsibility under almost identical statutes for governing and coordinating two separate programs of higher education inevitably leads to wasteful duplication, unwarranted competition, institutional "empire building", and the imprudent use of political pressure groups. Economical and efficient operation of a system of higher education can be achieved only under the direction of a single board invested with the authority necessary to discharge creditably the duties assigned to it. (44)

Although Brewton's recommendation was not enacted into law (45), the Legislature established the Joint Committee of the West Virginia University Board of Governors and the West Virginia Board of Education in late 1956. Its purpose was coordination of public higher education in the state (46). No legal status was given to the committee and little was done to address the issue.

By 1961, the Board of Education employed A. D. Albright of the University of Kentucky to study the structure of higher education. Albright recommended the creation of a permanent coordinating agency. Although implementation legislation was introduced in the 1962 session, it died in the education committees of both houses (47).

By 1963, the West Virginia University Bureau for Government Research attested to the failure of the voluntary approach:

Recognizing that there is considerable overlapping and duplication of functions among the higher educational institutions, efforts have been made through the State Board of Education and West Virginia University Board of Governors to bring about some allocation of functions and activities looking toward a more effective and efficient educational program. It must be admitted that to date these efforts have accomplished little (48).

Another important development in the governance story was the changing status of the normal schools. By 1932 these institutions had been elevated by the legislature to state teachers colleges (49). By 1950 their curriculum and horizons had sufficiently expanded that once again a legislative promotion

was in order. Thus all institutions removed the "teacher" from their title; two institutions even removed "state" (50). In 1961, Marshall College lobbied for and received the legislative designation as the second university or the "other university" (51). This concerted push for increased status by the state colleges, together with marked increases in student enrollment and growing consumption of state resources set the stage for legislative action.

Historically, a major revision in the structure of higher education governance at the state level occurred on average every fifteen years, prior to 1969. The State alternated between one central board governing all institutions and multiple boards for different types of institutions. These structural reorganizations occurred for reasons of "economy and efficiency", "coordination and planning", "elimination of wasteful duplication", and/or recognition of fundamental "differences in institutional missions and athletic prowess".

It also is observed that in later years these changes occurred following studies conducted either by legislative investigators or outside consultants. Further, it is noted that the legislature was galvanized into action by constituent institutions and/or their supporters calling for change in situations that were personally threatening to the home district. In addition, the legislature consolidated governance into

intermediary agencies when it became necessary to make difficult decisions affecting institutional missions and finances.

Endnotes

1. Personal interview with former chancellor of the Board of Regents and current president of Glenville State College, William K. Simmons, December 10, 1991. Simmons reported "It was obvious from the early 1980s, from the time (Chancellor) Ramsey left, that there was going to be a change. People inside and outside of education believed there was a better system".
2. In his State of the State address, January 1986, Governor Arch Moore proposed a three-member, full-time Commission on Higher Education to replace the Board of Regents. Each college and university would have had its own Board of Trustees, which could request funds from the state and appoint the institutional president. Although implementing legislation was introduced into the 1986 Legislative Session, it was not enacted.
3. The Board of Regents was targeted for termination under the West Virginia Sunset Law in 1985, 1986, and 1988. In each instance, the Board needed and received a positive performance audit report from the Legislative Joint Committee on Government Operations. House Bill 1216, March 6, 1984, Acts of the West Virginia Legislature 1984, p. 980; Committee Substitute for House Bill 1102, April 8, 1984, Acts of the West Virginia Legislature 1985, Chapter 157; House Bill 1306, February 10, 1986 and Senate Bill 9, May 21, 1986, Acts of the West Virginia Legislature 1986, Chapter 20; Senate Bill 11, June 18, 1988, Acts of the West Virginia Legislature 1988, Chapter 6.
4. Jackmeit (1975, p. 129) quotes Dr. Stewart's remarks from the January 26, 1968 article, "Another Higher Education Plan" which appeared in The Fairmont Times.
5. West Virginia Committee on Higher Education (1966).
6. At the request of Governor Gaston Caperton, the Legislature replaced the Board of Regents with two boards. The University of West Virginia system would be governed by a board of trustees. The State College System of West Virginia would be governed by a separate board of directors. Committee Substitute for Senate Bill 420, Higher Education Reorganization, April 8, 1989, Acts of the West Virginia Legislature 1989, Chapter 64.

7. Carnegie Foundation for the Advancement of Teaching (1989, pp. 37-45).
8. supra note 5.
9. Academy for Educational Development [AED] (1979).
10. Wilson, J. (1989, July 2, p. 1C).
11. ibid, p. 4C.
12. ibid, p. 1C.
13. ibid, p. 4C.
14. Morgan (1969, July 26).
15. supra note 11.
16. ibid.
17. supra note 10.
18. supra note 11.
19. Jaschik (1987, June 17, p. 15).
20. ibid.
21. The succession of chancellors and acting chancellors employed by the Board of Regents was as follows: Prince B. Woodard (November 4, 1969 to June 30, 1974); Ben L. Morton (July 1, 1974 to May 1, 1980); M. Douglas Call, acting (May 1, 1980 to June 15, 1980); Robert R. Ramsey, Jr. (June 16, 1980 to November 15, 1983); William K. Simmons, acting (November 16, 1983 to May 31, 1984); Leon H. Ginsberg (June 1, 1984 to February 1986); Thomas W. Cole, Jr. (acting, February 1986 to September 9, 1986, appointed chancellor and served until December 1987); and William K. Simmons (December 1987 to June 30, 1989).
22. supra note 11.
23. supra note 1. Based on his knowledge and previous experience as acting chancellor, Dr. Simmons was selected by the Board of Regents to oversee the changes in higher education governance which were imminent in 1987-1989. He

was permitted to retain his position as president of Glenville State College in the event the Board of Regents was not continued.

24. Callan (1982) concluded "there was no one best way to organize a state structure for higher education". Glenn (1985, p. 13) found that the "conditions in each state determine the form and powers" of the structure. Hines (1988, p. 45) underscored both points. "No single best way exists to organize a state structure for higher education. What is needed is an understanding of the history and circumstances in a state, ...".
25. M. M. Chambers (1970, p. 399) referred to the history of governance in West Virginia as "bumpy". Van Tol (1988) observed that it was even "bumpier" when compared to that of other states. Elsewhere "governance structures gradually evolved from separate, lay boards to (single state boards). ... Instead of evolving, the governance structure in West Virginia developed in "fits and starts" with several detours and backtracking" (pp. 17-18).
26. For additional and more detailed information on the history of governance in West Virginia, see Machesney (1971) and Jackameit (1973).
27. By 1901, all but five of the institutions that comprised West Virginia's public system of higher education in 1989 were in existence, operating in one form or another. The exceptions were: the three community colleges, the School of Osteopathic Medicine, and the College of Graduate Studies.
28. Jackameit (1975, p. 112).
29. *ibid.*
30. AED (1979, p. 105) summarized Jackameit's 1975 findings. Governor M. O. Dawson urged the elimination of the individual boards based on their lack of comprehensiveness and for the economies that could be realized under a dual board arrangement. Following a special legislative study in 1909, the State Board of Control was empowered to manage and control the fiscal affairs of higher education. The Board of Regents was assigned the administration of the educational affairs of the colleges and university.

31. Jackameit (1975, p. 115). The new State Board of Education replaced, not only the Board of Regents, but the Board of Education, the State Text Book Commission and the State Vocational Board. The State Board of Control continued to exercise and to increase its influence over educational decisions.
32. *ibid*, p. 116.
33. *ibid*. The bill (1927) became law without Governor Gore's signature; he refused to sign.
34. *ibid*.
35. *ibid*.
36. Machesney (1971, pp. 66-67). According to the AED summary of Machesney's findings, this legislation died at the hands of the small public colleges. These institutions felt that a Board of Higher Education, comprised initially of individuals loyal to West Virginia University, would lead to their abolition or permanent restriction. "Although many arguments to the contrary were advanced, this argument carried the day and the bill was defeated" (AED, 1979, p. 107). Machesney (1971, p. 68) reported that a newly elected delegate from Kanawha County, John Amos, spoke on behalf of the bill to create a singly governing board.
37. Jackameit (1975, p. 125). In Appendix A of its 1966 Report, the West Virginia Committee on Higher Education stressed another of the Survey's recommendations. "Responsibility and authority for continuous allocation and assignment of specific function be lodged in a permanent agency of control which has means for securing adequate and accurate information".
38. *ibid*, p. 126. In addition, Jackameit (1973, p. 136) quotes Strayer (1945), A Report of a Survey of Public Education in the State of West Virginia, p. 740-741. This survey was commissioned by the Legislature, June 21, 1945, where the future Regent, John Amos, was Speaker of the House.
39. *ibid*.
40. Machesney (1971, p. 80).
41. Jackameit (1975, p. 126).

42. *ibid.*
43. Machesney (1971, p. 88).
44. *ibid.*
45. AED (1979, p. 108) indicates that the bills drafted in the Senate and the House to abolish the Board of Governors and to create the State Board of Higher Education died in the Education Committees.
46. Machesney (1971, p.92). The Legislature's Joint Committee on Government Finance actually called for a voluntary cooperative effort between the two boards. According to Machesney, the Joint Committee "became a vehicle to preserve the status quo and was used to ward off the threat of statutory control through some type of statewide governing board".
47. Machesney (1971, p. 96-97). The West Virginia Committee on Higher Education (1966, Appendix A) cited Albright's further recommendation that the "administration of the colleges should be decentralized and performed by the college president".
48. Jackameit (1975, p. 128).
49. Jackameit (1973, pp. 69-76).
50. *ibid*, p. 117-124.
51. *ibid*, p. 164.

Chapter 2 LEGISLATIVE ENACTMENT

The Committee Report

On March 13, 1965, eighteen years after the division of higher education governance between the State Board of Education and the University Board of Governors, the Legislature adopted House Concurrent Resolution No. 51. "A study of allocation of function and fields of graduate study as between State-supported institutions of higher learning, with special emphasis upon the most efficient and economical use of all academic and staff facilities available at said educational institutions" was the cited legislative purpose. Such a study was warranted because the allocation of such educational matters had presented "increasing budgetary and administrative problems as between the State-supported colleges and universities of West Virginia" (1).

For the first time in the twentieth century, the Legislature requested that the study be conducted by West Virginians. Governor Hulett C. Smith, formerly Vice President at Beckley College (a private junior college), was requested by the resolution to appoint "a committee consisting of the members of the Board of Governors of West Virginia University, the members of

the State Board of Education, and the members of the Association of West Virginia College and University Presidents" (2).

On June 7, 1965, Governor Smith activated the Committee and named Dr. Paul A. Miller, President of West Virginia University as the temporary chairman. In both his letter of appointment to Dr. Miller and an address to the full committee, Governor Smith emphasized his opinion that "the Legislature intended the language of the Resolution to be liberally construed" and his hope that the Committee would "consider the subject matter of this Resolution in its broadest scope" (3).

One of the first interpretations made by the Committee was the decision to grant, upon their request, membership to the presidents of the private colleges in the State (4). Thus, as the Committee began its work it included 39 members: 11 public college presidents, 10 private college presidents, 9 governors of the University, and 9 members of the State Board of Education (5). The study was funded by allocations from the Governor's Contingency Fund, the private colleges, the Commission on Higher Education, the Board of Governors, and the State Board of Education (6).

The Committee immediately organized so as to actively involve all members in one or more of the three main subcommittees or one of the nine task forces which undertook a comprehensive self assessment. It appointed an administrative director

of the study, Elizabeth Hallanan, and later a study director, Dr. Jack Robertson (7). One of the first actions was to compile summaries of all the major studies of higher education which had been conducted in the state and region since 1945 (8).

On several occasions the Committee met with the Joint Committee on Government and Finance of the Legislature. It also sponsored a seminar in September 1965 for the Committee and government leaders which featured interaction with Dr. John Millett, Chancellor of the Ohio Board of Regents; Dr. A. D. Albright, Executive Vice President of the University of Kentucky and the consultant who conducted the 1945 study of education in the state and Dr. Lester Harrell, Director of the Texas Commission on Higher Education (9).

After filing a preliminary report in January of 1966, the Committee was granted an extension of time and presented its complete report with draft legislation on its proposed structure on October 31, 1966 (10). The final report of the subcommittees (Steering, Objectives and Structure) were reported in Volume I, Summary of Major Conclusions and Recommendations, while the report of the Task forces was presented in Volume II, Higher Education in West Virginia -- A Self Assessment (11).

The Committee had "striven to respond to its challenge with careful study, diligent labor and a broad basis of consensus" (12). Their recommendations resulted from "mature and at times

agonizing self appraisal and deliberation by the entire committee" (13). Indeed, the "full Committee reviewed, debated and revised every recommendation" (14). The members of the Committee declared that they considered "it an honor and a rewarding experience to have been requested by the Legislature to participate in this study" (15). Their report was unique:

"Unlike many past studies and reports on higher education conducted by experts from beyond the borders of the state, this report represents the considered judgment of those most intimately and actively engaged in the day-to-day government and administration of West Virginia's complex of higher education. It may also be noted that other studies tend to detail inadequacies and deficiencies, while this report is more concerned with positive recommendations for improvement of higher education" (16).

After two years of extensive study, the Committee made a series of recommendations for the structure of "a statewide system of higher education" (17). First, they wanted the establishment of a coordinating body to be called the West Virginia Board of Regents. In addition, they called for the creation of a board of governors for Marshall University and another for the State Colleges. Finally, they emphasized the need for continuation of the board of governors at West Virginia University and the State Board of Education (18).

The powers of this new Board of Regents were to be carefully limited to those prescribed by the Committee:

1. To make studies and recommendations relating to all aspects of higher education in the state, public and private;
2. To allocate among the state colleges and universities specific functions and responsibilities to meet the higher educational needs of the state and to avoid unnecessary duplication;
3. To submit separate budget requests on behalf of state colleges and universities or, in the board's discretion, a single budget for the state colleges and universities with authority to allocate among them legislative appropriations;
4. To allocate all federal funding programs (and private funds upon request) among both public and private institutions of higher education under the Federal Higher Education Facilities Act of 1963, and subsequent similar legislation (19).

The Committee cautioned that the Board must be prohibited from exercising governing powers which were to be "fully preserved to the respective boards of governors herein recommended" (20).

The membership of the Committee's Board of Regents would consist of 11 members. Four of the Regents would be the presidents of the West Virginia Board of Education, The Board of Governors of West Virginia University, The Board of Governors of Marshall University and the Board of Governors of the State Colleges. Two other Regents would be appointed by the governor from members of governing boards of two private colleges. Five would be appointed by the governor from the public at large; these five would have no connection with any public or private institution of higher education or governing board thereof (21).

An editorial in the Charleston Gazette, February 14, 1967, heralded the Committee's proposed administrative structure. The recommendation was one that was "not a copy of any other state's but, rather, adapted to West Virginia's own particular needs, features found in a survey of all 50 states" (22). Further, the Gazette observed that "Unanimous endorsement by all college and university presidents indicated that the committee proposal did not give an advantage to any one institution" (23). After all, the committee's members (21 presidents and 18 trustees) were "the people who knew most about the problems of running higher education institutions in West Virginia" (24).

Measures to implement the Committee's recommendations were introduced in the 1967 session of the Legislature. Most bills introduced in the House died in committee. Those that were reported out of committee, never made it to a first reading (25).

In the Senate, a measure creating a board of governors for Marshall University passed. Subsequently, the bill was amended to include the creation of a state board of regents and a governing board for the state colleges. Nevertheless, this measure was not considered by the House of Delegates (26).

Despite the lack of positive action on the Committee's proposals, support for a coordinated system of higher education was building. Chairman of the House Education Committee, Kenneth Auvil, told the Charleston Gazette, January 18, 1967, that he

"wanted to see the establishment of a master plan to cover public education in the state from first grade through graduate school." Auvil wanted long term planning which would "reduce the legislature's problems (in setting priorities for funding), would make it possible to put money where it is most needed, and would give the state a head start in participating in new federal programs which he said he expected if the war in Vietnam were to end" (27).

The Alternatives

Indeed, the fate of the Committee for Higher Education's proposal was tied to the legislative concern for the governance of all of education and to the funding of education in general. The Gazette, February 14, 1967 revealed that the West Virginia Committee plan "had raised opposition in West Virginia's education community, particularly among those connected with the public schools. Waiting in the wings were at least two alternative proposals that approach the reorganization from entirely different directions" (28).

The West Virginia Education Association (WVEA) unveiled a counter proposal for administrative coordination of education in mid-February 1967. The counter proposal did not differ markedly

from the Committee's proposal. In a February 19, 1967 editorial, the Gazette charged the WVEA with simply adding another layer of bureaucracy to the original Committee plan. "By proposing still another board and a super executive for both public and higher education, (WVEA) dealt a severe blow to the committee's aim" (29).

In that same editorial, the Gazette charged Governor Hulett Smith with "double talk" about higher education reforms. "The vacillating governor, after appointing the study committee and sponsoring the introduction of its plan as administration bills, now says he isn't so sure. An opponent (WVEA) has obviously gotten his ear" (30).

Surprisingly, principal opposition to the coordinating board plan in the legislature came from the powerful West Virginia University supporters. Although Dr. Paul Miller, President of the University, had served as the first chairman of the West Virginia Committee on Higher Education, he resigned as president in 1966 and was not among those who submitted the final report (31). Despite the leadership of C. C. Wise, Jr., a member of the University Board of Governors, other members of the Board of Governors openly opposed any change in the system as it existed in 1967 (32).

One observer lamented the failure to enact educational reform.

Once again a campaign against changing the higher education system (was) mounted by the friends and employees of West Virginia University, and its effectiveness is evident in the interim committee note which saw members from upstate - within the Morgantown sphere of influence - rejecting a reorganization bill . . . Another factor influencing higher education reorganization is the childish rivalry between WVU and Marshall, a competition in which Marshall has not been totally blameless although it is a strong supporter of revising the system" (33).

Reflecting specifically on the defeat of the West Virginia Committee for Higher Education recommendations, Si Galperin, Jr., Delegate from Kanawha County, observed that the multiple governing boards for higher education concept gave "something for everybody". It was also what "gave individual legislators a chance to defeat parts of the legislative package" (34).

As the 1968 Legislature convened, there were still hopes that higher education governance would be enacted. In his last State of the State address, Governor Smith restated his conviction that a better plan for the governance of state higher education could be developed and again expressed his displeasure and concern with the management of the Board of Education. He affirmed his support for the Committee on Higher Education proposals (35).

Once again, none of the bills to implement the Committee's proposed structure were reported out of committee. For the first time measures were introduced in both Houses to create a single

state governing board. These latter bills reflected new orientations and were the first precursors of the 1969 enactment. However, in 1968 they too died in committee (36).

As in previous years, opposition to reorganization in any format was marshalled by the supporters of West Virginia University. Dr. Irvin Stewart, former chief executive of the University, called the proposed coordinating board an "administrative monstrosity which would constitute a continuing obstruction to the progress of education". He further ventured the opinion that "the continuing autonomy of the University under its own Board of Governors who can devote their full attention to the University and who do not share responsibility with any other administrative body is the best way to advance higher education in West Virginia" (37).

Reorganization of higher education was an issue during the 1968 gubernatorial campaign. Republican Arch A. Moore, Jr. ran on a strong platform of educational reform (38). Moore was supportive of reorganization in higher education and went on record in support of a board of governors for Marshall University (39). After winning the election, Governor Moore was very supportive of legislative efforts to restructure higher education governance (40).

Thus by 1969, Governor Moore, the Presidents collectively and members of the Legislature had voiced their commitment to

reform and restructuring. The alternatives had been narrowed to either the Committee on Higher Education's proposal for a coordinating board of regents with institutional boards of governors or a single governing board. Support for the multiple governing boards-coordinating board concept appeared to be increasing among legislators, including the Speaker of the House (41).

On February 3, 1969, Delegates Si Galperin, a Democrat from Kanawha County and John Bobbitt, a Republican from Cabell County, introduced a bill to create a single governing board of regents (42). The next day a joint session of the Finance and Education Committees of both the House and Senate conducted hearings on the coordination of higher education (43). Public opposition to reform was again mounted by the supporters of West Virginia University (44).

In the opinion of Machesney (1971), the single most important element in the course of events leading to the eventual passage of legislation creating a single governing board was contained in the comments of President James G. Harlow, new president of West Virginia University (45). On February 5, 1969 the Charleston Gazette reported:

Harlow "lowered the boom" Tuesday on a legislative plan to reorganize higher education in the State. He thinks the need ephemeral, the benefit doubtful and the cost prohibitive.

He also said that professional administrative sentiment is toward a single board with a single executive because coordinating boards, which became popular as the cost of higher education increased, haven't worked very well.

"Too, it should be remembered that the entire public higher education system of West Virginia is only about the size of Ohio State University, only half the size of New York University. It doesn't really require a great deal of administrative machinery for a job of this size and it seems to me that we should be holding for the principle of the least government necessary. (46).

As alternatives to the reorganization plan initially proposed by the Committee on Higher Education, President Harlow suggested the Legislature consider, in order of preference:

1. That the Joint Committee of the University Board of Governors and the Board of Education make whatever changes in higher education the legislature deemed necessary. (This suggestion was in keeping with the action taken by the Joint Committee on December 14, 1968.)
2. The Legislature should set up a new board to assume the State Board of Education's responsibilities in higher education.
3. The creation of a single board of regents to govern all public institutions of higher education (47).

Many observers felt that Dr. Harlow's attack was an effort to challenge and invalidate the entire attempt to increase coordination (48). According to Machesney, President Harlow effectively killed the possibility of passage of the multiple governing/coordinating board concept in West Virginia (49).

"Harlow's denunciation of the coordinating board concept and defiant recommendation (of) a single governing board provided ... the last encouragement needed, to take requisite action" (50).

Action in support of the governing board legislation introduced by Galperin and Bobbitt rapidly coalesced. Passage was swift. Within a week of its introduction, House Education Committee endorsed the measure. The House Finance Committee concurred two days later. The House of Delegates passed the measure on February 18, 1969. One last attempt to exclude WVU from the control of the Regents was offered unsuccessfully by Delegate Robert Harman of Mineral County (home of Potomac State College) (51).

The Senate made only minor amendments to the House bill (52). Chambers (1970) observed that the Legislature seemed "simply desperate to take action to address the recurring, unanswered questions as to the appropriate state level structure for public higher education which had harassed it for decades" (53).

As finally enacted on March 3, 1969, this new single governing board would consist of ten members. Nine lay members would be appointed by the governor with the advice and consent of the Senate. The tenth was the State Superintendent of Schools, ex-officio. These lay members would serve for overlapping terms

of six years with not more than five from the same political party and at least one from each of the congressional districts (54).

The Legislature empowered the West Virginia Board of Regents with the responsibility for:

1. the general determination, control, supervision, and management of the financial, business, and educational policies and affairs of all state colleges and universities.
2. making studies and recommendations relating to all aspects of higher education in the state.
3. prescribing and allocating (upon a reasonable basis) among the state colleges and universities specific functions and responsibilities to meet the higher educational needs of the state and avoid unnecessary duplication;
4. considering, revising and submitting to the appropriate agencies of the executive and legislative branches of the state government either separate budget requests for the state colleges and universities or a single budget with subsequent allocation of appropriations to the institutions.
5. appointment of members to the advisory boards for each of the presidents of the colleges and universities (55).

The Legislature stipulated that "except as otherwise provided (in the above powers), the president of each state college and university shall exercise all the duties and powers conferred upon him by law in the government of the institution under his management" (56).

Two additional clarifications of the powers and duties of the Board of Regents were incorporated into the law. First, the

Board's power to assign specific functions and responsibilities to the institutions under its control superceded any existing or prior assignments or designations. Secondly, the Board could delegate "such part of its power and control over the business affairs" of an institution to the president, if the Board deemed "such delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner." Of course, the Board could rescind the delegation of such power and control at any time, in whole or in part (57).

Governor Moore summarized the enactment of the Board and projected his hopes for the future:

Approval of such a board came with much debate, concern and opposition. It is a valid proposal that had been tossed around and allowed to gather dust on the shelves after time, expense and energy had been expended to streamline our educational system. Such a proposal demanded careful scrutiny, an open exchange of ideas. The issue also called for putting aside academic sentiment and partisanship if education is to be operated efficiently, productively, and successfully. (58)

...The Board of Regents will answer a growing need in our state for overall coordination of higher education. It will play an important role in planning and developing a highly coordinated program of higher education for the state. It is an historic move in the development of West Virginia higher education and I believe that it will serve us well. (59)

The Original Policy Sin

The "where" in time to locate the original causes of the failure or success of implementation, . . . this moment is, as might have been said in an earlier age, "the original policy sin" (60).

The failure of the Board of Regents to survive as the state higher education agency for all of public higher education calls into question the adequacy of the original policy design. How strong were the agreements secured by the original policy enactment? What were the original aims and understandings of those who created the Board of Regents and who would implement this single governing board?

Clearly there was agreement on the need for and desirability of absolving the State Board of Education of its responsibilities for higher education. Delegate Si Galperin, one of the sponsors of the bill that established the Board of Regents, reflected the concern of the Legislature about the development of the state system of public elementary and secondary schools. It was his belief that the Board of Education with its concurrent responsibilities for both schools, state colleges and Marshall University "could not provide the leadership necessary to develop an educational system that would be responsive to the needs of the citizens of the state." Galperin observed that a division of

responsibility was necessary for the development of an effective system of higher education on the one hand and a system of kindergarten through grade twelve on the other (61).

The State Board of Education had concurred in the Committee plan to restructure higher education under other agencies. The Committee report points out: "The work load of the present West Virginia Board of Education well illustrates how one board can easily become overworked and yet not have adequate time to perform its tasks" (62). In an editorial on February 14, 1967, the Charleston Gazette urged that the State Board of Education be "divested of its higher education responsibilities" so as to "devote full time to upgrading the elementary and secondary schools". Further, the Gazette noted that "West Virginia's colleges and universities have grown in recent years to the extent that they can no longer function under an administrative system that has long been outmoded" (63).

There was agreement, at least between the written report of the Committee on Higher Education and the Legislature, on the need for a single agency for statewide coordination of higher education. Both the Committee report and the subsequent legislation called for a board which would allocate functions, prepare a budget(s) for higher education, and make studies and recommendations concerning higher education in the State (64).

The Committee on Higher Education stipulated the reality of coordination:

Coordination of some sort is inevitable in any state system of higher education composed of two or more institutions. The only questions are, who shall do the coordinating and how much shall it be done. ... In West Virginia the power to coordinate, both in law and in fact, has always existed in the Legislature. ... It is fortunate that the Legislature has not used its broad power in budgetmaking to cripple one institution, or unduly favor another. (65)

The Legislature seemed ready to share its coordinating powers. Chairman of the House Education Committee, Kenneth Auvil expressed his frustration and his concern over the system of legislative coordination. He decried the expectation that the Legislature, which was only in session 60 days per year, should set the priorities for all of education. The lack of planning and educational leadership "confused the legislature, shortchanged teacher and the pupil and left the public without an idea of the size of the problem." (66)

There was obvious lack of agreement on the question of one board or multiple boards. The Committee advocated a multiple governing boards/coordinating board system. They claimed their position was based on "extensive studies made of coordinating plans in other states, the writings of experts in the field, and more particularly the history, needs, and experience of higher education in West Virginia . . ." (67). They counselled that:

The frequent suggestion of one board for all of higher education is a natural but a deceptively simple answer to the complex problems of higher education. Experience shows that one board for both coordination and governing simply has not proved to be successful. ... The Board of Regents (1909 - 1919) and the State Board of Education (1919 - 1927) were unsuccessful and disappointing in every respect (68).

Machesney (1971) points out that the multiple board concept was introduced in West Virginia at a times when the trend in state governments was centralization of state agencies rather than proliferation. Economics, among other factors, were forcing states to reduce the number of regulatory bodies and certain members of the West Virginia Legislature may have viewed the creation of new boards in that light (69). The incorporation of the legislative provision for a board of advisors for the president of each institution was an apparent compromise to address this concern for institutional boards under the new centralized system (70).

Another consequence of the one board plan which the Committee feared was "the tendency for most of the institutions thereunder to become stereotyped into virtually uniform mediocrity." The Committee sought "reasonable coordination" and "maximum freedom of initiative on the part of each institution". They wanted coordination that would insure maximum educational results, avoid wasteful duplication of funds and effort, "while

encouraging institutional autonomy in curriculum, construction, and initiative" (71).

Another issue on which views were divided was the distinction between coordination and governance. The Committee, chaired by University officials, had gone to great length in their report to emphasize the difference between the two functions.

...coordinating and governing are quite distinct functions, and attempting to join them in one board does not augur success. Each institution, its president and governing board should enthusiastically take the initiative in developing new ideas and programs to meet the needs of its students and the state. ... The coordinating function, on the other hand, is strikingly different. The first essential of coordination is objective statewide (not institutional) planning in the interest of the total educational need, and not that of furthering the aims and objectives of any given institution. ... Coordination is to determine what institution or institutions can best meet this need ... from the standpoint of educational quality ... and most economical cost. ... It is difficult if not impossible for a governing board to act also as a coordinating body. ... When a governing board has given its approval to a program proposed by a particular institution, ... the same board in attempting to act as a coordinating body is faced with the impossible task of reviewing and perhaps revising or totally discarding that upon which it had already placed a stamp of approval. (72)

The Legislature apparently found the arguments weak. Perhaps it was the lack of agreement in the Committee on Higher Education.

It appeared at first that the Committee was a single organization with a single will expressing solidarity and consensus. As the legislative debate ensued, it became apparent

that the Committee was in fact several organizations with different wills. The original solidarity and cohesiveness gave way as people and circumstances changed.

Despite the leadership of C. C. Wise, Jr. and Paul Miller, West Virginia University officially broke ranks with the Committee early in the legislative debate. The resignation of President Miller may have contributed to this change of position. The record clearly details West Virginia University's opposition to the restructuring of higher education or the inclusion of the University in any restructuring. The University was the only institution of the ten affected by the proposal that had ever experienced any form of governance other than a central board. Its veteran administrators and its board of governors were unique in the perspective from which they could compare and contrast the various board options.

The newly appointed president, James Harlow, an outsider with limited knowledge of the political history of the issues, attempted to refocus the debate as one of voluntary coordination. His public characterization of the debate and his public position identifying but not endorsing a statewide governing board clearly fragmented and confused the WVU supporters who adamantly opposed the concept. He also implied that he and his institution could work within such a single board governance structure (73).

Thus, throughout the debate, West Virginia University's agenda was clearly to assert their claim to be "the University". The first preference of its supporters was to retain the role of their separate Board of Governors, one which they had fought hard to obtain. A second preference of some University supporters was the Committee proposal which also retained the existing board of governors. Finally, the new president inferred that he could represent the University's agenda with equal facility before the Board of Regents (coordinating or governing) or the institutional Board of Governors.

Marshall University was in favor of restructuring. The vocal supporters of "the other University" wanted Marshall to be recognized as a university, not just another state college. Their agenda was to separate themselves from the Board of Education and to disassociate themselves from their former status as one of the teacher colleges. They did not oppose the Committee plan inasmuch as Marshall, under the plan, would be granted status equal to West Virginia University. Nor did they oppose the alternative governing board proposal for the same reason. In fact, in the latter case, the status of the two universities was even more equal than under the Committee's proposed separate boards of governors. The "childish rivalry" attributed by Yago (74) to the two institutions implies that Marshall University's

advocates may have supported the proposed governing board simply because West Virginia University supporters opposed it.

The State Colleges were on record officially supporting restructuring. For more than sixty years these institutions had been under the control of a single state board. For the last fifty years, they had reported to the State Board of Education.

These eight former teachers colleges shared a common heritage and a common desire to be recognized as comprehensive baccalaureate institutions. Restructuring under the Committee plan gave them a new board of governors that promised greater status, even collective equality with the two universities. The leadership and supporters of the State Colleges advocated the Committee plan, yet presented no opposition to the statewide governing board. Perhaps they realized that under the latter proposal, each state college, for the first time in sixty years, would be equal in status to each of the universities.

For the most part, there was continuity of leadership in the presidencies of Marshall University and the State Colleges during the debate over the structure of the governance system. Although Dr. Stewart Smith resigned as president of Marshall University in 1967, he was replaced by another West Virginian and insider, Roland H. Nelson (75). Of the State College presidents who signed the Committee Report, only two resigned prior to enactment. Both new appointees, Wendell Hardway at Bluefield State

College and James Butcher at Shepherd College, were also West Virginians and insiders (76).

The Legislature, especially the leadership in the Education Committees, expected that the college and university system under the Board of Regents would be economical and efficient, eliminate wasteful duplication, curtail unwarranted competition, and make the necessary hard decisions facing higher education. The Legislature expected that the Board would do this in a rational, objective manner. The College presidents had agreed that these were worthy objectives for the state system. Neither the presidents nor individual legislators expected that systemwide objectives would be met at the expense of their individual institutions or constituencies (77).

The new first term governor had high hopes for the Board of Regents and its potential to fulfill his vision of revitalized West Virginia. The Modern Budget Amendment of 1968 presented him with "a very unusual opportunity as governor: to carry out the restructuring of government from the standpoint of a strong governorship". He would begin with higher education (78). Clearly, the Board of Regents would play a significant role in the implementation of the Governor's agenda for higher education.

Endnotes

1. West Virginia Committee on Higher Education (1966, January 11, Appendix D).
2. *ibid.*
3. Machesney (1971, pp. 100-101).
4. *supra* note 1, Appendix C.
5. *ibid.*
6. *ibid.*
7. *ibid.*
8. *supra* note 1, Appendix A.
9. *supra* note 4
10. West Virginia Committee on Higher Education (1966, October 31).
11. *ibid.*
12. *supra* note 1, p. 11.
13. *supra* note 10, p. 9.
14. *ibid.*
15. *ibid*, p. 10.
16. *supra* note 13.
17. *ibid*, p. 15.
18. *ibid*, p. 20-22.
19. *ibid.*
20. *ibid.*
21. *ibid.*

22. School Complex Revamping Must. (1967, February 14). Charleston Gazette, p.4.
23. *ibid.*
24. *ibid.*
25. Machesney (1971, p. 103).
26. *ibid.*
27. Failure in Leadership Cited in State School Problems. (1967, January 18). Charleston Gazette, p.1.
28. *supra* note 22.
29. Higher Education Needs More Than Double Talk. (1967, February 19). Charleston Gazette, p. 2B.
30. *ibid.*
31. *supra* note 10.
32. Machesney (1971, p. 104). C. C. Wise had subsequently assumed the Committee chairmanship and was instrumental in the development of the specific plan to restructure the governance of higher education in the state.
33. Yago (1967, December 24, p. 4).
34. Machesney (1971, p.106).
35. *ibid.*
36. *ibid*, p. 108.
37. Jackameit (1975, p. 129).
38. Frasure and Davis (no date given, p. 33-39). Moore issued a series of position papers entitled the "Education Crisis in West Virginia" as a part of his campaign for governor. He pledged a "crusade against ignorance and apathy".
39. Machesney (1971, p. 109).
40. *ibid.*

41. Machesney (1971, p. 103-104). On January 14, 1969, Ivor Bioarsky, Speaker of the House and Delegate Kenneth Auvil, Chairman of the House Education Committee, introduced a slightly different version of the coordinating board/multiple governing boards legislation introduced in previous years. In order to enlist support of WVEA and the powerful lobby of public school teachers, provisions were made to establish a West Virginia Education Council. This Council was to be composed of the nine members of the proposed Board of Regents and the nine members of the State Board of Education for the purpose of coordinating and articulating the efforts of elementary and secondary education with higher education.
42. Journal of the West Virginia House of Delegates (1969, p.94). Galperin and Bobbitt, cosponsored House Bill No. 595.
43. Machesney (1971, p. 111). Presentations regarding coordination of higher education were made by: W. Robert Abbot, President of the State Board of Education; Charles C. Wise, Jr., President of the West Virginia University Board of Governors; Joseph F. Marsh, Jr., President of Concord College; J. Douglas Machesney, Executive Director of the West Virginia Commission on Higher Education; and James G. Harlow, new President of West Virginia University.
44. Van Tol (1988, p.15). The Morgantown paper, Dominion News, called the reform measures "the most controversial pieces of legislation ever proposed in the West Virginia legislature".
45. Machesney (1971, p. 112).
46. Charleston Gazette (1969, February 5, p.1)
47. *ibid.*
48. Academy for Education Development [AED] (1979, p. 111). This view was shared by Van Tol (1988, p. 15).
49. Machesney (1971, 113).
50. AED (1979, p. 114). Machesney (1971, p. 113) also surmised that the opposition of WVU supporters that had previously blocked all attempts to reorganize higher education became fragmented and ineffective after Harlow's statements.

51. Machesney (1971, p. 113). The Charleston Gazette (1969, February 19, p.1) observed that this bill "passed without discussion even though the same proposal just one year before had provoked fierce opposition and intense debate".
52. Machesney (1971, p. 114).
53. Chambers (1970, p. 401).
54. West Virginia Legislature, Acts of the Legislature 1969, chapter 130.
55. *ibid.*
56. *ibid.*
57. *ibid.*
58. *supra* note 38 (Volume I, p. 405)
59. *ibid*, p. 417.
60. Pressman and Wildavsky (1984, p 207-208).
61. Machesney (1971, p. 115).
62. *supra* note 10, p. 26.
63. *supra* note 22.
64. *supra* note 10, p. 20-22 and *supra* note 54.
65. *supra* note 10, p. 23.
66. *supra* note 27.
67. *supra* note 10, p. 20.
68. *ibid*, p. 25.
69. Machnesey (1971, p. 106).
70. *supra* note 54.
71. *supra* note 10, p. 24.
72. *ibid*, p. 25-26.

73. Personal Interview with Harry Heflin, December 16, 1991. Heflin, who was Vice President of Finance and Administration at West Virginia University under Harlow reports that Dr. Harlow was at odds with some members of the West Virginia University Board of Governors at this time. Heflin further reflected that "it was impossible to know the degree of arm twisting exerted by the Governor (Moore)".
74. Yago (1969, December 24).
75. West Virginia Legislature Blue Book (1968).
76. *ibid.*
77. AED (1979) found that legislators indeed intended to "create a statewide planning and coordinating authority". Legislators felt that "better decisions would be made if professional educators could view the state as an entity, and make educational and financial recommendations or decisions based on the interests of the entire state rather than a single institution". The Academy also found that legislators wanted to "reduce the political pressures, brought to bear by individual institutions, to garner financial support during legislative sessions". The constant "buttonholing" of legislators to support the special interests of various colleges finally reached a point where it had become "intolerable". The "constant presence of institutional lobbyists" interfered with "sound decision making" in the legislature.
78. Personal Interview with Arch A. Moore, Jr., November 10, 1991.

Chapter 3
IMPLEMENTATION: THE STUDY

"It has been said that when an idea is ripe, nothing on earth will stop its germination, and the time for reorganizing higher education in West Virginia was certainly long overdue. To that extent, then, the board of regents measure, adopted Saturday by the State Senate, ratified and sent to the Governor Monday by the House of Delegates, was beyond the power of any individual to prevent. Nevertheless, many educators, legislators, and private citizens have fought to assure passage of this important legislation. (1)

As the idea of the West Virginia Board of Regents became legal reality on March 6, 1969, the State appeared to be on the "eve of a new unified system of administration" in higher education (2). There were great expectations for the Board of Regents. All that remained was implementation: the transformation of the idea (i.e. theories, expectations and intentions) into programs and actions.

Implementation, The Study: The Purpose

As Cardinal Newman observed many years before, implementation of an idea is, indeed, a transformation.

An idea will, in proportion of its native vigour and subtlety, introduce itself into the framework and details of ... life, changing public opinion and supporting or undermining the foundations of established order. Thus in time it has grown ... according to its capabilities, and this system, or body of thought ... will after all be only the adequate representation of the original idea, being nothing else than what that very idea meant from the first --- its exact image as seen in a combination of the most diversified aspects, with the suggestions and corrections of many minds, and the illustration of many trials. (3)

The "idea" of the Board of Regents was introduced into a policy system (4) by the other stakeholders (5) involved in the governance(6) of higher education. From its inception, the Board began to shape "the framework and the details" of higher education policy. It also "supported" and, at times, "undermined the established order".

Therefore, the study of the implementation (7) of the Board of Regents monitors (8) the formulation of policy from 1969 to 1989 and its impact upon the governance structure. In addition, the implementation study profiles the "minds" that corrected and the "trials" that illuminated the original idea. In conclusion, the study analyzes why the Board of Regents was abolished, why the structure was reorganized.

Implementation, The Study: The Assumptions

Structure is a product. Structuring (and/or restructuring) is a dynamic process of interaction between state government and public higher education. Neither governance nor structure is an end in itself. Rather, structuring is the means and structure is a precondition to a system of public higher education (9).

In determining a governance structure appropriate to a particular state, the fundamental policy issues reflect an historic, but very contemporary tension in the administration of public higher education. It is the classic debate of how to balance state government's need for accountability to the public interest with the institution's need for autonomy and academic freedom (10). It is assumed that decisions on specific structural arrangements are made along an Accountability/Autonomy Continuum (Figure 2).

As expected, the governor and the legislature are protectors and advocates of accountability to the state. On the other end of the continuum, institutional presidents are expected to defend the historic traditions of academic freedom and campus autonomy. Any higher education board will be positioned somewhere between the two extremes (11).

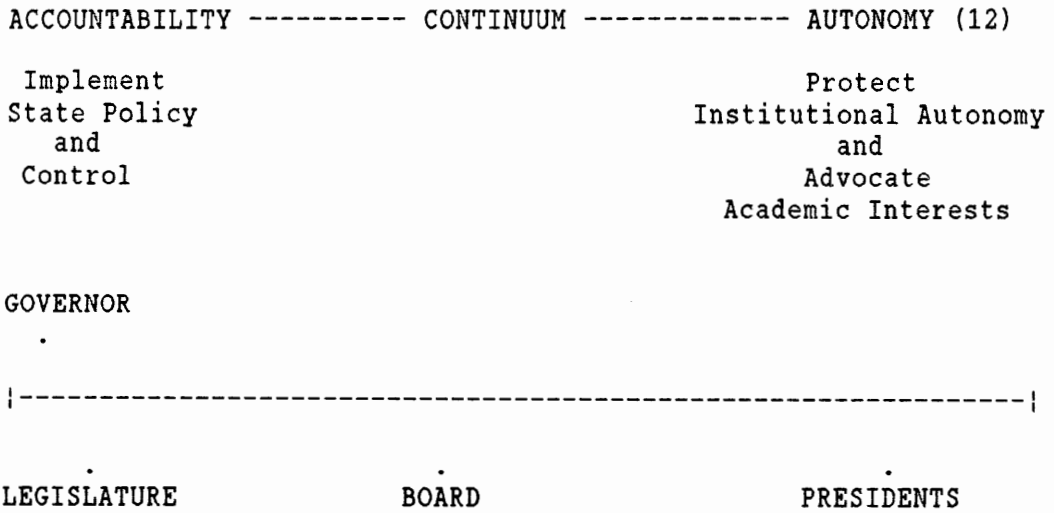


Figure 2: WEST VIRGINIA PUBLIC HIGHER EDUCATION SYSTEM.

This conceptualization of structuring as a dynamic processes along a continuum makes the following assumptions about the relationship of state government to public colleges and universities. First, institutional autonomy is not and never has been absolute or complete, even for medieval universities (13). Second, complete accountability and absolute autonomy are unattainable -- and perhaps undesirable (14).

Third, autonomy is not synonymous with academic freedom (15). Substantive autonomy, however, is essential to protect the academic core of the institution. In the classic legal definition, this is the freedom to decide who is to be admitted, what is to be taught, and how it will be evaluated (16). In contrast, procedural autonomy refers to the freedom to determine

administrative mechanisms for the governance of the institution. It is associated with the budgetary, auditing and information-reporting processes (17).

The key issue in determining the governance structure is ...

...not whether colleges and universities are accountable. Nor is it whether they can in some mystical fashion be autonomous. Rather the issue is where the line should be drawn between the campus and the state (between autonomy and accountability); and, most especially, how can we separate out trivial interference with essential confrontation (18).

With the formulation of policy that affected the governance structure as the focal point, the study of the implementation of the Board of Regents draws upon Easton's theory of political systems. The use of the Eastonian political model is predicated upon the following assumptions.

1. Decisions are made by groups of elites, and there is a large degree of inactivity by the masses.
2. Participation by the individuals is more fluid than static, but decisions are made by those who persist.
3. Conflict is normal, expected, and functional in promoting change.
4. The "Legislature", the "Board", and the "Presidents" are not monolithic groups, rather, they are fragmented into interest groups having differing goals and values.
5. Formal authority is limited by interest group politics and pressure.
6. Policymaking responds not only to internal interest group pressure, but also to the control and pressure exerted by groups external to the policy system. (19)

Thus, it follows that no statewide structure for the governance of higher education can be politically neutral. It is a statutory body, created by political processes. Necessarily, it represents a coalition, a balancing of interdependent, but competing political interests and influences. As a result, it is inherently unstable, changing, evolving. Structure is, therefore, the product of a political system. Structuring is a political process (20).

This Eastonian perspective rejects as myths certain beliefs about the relationship of higher education and politics. First, this study assumes that higher education and politics are interrelated (21). It accepts that higher education is "at or near the center of the governmental-political spectrum" (22).

It further assumes that the myth of a higher education and politics dichotomy leads to a "victim perspective" (23). The study is premised on a belief in the reciprocal powers of the regulated agency (24). It further assumes that public colleges and universities must function in a political environment. Yet it recognizes that there still exists a widely held belief that an apolitical environment is essential to academic freedom (25).

Implementation, The Study: The Stakeholders

The implementation study explicates the policy processes which modified and ultimately restructured the governance of higher education. The study documents the case of the Board of Regents from the perspective of the primary stakeholders in the policy making process. Specifically, the viewpoints of the governors, the legislatures, the presidents, and the Boards are profiled. The implementation study chronicles the respective positions and dispositions of these stakeholders with regard to the formulation and execution of higher education policy as it affected structure.

Chief among the "many minds" that shape and "correct" higher education in any state is the governor. Governors always have held a strategic position with regard to higher education. As chief executive, chief budget officer, and chief opinion and political party leader, the governor directly affects higher education (26). Especially in times of economic stress and uncertainty, the relationship of the governor to higher education and its constituencies becomes critical.

Beginning in the 1950s, governors became more active in higher education issues. In many states the role of governor expanded as states developed higher education systems. In the 1970s and 1980s, governors became involved with issues of access

and quality, system consolidation, and relations between public and private campuses (27). Governors also have been interested in linkages between higher education and economic development in their states (28).

Increasingly, the governor is acknowledged as "uniquely situated at the nexus of so many forces impinging on higher education". In most states, it is the governor who has come to serve as the primary "link between politics and education". Most often, it is the governor who is expected to provide the leadership in transforming educational issues into state public policy (29). Indeed, the single most important person in higher education at the state level is the governor (30).

Therefore, the implementation of the West Virginia Board of Regents will be segmented by gubernatorial administrations. Thus, the study will focus on three distinct policy environments. The first eight years of the Board's life, 1969 - 1976, constitute "the Moore Years". The membership of the Board during the Moore Years will be referred to as the "First Board". The second eight years were "the Rockefeller Years", 1977 - 1984. The membership during this period will be referred to as the "Second Board". The last four years of the Board's existence, 1985 - 1989, coincided with "the final Moore Years" or the "Terminal Years". The final Board will be referred to as the "Third" or the "Terminal Board".

In addition to the governor, the state legislature has become more involved in higher education in most states. The expansion of higher education in the 1960s and 1970s was paralleled by a commensurate increase in legislative interest in higher education. During the same time period, legislative program evaluation sections were added to the National Conference on State Legislatures and to more than 40 state legislatures (31).

In all states, legislatures shape higher education through the appropriation process (32). Increasingly, the state legislature has had its most significant impact through regulations and audits (33). In most states, legislatures extended their traditional procedures for accountability in higher education to include the performance audit. This "natural extension of fiscal and management audits (goes) beyond relatively narrow questions about how funds are used to questions about effectiveness. ... (It is) an assessment of how effectively an activity or organization achieves its goals and objectives" (34).

In many states, like West Virginia, it is the legislature that specifies through statute the degree of state control of higher education. It is the modifications of legislative intent that profile most precisely the changing relationship of higher education to state government. The creation, the development, the continuation, and ultimately the termination of the Board of

Regents are all "illuminated" in the laws enacted by the West Virginia Legislature, 1965 - 1989 (35).

Obviously, the presidents of the colleges and universities play prominent roles in the story of higher education in each state. Traditionally, higher education has been decentralized, with most policy decisions made at the campus level. As a consequence, it is the responsibilities of the institutional president that are most altered by the creation of a state higher education agency. The issue of campus autonomy versus state accountability is focused most sharply on the office of president. The perspective of the presidents on the role of state government in higher education is unique among the four main groups of policy stakeholders (36).

State higher education agencies have been created in 49 of the 50 states (37). Like other governing boards, the West Virginia Board of Regents held a key leadership position on policy issues. The Board, collectively and its members individually, shaped policy alternatives and outcomes. Through their pivotal relationships with presidents and state government, the Regents directly influenced the development of higher education. Of particular significance therefore is the perspective of the Board, the members, and its chief executive officer.

In summary, this implementation study of the Board of Regents explicates the dynamics of the political processes

through which the structure of higher education governance was shaped in West Virginia from 1969 to 1989. It assumes that structure is a product and structuring is a process of political interactions of the governor, the legislature, the Board and the institutional presidents. It demonstrates that politics is the "warp and woof" of any statewide structure of higher education in West Virginia.

Implementation, The Study: The Significance

The reform of higher education governance by altering or changing the statewide structure is a recurring theme in the literature (38). The reconciliation of the public interest in higher education with the institutional interest in autonomy and freedom of action continues to be a perennial problem for state government (39). In recent years as enrollment trends and public financing patterns have changed, state government has focused once again on structure as a solution to the problems of higher education.

The number one misleading point of view advanced by governors, legislators, and higher education leaders is that governance is the solution to their problems (40).

There's a temptation to tinker with the structure instead of addressing the other issues (41).

Despite the persistent search for an optimal state structure for higher education, there is no one best state organization (42). "The conditions in each state determine form and powers" (43). Each state is unique in both the conditions and the process by which the governance structure is determined.

Callan (1982) concluded that the most significant determinants of higher education structure were not those included in much of the earlier debates (i.e., coordinating versus governing boards). According to Callan, structure is determined by "the personal disposition of the governor and legislative leaders toward higher education, the experience of those leaders with higher education, the leadership of the state higher education agency and campus presidents, compatibility between campus leaders and state leaders, and the place of higher education in the state's political culture" (44).

Structuring requires an understanding of the history and circumstances within a state, the needs of higher education and state government, and the key actors inside and outside higher education who are involved in ultimately determining structure (45). Hines (1988) states the case for research into the unique determinants of structure and structuring.

... The need also is apparent for qualitative research, including field observation and interviews with key actors and relevant others. ... naturalistic approaches could be useful in generating propositions and

hypotheses about policy making and state-campus relationships in formulating and implementing policy. Longitudinal studies, while difficult to complete, are especially compelling, as they can provide contextually rich explanations for the development, for instance, of a state's external political traditions over time as these traditions relate to the development of a state higher education system (46).

Therefore, this study of the implementation of the West Virginia Board of Regents, 1969 to 1989, documents one of the fifty state cases. It presents that case through the perspective of key decision makers regarding structure (the governor, the legislature, the Board, and the presidents). It illuminates the political culture which shaped higher education governance in West Virginia for two decades (47).

Endnotes

1. Success of Regents Now Rests on Selections. (1969, March 3). Charleston Gazette, p. 6.
2. *ibid.*
3. Pressman and Wildavsky (1984, p. 170) quoted from John Henry Newman's An Essay on the Development of Christian Doctrine, pp. 88-89.
4. Dunn (1981, p. 60) defines policy system as the "overall institutional pattern within which policies are made. The three elements of a policy system are: public policies, policy stakeholders and policy environments".
5. *ibid.* Stakeholders are individuals or groups who have a stake in policy because they affect or are affected by government decisions.
6. Van Tol (1988, p.2) defines governance as the "statutory framework through which the state regulates and promotes higher education".
7. *supra* note 4. Implementation is the execution and steering of policy actions over time.
8. *ibid*, p. 59. Monitoring is the policy-analytic method used to produce information about past causes and consequences of policies.
9. Callan (1982).
10. For more detailed discussion of accountability and autonomy, see: Moos, M. and Rourke, F. (1959). The Campus and the State; Millett, J. D. (1984). Conflict in Higher Education: State Government Coordination versus Institutional Independence; and Hines, E. R. (1988). Higher Education and State Government: Renewed Partnership, Cooperation, or Competition?
11. Millett (1984, p. 253) observed that: "Political judgment in the United States prescribes that education ... shall be governed and administered by boards. This political judgment is founded on a long tradition of boards ... for institutions of higher education. ... When state govern-

ments undertook to create state agencies for higher education, in every instance, the board form of organization was utilized".

12. Hartmark (1978, p. 83) defined the autonomy-accountability dichotomy in terms of a continuum that varies by context:

The meaningful question for analysis is not which sector (state or campus) has what authority; but rather what decisions are made, by whose authority, at what level of detail, with what effect on the perquisites of either the (institution) or the state.

13. Cowley (1980) and Wilson, L. (1965).

13. Millett (1984, p. 215) observed that "some kind of coordination of the government system of higher education is desirable. ... As a corollary, ... institutional autonomy is not and cannot be absolute".

Carnegie Foundation for the Advancement of Teaching (1982, p.4) asserted: "There is, in the strictest sense, no such thing as autonomy on campus. Both public and private institutions are socially engaged. They are answerable to the people who support them and cannot be excused from explaining, or perhaps defending, what they do".

15. Moos and Rourke (1959, p.42) distinguish academic freedom from autonomy.

The case for the freedom of the university goes deeper than this and rests upon a characteristic of higher education that it does not come close to sharing with any other state activity. This is the fact that in certain areas colleges and universities need freedom not merely as an administrative convenience to enhance their efficient cooperation, but as a source of creative energy and an indispensable means to all their achievements. For without freedom, productive teaching and research in the Western tradition are impossible.

16. Millett (1984, p. 216-217) observed that "in terms of the classic definitions of academic freedom, state government has uniformly intervened in determining what shall be taught. ... Decisions about what to teach have not been left

solely to the discretion of public institutions because such decisions involve substantial outlays for capital facilities and current operations -- outlays that must be provided by state government.

17. Berdahl (1971), Statewide Coordination of Higher Education, further distinguishes substantive and procedural autonomy.
18. Boyer (1982, p.4).
19. Baldrige, etal (1978, pp. 35-6). These assumptions are adaptations of Baldrige's assumptions in his examination of the political processes within the university by which decisions are made.
20. Millett (1984, p. 256) attested: "Public higher education is a public problem, involves public issues, which must ultimately be resolved by a political process. PUBLIC HIGHER EDUCATION IS INEXTRICABLY ENTWINED IN THE POLITICS OF STATE GOVERNMENT".
21. Millett (1970), for one, found that much of the literature regarding higher education governance reflected the "education-above-politics" myth. Goodman (1962) concluded that the separation of politics and higher education existed symbolically because of the tradition and the belief that higher education must function in a political environment.
22. Waldo (1970, p. 107)
23. Halverson (1975, p. 2-3): "By overemphasis on the regulatory powers of governmental agencies, it is easy to slip into a perspective on the politics of higher education in which colleges and universities are seen as the victims of politics, as disadvantaged contenders in the endless struggle for money and autonomy".
24. Hines and Hartmark (1980).
25. O'Keefe (1985, p.13) chided those in higher education who believe that "politics is something to be talked about, even as a reputable academic discipline, but not to be engaged in ..." He declared that "politics is an inescapable part of any human enterprise. When it comes to ... politics, higher education should either play the game to the full -- with integrity to be sure -- or work to change the rules. To play with half a deck is to hide from the realities of a

complex society".

26. Adler and Lane (1985).
27. Zollinger (1985).
28. Herzik (1985).
29. Hines (1988, p 77).
30. Kerr (1985).
31. Folger and Berdahl (1988).
32. Wildavsky (1974, p.5). The budget reflects the relative position of state systems and institutions in the distribution of political power within a state and "in the most integral sense, the budget lies at the heart of the political process".
33. Fleming (1978).
34. Floyd (1982, p. 33).
35. The Legislature is not a monolithic organization. It is easily fragmented on many issues. However, with the enactment of any law, the Legislature has "spoken with one voice". Therefore, the perspective of the Legislature is based on its collective action of enrolled legislation.
36. Hines and Hartmark (1980, p. 33). Again the "presidents" cannot be represented as a monolithic grouping. In general, the "presidents" would more aptly be described by Iannaccone's concept of fragmented linkage. This typically exists where interinstitutional relationships are competitive. When presidents are able to coalesce around common issues, however, the arrange may be syndical, according to Iannaccone. It is the "presidents" as a synarchy that is of most interest to the study. Synarchies form voluntarily, growing out of mutual interest and survival. Synarchies also form temporarily, brought together to investigate policy issues or to propose alternative solutions.
37. Millett (1984, p. 23) reported that Wyoming had no statewide higher education board. Wyoming has a single state university with only one campus. Millett categorized state agencies as: statewide governing boards - 22 states;

- coordinating boards - 18; and advisory boards - 9.
38. Hines (1988).
 39. Millett (1984, p. 216).
 40. Jaschik (1987, November 18, p. 28) quoting Aims McGuinness.
 41. *ibid*, p. 29. This is a quote from Robert O. Berdahl.
 42. Hines (1988); Millett (1984); and Callan (1982).
 43. Glenny (1985, p. 13).
 44. Callan (1982) as summarized in Hines (1988, pp. 3-4).
 45. Hines (1988, p.45).
 46. Hines (1988, p.115).
 47. Hines (1988, p. 109) defines "political culture" as "a shared framework of values along with basic assumptions about political actions used to achieve goals". It is the political culture that defines the nature of politics and the goals of the political system. Political culture includes the history of how state government interacts with higher education.

It is observed, based on Jackameit's 1973 study, that West Virginia historically projects an "individualist political culture". In such a culture, higher education is viewed as an instrument for accomplishing ends, the direction of which is formulated by those who gain control of government in a partisan political environment.

Chapter 4
The Moore Years, 1969 - 1976
In Perspective

The Policy Environment

As Arch A. Moore, Jr. concluded his historic second term as governor of West Virginia (1), the idea of the Board of Regents had grown into a much more diverse system of higher education. In 1969, there were two universities, one of which encompassed a medical school and medical center. In addition, there were eight state colleges and one junior college. The latter was a branch campus of the landgrant university (2).

By December 1976, the number of public colleges and universities totalled sixteen. There remained only two universities, but each had a medical school (3). In addition, West Virginia University had opened a Charleston division of the state-supported medical center (4). At the behest of Governor Moore and the Legislature, a third, independent medical school, the West Virginia School of Osteopathic Medicine, was included in the state system (5).

Three community colleges had been established (6). Five of the eight state colleges had added "community college components". Likewise, Marshall University included a community

college within its operational structure and mission (7). The fifth institution created by the Board of Regents was the West Virginia College of Graduate Studies (8).

Enrollment had increased dramatically from 51,127 students in 1969 to 70,364 in 1976 (9). Record budgets had been sought by the governor and committed by the legislature. Overall, the state general fund appropriations had more than doubled in Governor Moore's first eight years (10). Higher education's state general funds rose 68 percent, from \$54.4 million to \$91.2 million in the same period (11).

At the end of seven of the eight years, the Governor revealed a "surplus" of state revenue (12). There were pay raises for education in six of the eight Moore years (13). In addition, all state employees were included under a hospital insurance plan (14).

By 1976 all of the institutions in the Board of Regents system were accredited by the regional association (15). Major deficits in library resources had been eliminated. More than \$100 million in capital construction had been undertaken or completed by the West Virginia Board of Regents (16).

Yet amidst all these positive accomplishments, there had surfaced calls for the abolition of the Board, some as early as 1973 (17). Even Governor Moore who had appointed all of the members of the Board, had suggested on at least one occasion

that some of the members should submit their resignations (18). In addition, he had publicly rebuked the Regents and was officially at odds with them as he left the governor's office (19).

Momentum was gathering in the Legislature for a standing interim subcommittee to monitor the "problems of higher education" (20). Already in 1976, the Legislature had granted nonvoting, ex officio membership to the chairmen of the advisory council of students and advisory council of faculty (21). This action had neither the endorsement nor the enthusiasm of the lay members of the Board (22).

In its first eight years, the Board of Regents had made 19 appointments to the office of president at its colleges and universities. This number did not include acting appointments. Four of these appointments were at one institution, Southern West Virginia Community College (23). The Regents also had demoted a president who had subsequently resigned (24).

Thus, in eight years the "idea" of the Board of Regents had evolved. How had this state higher education agency "changed"? In what ways had it "undermined the foundations of the established order"? How did the answers or views of the Governor, the Legislature, the presidents, and the Board differ?

The Governor's Perspective

To Arch A. Moore, Jr. the new Board of Regents was an executive agency. It was an arm of the governor's office. "The governor proposes, the legislature disposes, and the board executes" (25). The Board was to serve the people of the State by implementing the policies and agendas of the legislature and the governor.

Under the Modern Budget Amendment of 1968 (26), West Virginians had "vested all of the fiscal powers and responsibilities as chief budget officer in the governor". According to Moore, this transformed the governorship from "weak to strong". It also "presented (him) with an unusual opportunity". It permitted the Governor to "carry out the restructuring of government from the standpoint of a strong governorship. One of the first areas that (he) looked at was higher education".

The concept of the Board of Regents was a consolidation of all of public higher education under one authority empowered to "oversee higher education for the State of West Virginia". Under this new concept, each of the "institutions of higher learning had equal status". The essence of this new legislative creation was "the provision for a strict chain of budgetary command".

Under the 1969 restructuring, the Board of Regents "would develop a budget request for all of higher education. That request was submitted to the Governor", not the Legislature. Then the Governor reviewed the request and determined "how it comported with the dollars available". The official budget request for higher education was presented by the Governor as a line item in the State Budget.

The purpose of this, in (Moore's) judgment, was simply this. The Modern Budget Amendment afforded (him) the opportunity to take the presidents of the various colleges and universities out of the halls of the legislature. It got to the point, it seemed to (Moore), that probably one of the most demeaning assignments a president had was to lobby the legislature on behalf of his particular institution. The overall scope and mission of higher education became secondary.

It was not difficult for each college president to get "some" support because of the geographical and economic influence of his institution. There were always senators and house members that were more than willing to do or die for good old XYU! What we really had was a trading mechanism going on in the Legislature as it related between the powers of one legislator against another. As a consequence, the overall goal and mission of higher education became severely clouded.

A key to implementation of this new agency and its corollary chain of command was the appointment of the membership. As "founder" of this First Board, the Governor observed the "Arch Moore theory" of selection. He "almost always went to people in

whom (he) had supreme trust", "persons he knew" and with whom "he had developed relationships over the years".

From that list, Governor Moore chose persons of "extraordinary ability" who had "a sensitivity to higher education". He carefully selected individuals who were a "stride, or two, or three, or four above the citizen participation of the past". This First Board would be "men and women of stature", "a composite of the very best West Virginia had to offer". (27)

Of course, the Governor complied with the statutory provisions for geographical and bipartisan representation. He had intentionally excluded persons who had served on the former West Virginia University Board of Governors and the State Board of Education. Although he wanted "to avoid any of the rivalry that had existed particularly between West Virginia University and Marshall" (28), he "felt the home environments of the two major universities should be represented. Hence, (he) appointed someone from Morgantown and from Huntington" (29).

In addition, he "had made up his mind that (he) wanted" certain specific occupations and affiliations represented on this First Board. He sought: "an engineer (30)", "a doctor (31)", "lawyers (32)", and "a prominent member of the State business and banking community (33)". He also wanted "an individual who had an attachment to the independent colleges and universities in

the state. (He) envisioned that down the line (he) would build a stronger liaison between state government and the independent colleges" (34). Moore also chose to appoint a prominent leader and activist in the Civil Rights Movement within the State (35).

Governor Moore "felt strongly that he should have someone with experience in state government" on this first slate of Regents. This key position went to John Amos, "an individual of tremendous stature". Amos was a veteran legislator, serving for twenty years in both the House and Senate. He had held the position of House Speaker and Senate Majority Leader (36).

At the time Moore appointed him, Amos was still a very active "leader in the Democratic Party".

Appointment of Amos probably marked a first in state history, with Moore, as Governor and Republican national committeeman, naming a Democratic national committeeman to an important state post (37).

To this distinguished and seasoned slate of appointees, Governor Moore added a "strong flash of youth". As the ninth regent, he named John R. Hoblitzell, age 21. A student leader at West Virginia University, Hoblitzell was the son of the late U. S. Senator John D. Hoblitzell, Jr. (38).

The reason for Moore's movement to appoint a student reflected the campus turbulence of Vietnam War era. "West Virginia had some turmoil on campuses". In fact, Moore would

find it necessary "to put the national guard and state police on state campuses on more than one occasion". Hoblitzell's appointment was made in the interest of maintaining "good and genuine dialogue" with students. Governor Moore "wanted to bridge the communications gap that existed between students and the administration of higher education".

Moore was proud of the reception which his slate of nominees received. "It was just universal applause for the composition of the Board" (39). Yet the Senate refused to confirm the appointment of the student, Hoblitzell (40).

Governor Moore acknowledged that his choice of a student was "a technical departure from the legislation setting up the Board". He further conceded that he needed and wanted "complete acquiescence" from the legislature on the matter. The governor also admitted that "there had been initial resistance" among some of those with whom he consulted about a student appointee (41).

Moore explained the Senate rejection of the student representative.

In West Virginia, particularly when you have a difference in the political complexion of one branch of government as opposed to another, if the idea is not generated by the legislative branch, then it is faulted. ... The proof of that is, in a short period of time later (1976), ... (the legislature) finally decided that they not only wanted to have a student representative, they wanted to go further (i.e., to give voting membership to the student in 1976.) (42)

Although Governor Moore remained committed to a student regent, he appointed Edward Greene, age 56, as the ninth member of the First Board. Greene took the oath of office on September 16, 1969 (43). One week later, Governor Moore did by executive order, what the legislature had prevented him from doing by law (44). He appointed a student to the Board of Regents. The first appointment went to John R. Hoblitzell (45).

The Governor's student representatives held only an advisory, non-voting position on the Board. As Moore remembers it, that is "the way (he) always felt it should be. Otherwise, an awful lot of pressure, equal in size to an individual of many, many years experience in assessing difficult problems, would have been transferred to the student" (46).

The record, however, contradicts the Governor's memory. His original appointment of Hoblitzell was to one of the nine voting seats on the Board (47). Moore also spoke on several occasions of his regret that the student representative could not vote (48). In addition, Governor Moore asked the 1970 Legislature for their "favorable consideration of establishing a position of a student member of the West Virginia Board of Regents with full voting rights" (49).

"By and large", all of the appointments Moore made during those first eight years "reflected, not (the Governor's) political philosophy, but (his) administrative philosophy". "As

it related to the challenge that higher education had at the time in West Virginia", Governor Moore's administrative philosophy was "accountability". He was particularly concerned about fiscal accountability.

Governor Moore convened the first meeting of the Board of Regents, just one week after making his announcement of his appointments. After the swearing in of the nine new Regents (including Hoblitzell), the Governor conducted a brief orientation of the Board. He "always insisted and they understood that under the Modern Budget Amendment, the Governor is the chief financial officer". And, in that capacity, "they and the governor would be working together" (50).

In nonfiscal matters, the Governor gave the Regents, "by and large, total freedom to dispense their responsibilities". The first of which was to select a chancellor. The Board "did not ask for the Governor's concurrence" in this matter. They, however, did give him "the courtesy of reviewing the three finalists for the position". Governor Moore considered their choice, Prince Woodard, "a very outstanding chancellor" (51).

According to Moore, the Board of Regents had "carte blanche authority in lump sum appropriations to decide particular priorities within institutions"(52). This gave the Regents the power to "deal in a direct relationship with the presidents" and prevented the presidents from directly lobbying the governor and

the legislature (53). They also were given "broad authority to determine disciplines" and in program review (54).

In general, Governor Moore had nothing but praise for the Board of Regents (55). He was very supportive of their administration and their accomplishments (56). Although he asserted his prerogatives as chief budget officer and, at times, reduced the Regents' request, he also regularly included the college and universities in his agenda for extraordinary legislative sessions (57).

Moore played an active, high profile role in the creation of the community colleges (58). He had endorsed this concept during the campaign of 1968 and championed the conversions of branch campuses for this purpose in 1971 (59). In fact, it was Governor Moore who "asked the Board of Regents to look at the community college concept. He wanted to locate educational opportunities in the less populated areas of the state. He envisioned day and night school opportunities where students could get an education without committing the family finances to room and board" (60).

Governor Moore supported a number of other initiatives with the Board of Regents. The "concept of area medical centers was one in which he was very interested and developed" (61). Moore also endorsed the acquisition of Morris Harvey College, which was presented by the Regents, but rejected by the Legislature (62). On the issue of the merger of Bluefield and Concord Colleges, the

Governor was publicly silent. He did free up an administrative position for Billy Coffindaffer when the Regents decided to dissolve the joint administrative arrangements (63).

As Governor Moore recalls it, he "had one problem with this Board of Regents". It centered on the development of a second medical school at Marshall University, which Moore advocated beginning in 1972. While neither he nor the Board viewed the incident as a confrontation, Moore believed that "it was viewed as confrontational by those who sit in judgment on political activity".

(Moore) knew there was division on the Board as to whether or not to accept his proposal. And once again, THE GOVERNOR PROPOSES, THE LEGISLATURE DISPOSES AND, IF THE LEGISLATURE DISPOSES, THEN THE REGENTS HAVE NOTHING TO DO BUT EXECUTE. Since the legislature found a great deal of favor in (his) Marshall University and Veterans Administration tie up, to have the Board of Regents resisting policy, (Moore) felt was overstepping their legislative mission.

So (he) simply invited the Board to lunch at the Mansion and indicated to them: "Gentlemen, a decision has been made in this regard. All of you I know. All of you have served the State, served me as Governor. I am particularly proud of your work. But Gentlemen, the Board must approve a resolution to be submitted to the Veterans Administration. And I want the resolution approved today".(64)

Whereupon John Amos replied for the Board, "Mr. Governor, a decision had been made and we will carry it out" (65).

This exchange between the Governor and the Regents was private in comparison to that of May 14, 1975. Although the

Governor did mention the Marshall Medical School incident (66), the issue he called a press conference to publicize involved the adoption of the Osteopathic School (67). He read the text of an executive order issued the day before because "he wanted to get as much of my expressions as time would permit to the people of the State, ... which he felt he should express very strongly himself".

In this press conference, Governor Moore testified to his perspective, as governor, on the role and functions of the West Virginia Board of Regents, as well as their relationship to the governor and legislature.

The mission of the Board of Regents ... as it relates to higher education, is not to dictate policy, but rather to administratively execute the policy given to them by the executive and legislative branches of government. It is the responsibility of the Board ... to administer the programs of higher education ... and to encourage the development of those programs that are in the best interests of all West Virginians.

In carrying out this mission, the Regents must be responsive to any and all added administrative responsibilities given them by the collective action of the chief executive and the ... Legislature. ...

... I happen to believe that it is entirely in the hands of the chief executive and the legislature ... to determine what West Virginia itself and West Virginians themselves, can afford in the field of higher education. This is not an area of responsibility that should be invaded by the chancellor or the individual members of the Board of Regents. Their duty and their responsibility is but to carry out and administer the decisions ... made collectively by the executive ... and the ... Legislature. ...

... in this present instance, they sought and obtained an excuse, again, not to carry out the express

will of the chief executive ... and the legislature... This cannot be tolerated and it's not going to be tolerated.

As Governor, Moore perceived the role of the Regents as having two dimensions. First, there was the Regents, "the administrative body" (68). On the other hand, there was the Regents, "the legislative creature" (69). In response to the Regents' refusal to accept the Governor's decision in this matter, Moore abrogated their administrative authority.

Moore removed from the Board of Regents any delegated authority, expressed or implied, heretofore granted to the Board by him as governor under the authority given to me in the Constitution, under the Modern Budget Amendment. ... He terminated any delegated authority to the Regents and their administrators to decide for themselves the direction of many of their activities. That simply meant that everything that (the Regents did) would have to go through the same channels as that of every other operating unit of government. (70)

In 1975 Moore did not hold the Regents, all of whom he had appointed, responsible for this insubordination. He laid the blame squarely on Chancellor Ben Morton.

The Board, under its present administrative leadership, had complete lack of understanding of its responsibilities and duties. ... This (situation resulted from) the ineptness of the Chancellor. He has talked out of both sides of his mouth on every issue since he came to West Virginia and (Moore) didn't appreciate it as it related to the direction that higher education had taken in this state. (71)

Seventeen years later, the Governor explained the Board's stance on the Osteopathic School differently.

By 1975 Prince Woodard had left the Board. John Amos had resigned (for health reasons). He was an unusually strong person on the Board. What we saw happening in the later part of 1975 and 1976 was that there was going to be a new governor.

As Arch A. Moore, Jr. ended his first eight years as governor, he reflected once more on his accomplishments and his philosophy as chief executive.

There are some who would chide us by saying that we have overextended ourselves in the field of medical education, in the field of graduate education, or that we address ourselves too strongly to the economics of educators, or to those who have made their commitment to our young people. I don't think that is the case at all. We have had only limited opportunity in these years. I've always felt very strongly that it takes no special amount of courage to say no. In accepting a position of public responsibility, the real challenge is to have the courage to say yes--that it can and will be done. (72)

The Legislature's Perspective

It was the intent of the Legislature in creating the Board of Regents in 1969 to: "insulate the Legislature from institutional lobbying, fix operational and budgetary responsibility for higher education with one entity, and promote statewide planning designed to increase efficiency" (73).

During the Moore Years, there was "little or no legislative interference in the Regents' activities. Evaluation of the Board's performance was perfunctory and generally favorable" (74). From 1969 to 1972, the Legislature was extremely supportive of their creation, the Board of Regents. One hundred percent of the legislation proposed by the Board was enacted.

Although legislative support continued to be strong in Moore's second term, some issues advanced by the Board fragmented the Legislature along their natural fault lines. One Board sponsored bill was rejected by lawmakers; two others were tabled. In 1975, however, the Legislature dictated specific responsibilities to the Board over its public objections.

In strictly fiscal matters, the Legislature developed a shared authority with the Board. In such areas as the setting of fees (75), financing of capital construction (76), establishment of scholarship funds (77), and reciprocal interstate contracts (78), the Legislature was a partner in planning and implementation. The Legislature "worked with the Board" to solve the financial problems facing higher education (79).

At the time of the Board's enactment, the Legislature was dealing with a number of funding questions which involved the regional accreditation of institutions. Four institutions (Marshall University, Fairmont State, Glenville State and

Shepherd Colleges) were on private probation (80). One of accreditation issues was the adequacy of library holdings.

To overcome the deficiencies which threatened accreditation, the Board utilized an existing statute to levy an additional registration fee on out-of-state students. The Board then dedicated those funds to library resources (81). The Legislature assisted by "creating a special capital improvements fund to be expended for all state institutions" (82). This was the first instance in which fees were imposed by the Board at all institutions, pooled in one special revenue account, and redistributed by the Board "for the benefit of any state institution" (83).

This authority for the collection of this additional registration fee was modified in 1975. Under the sponsorship of House Speaker McManus and Minority Leader Seibert, the Board was empowered to collect the fee from all institutions under its supervision. This included the newly created community colleges (84).

In the area of non-fiscal matters, the Legislature was supportive, but tended to evaluate the issue as it impacted their respective districts. For example, in 1969 a second accreditation issue involved the six branch campuses. Under a 1966 ruling by the accrediting agency, the branches would be evaluated separately of the parent institution (85).

In the case of the branch campuses, the Board proposed to sever them from their parent institutions and to convert them to community colleges (86). Once again, the Legislature assisted by approving permissive legislation (87).

When the Board asked the Legislature to endorse the formulation of a plan for a system of community colleges, the approval was readily given (88). Yet when the Board submitted the plan early in 1972, it was apparent that the measure was in trouble. The legislature was placed in an untenable position in which they seemingly were asked to choose between a system of community colleges and a network of multicounty vocational education centers. In the final analysis, the Legislature chose the latter which were more established and more representative of legislative districts (89).

This first legislative defeat of a Regents measure was not due to lack of legislative support for community colleges. The failure ultimately rested with the Board and the timing of the consultant's report and the development of legislation. Although many of the controversial aspects of the Report were not incorporated in the Regents' bill, the Regents could not convince the Board of Education or its vocational directors of their cooperative intent. For the first time, the Board had "marched into a political battle without lining up its allies" (90).

That same year, the Legislature granted the Board the authority to create a new graduate college in the Kanawha Valley. This action included the transfer of West Virginia University's existing off-campus center. The only opposition to the measure was the one negative vote of Senator William Moreland from Morgantown (91).

In 1973, the Board of Regents once more approached the Legislature for a specific grant of authority. This time they asked for the power to merge Bluefield State College and Concord College. The attorney general had ruled that legislative action was necessary because of the 1971 and 1972 precedents involving branch campuses.

The Attorney General held that the Legislature had established in 1971 that it did not intend to delegate to the Board of Regents its power to sever existing institutions from their original parent institution. In addition, in its actions creating the graduate college in the Kanawha Valley, the Legislature had retained its power to create institutions. Therefore, it was implied that the Legislature had given the Board of Regents no authority to merge two institutions into one.

Consequently, the Board asked the Legislature to merge the two institutions. However there was no decision. The Senate Education committee tabled the motion.

Thereafter, the Board administratively consolidated the two institutions under one president. In this instance, the Attorney General ruled that the Legislature had given the Board "ample authority ... to appoint one individual to serve simultaneously as president of two institutions" (92). In a survey of legislators conducted at the time, a majority acknowledged that they intended for the Board to have such authority.

Another outcome of the Bluefield/Concord merger debate in 1973 was that lawmakers intended for the Board of Regents to deal with the presidents. Despite the public political posturing, the majority of lawmakers endorsed the authority of the Board to appoint and to fire presidents. In their resolutions reprimanding the Regents on their handling of the administrative consolidation and resignation of Joseph Marsh, the elected representatives merely ...

..."urged the Board to establish a satisfactory formal procedural policy for terminating the employment of heads of institutions of higher learning".(93)

Further, the resolution clearly characterized Joseph Marsh as "an employee", one who could be "disciplined" and one whose position could be "terminated" (94).

In 1974, the Senate Finance Committee tabled another measure advanced by the Board and supported by Governor Moore. The Regents had endorsed the incorporation of Morris Harvey College,

an independent college, into the State System of Higher Education. The inability of the Legislature to decide was based, in large measure, on a division within the Morris Harvey trustees regarding the gift of the institution to the State.

There were also questions of what the Board intended for the College once it was acquired by the Legislature. These questions surfaced the real issue of legislative intent. Because the trustees of Morris Harvey College subsequently withdrew their offer, the Legislature was not forced to answer the larger question. Who would decide the mission of a new state institution, the Board or the Legislature? (95)

It was not until 1974, that the Legislature enacted legislation affecting the Regents that was not introduced by the Board. A relatively innocuous resolution was passed requiring the Board to provide adequate greenhouse space at West Virginia University (96). A second legislative act had more significant implications for Board authority.

Under the sponsorship of Senate Education Chairman, Robert Nelson, the Legislature created a special Marshall University capitol improvements fund. It also authorized the Board to issue revenue bonds for construction of certain facilities and acquisition of property. The Legislature further stipulated that once the bonds for the specific improvements were paid, the fund would cease to exist. "Thereafter the fees formerly paid into

such special fund shall be paid into the general revenue account of the state." (97)

Finally in 1974, the Legislature enacted a Senate measure that "authorized the Board to enter into contracts with the Greenbrier College of Osteopathic Medicine for training in that field". To implement the terms of the contract, the Senate provide \$425,000 within the budget" (98). The Board sought an attorney general's ruling on the constitutionality of the new law.

The Regents rejected the contractual arrangements based on a negative ruling by the attorney general (99). The following year Governor Moore endorsed the legislation to incorporate the Greenbrier County College into the state system (100). The Legislature agreed on February 25, 1975. (101)

Once again, the Board of Regents sought an attorney general's ruling on the intent of the Legislature (102). Once again, the Board exercised its authority, as interpreted by the attorney general, and rejected the incorporation of the Osteopathic College as a state institution. The Board's demur stipulated their willingness to accept any clear statement of legislative intent (103).

Sufficient opposition to the acquisition existed among lawmakers that new legislation correcting the deficiencies of the first bill almost died in an unusual third Extraordinary Session

(104). It barely survived by its inclusion in a "Pork Barrel" with three other controversial bills (105). Nevertheless, the Legislative intent was clear.

Only one other law affecting the Board of Regents was enacted by the Legislature during the Moore Years. In the regular session 1976, the Legislature disposed to "reorganize the Regents". Among other things it required that two regents be appointed from each congressional district.

One of the most significant changes was to the Board's composition. Membership was granted to the chairs of the Advisory Councils of Faculty and Students. These new positions were ex officio, but not entitled to vote. The Advisory Councils were enacted by statute, requiring the election of the faculty members and the selection of students from leaders of their respective campus student government (106).

The Legislature did not accede to the urgings of faculty and students for membership until the last year of Governor Moore's administration. As noted above the Governor had appointed his own representative. It also occurred one year after the venerable John Amos, had resigned from the Board and two years after Chancellor Prince Woodard's resignation. Amos and Woodard had been strong public opponents of membership of campus constituencies on the Board. (107)

There was one final indication of the changing perspective of the Legislature as the Moore Administration came to an end. In 1976, the Legislature enacted a measure entitled, The Administrative Procedures Act. Governor Moore promptly vetoed "the legislative monstrosity". With equal determination, the Legislature overrode his veto, thereby establishing a prior process of legislative review of executive rulemaking (108).

Although the Board of Regents was exempted from this Act, this legislative action was a definite declaration of intent with regard to the Executive Branch, generally. Through this act, the Legislature asserted a realignment of functions with executive agencies. It also created a hierarchy within the Legislature. It ushered in a new era in state government.

The Presidents' Perspective

The presidents were impressed and pleased with Governor Moore's appointments to the First Board of Regents (1969 - 1976). These were "truly outstanding citizens", a "blue-ribbon panel". They were persons of "stature", "respected" throughout the State. It was very reassuring to the Presidents that these new Regents were all "people of integrity and intelligence", equal to the leadership challenge that confronted them (109).

Over the next eight years, the Presidents would develop a "good professional, even personal relationship" with this First Board. The Regents "were appreciated and respected". In large measure this feeling was perceived as reciprocal. The Presidents felt that the Board, in general, "appreciated and respected the role of the campus president". (110)

Under the provisions of law, the Presidents were assured shared authority for the management of their campuses. The First Board moved immediately to explicate the specifics of the president's delegated powers. The Presidents would be held responsible for the management of their respective campuses. The Board expected accountability for the administration of all State laws and Board policies. (111)

Although this sharing of power would come to be known by others as the "Emperor's Clause", to the Presidents it was the expected organizational arrangement (112). It was a continuation of the role of the president under the Board of Education and the Board of Governors.

In every organizational arrangement, the president would have been responsible for personnel decisions on his campus. Under the new Board of Regents, the policy was simply given increased visibility. It may have been interpreted by some, even some presidents, as giving the president all encompassing power. It was just a statement of what actually and normally happens. The president did and still does have ultimate authority for what happens on his campus. (113)

The First Board's "philosophy was that the president was responsible for what was going on on the campus". These Regents "did not become involved in campus matters". They took the position that "if there was a problem, then it was the president's responsibility to solve it". (114)

Throughout the Moore Years, the Presidents expected and received almost complete affirmation of their personnel decisions by the Board upon appeal by students or faculty (115). This was not as true in financial matters. At least it was not from the perspective of West Virginia University.

This First Board withdrew authority from the president until he had no real authority. Decisions made on the campus had to be sent down to the Board, where they often got no backing. The feeling developed and persisted that if you wanted an answer you had to go to the Board. (116)

Yet the Presidents, including Dr. Harlow and Dr. Heflin, understood that the Board of Regents was "charged with bringing the institutions under control" (117). This impacted more severely upon "the University".

The Board saw its role as restricting and controlling, rather than developing programs of higher education. This did not sit well with the University. West Virginia University was never satisfied with finances or financial affairs under the Regents administration. There was simply too much control by the Board (118).

Of course, the Presidents understood that the Board "was about the "identifying, creating a system" (119). Once again, the Presidents viewed this as the role of the Board, but interpreted the extent and application of the Board's authority differentially. To the only institution that had known "self governance", the creation of the system was at their expense. "The expansion of higher education (the creation of the community colleges, etc.) became the Board's focus rather than the elimination of duplication and/or concentration on quality".

On the other hand, "there was a definite perception that West Virginia University had gotten the lion's share in the past". Yet a distinct advantage of the Regents' approach was that Presidents gained an appreciation of their respective missions. A community college president understood that "West Virginia University was struggling to gain national recognition as a research university. In the University's view, the development of new colleges syphoned off essential resources for their goals"(120).

As established by the Board, the Presidents met monthly with the Chancellor. In this session they reviewed the proposed policies of the board and also made recommendations. Presidents did not interact with the Board unless called before the Board to make a presentation at a meeting. (121)

Such was the case in the development of the budget. Each president would make a presentation in support of the budget request for his respective campus. Presidents had no input into the overall budget for the System. (122)

As a result, the Presidents' relationship to the Board was essentially a relationship with the Chancellor. The Presidents saw the first chancellor, Prince Woodard, as "taking charge of higher education". (123) Most of the Presidents "respected Woodard" and understood that he was "attempting to rationalize decision making". (124)

Dr. Woodard was an effective planner. He developed the Board's management information system. All of Woodard's decisions were based on the "data". His strategies, his objectives were well known to the presidents. He had an agenda, a plan for the system. Whether or not a president agreed with the plan or agenda, he always knew where Woodard stood on the issues. A president could anticipate Woodard's positions. (125)

This consistently led to an environment of "mutual trust and respect" (126). Where problems developed, as in the case of Dr. Harlow, the Presidents felt that this was not a case of personalities. Rather it was attributed to the process of unification of the system. "It was quite a change from the Board of Governors. There were a lot of rough edges and friction developed". (127)

The second chancellor, Ben Morton, served only two years before the change of governors. During this time, Morton worked well with the Presidents. By 1976, Morton had begun to implement new staff procedures that appeared to distance the presidents even further from the Board. More routine matters were handled by Morton's staff. (128)

The Presidents were not threatened by the Board's dismissal of Joseph Marsh in 1973. There were no overtones of the Board versus the presidents. Indeed, another president, Wendell Hardway of Bluefield State College, was promoted by the Board during the same incident. Besides, the Bluefield/Concord merger debates were very public and the Board was very consistent in their handling of the matter. (129)

In similar public debates on the incorporation of Morris Harvey College and its potential impact on West Virginia Institute of Technology and West Virginia State College, the presidents did not appear threatened. Both Leonard Nelson and Harold McNeill both reported that the Board and the Chancellor had consulted with them before taking action. These presidents also expressed publicly their confidence in the Board to make decisions that fairly affected their institutions. (130)

Governor Moore recalled inviting the presidents to his office during these years. All of the presidents were present.

The Governor asked the campus leaders. "Gentlemen, I want to go around the room and ask each of you: How are things at your institution? How are you getting along under the Board of Regents?" The Governor never had more unanimity in his life. It was probably one of the most positive meetings he ever had with a group of leaders in the State that deal with state dollars. More than one-half of the presidents responded: "Mr. Governor, we are very pleased with our progress and we are very pleased with the way things are working".(131)

According to Governor Moore, "hardly ever could he get that out of a combined group of fifteen college presidents". (132)

The Board's Perspective

From their first meeting, Governor Moore's nine appointments to the Board of Regents began to collectively shape their new unified administrative persona. Drawing upon their vast experience in business and management, they readily understood and identified with the Governor's philosophy of accountability and fiduciary control. Almost immediately they agreed upon three principles that would guide their administration as the Board.

First, they, the members of the Board, "would establish policy and make the necessary hard decisions". They "would not be dictated to by a chancellor". Nor would they be subsumed under a burgeoning bureaucracy. They "would have an understanding with the chancellor they selected with regard to

his role". The "number of staff would be kept to a minimum". Outside consultants would be employed to assist in researching or evaluating policy questions. (133)

Secondly, they, the Board, would "make decisions rationally, rather than politically". They would "operate on a plane above special interests". They, the Board, would not conduct their affairs as a "typical state agency where it was mostly a matter of politics, friendships and so forth". The decisions they made would be based on "objective data and technical information concerning the needs of the institutions". (134)

Thirdly, the Board decided it would "submit a unified budget" to the Governor. They agreed with the Governor that it was essential to eradicate the lobbying by presidents and their lobbyists. Again, the Board would develop the budget based on "objective information". The President of the Board, along with the chancellor, would make one presentation to the Legislature.

The First Board of Regents saw themselves as "creating a unified system of higher education". They had been "chosen to bring order into what had been a chaotic management system". They dedicated themselves to "improvement of higher education, in all its many dimensions".

Most of all, these Regents saw themselves as "stewards" of the State's resources. They were "managing, overseeing and

administering" on behalf of the people of the State. Always they were cognizant that their "decisions were investments for the future of the State".

In their first master planning document issued in 1972, the Board delineated their primary activities as "policy formation, resource allocation, research and planning". The business expertise of this First Board was invaluable as they began to build a higher education system. These Regents moved expeditiously to eradicate library deficiencies and other barriers to full accreditation at the institutions. They initiated the pooling of special revenue accounts for investment purposes (135).

In the other financial management areas, this Board brought a rational system of capital investment and management, as well. A management information system was initiated under this Board. As data were collected on all aspects of institutional management, the Board used this information to objectively review the instructional programs of the colleges and universities. Decisions to retain or terminate programs were made solely on the basis of the number of graduates. Again, the Regents emphasized that they maintained a "small staff of professionals" to perform these functions. (136)

Early in its existence the Board established two operating policies which depicted clearly its

philosophy of governance and state level administration of higher education. One policy, designed to promote institutional autonomy, delegated to each president maximum responsibility for the administration and operation of the institution within the framework of broad state system guidelines. The other, designed to insure a clear line of communication between the Board and the several constituent members of the higher educational enterprise, namely: students, faculty and administrators, was the creation of a comprehensive system of advisory councils and committees (137).

Based on the statutory precepts, the Board moved quickly to share power, to delegate authority to the campus presidents (138). The Board viewed this as "inherent in the organization structure" established by the legislation. As head of the campus, it was the president whom the Regents would hold accountable.

Therefore, the Regents granted to the president sufficient authority to manage the campus. The "Emperor's Clause", as Policy Bulletin 40 came to be known, delegated to the president the supervision of all personnel. Throughout the Moore Years, the Board of Regents consistently supported the decisions of presidents upon appeal by faculty and students (139).

In 1973, the Regents made it clear that they expected presidents to support their decisions as well. The Board cited "the failure of Joseph Marsh to cooperate" as the reason for his dismissal as president of Concord College. In this precedent setting case, the Regents demonstrated, with the concurrence of

the Legislature, that presidents were employees of the Board (140).

Although the Regents created advisory councils of students, faculty, and presidents, they subordinated them to the chancellor (141). He would meet with these groups and report their concerns and perspectives to the Board. Direct participation by these groups would have constituted a "serious conflict of interest". It simply "was not wise or prudent to build in that type of interference in the management of the system" (142).

For six years, the Regents consistently held to the view that students and faculty members constituted "vested interests". Repeatedly, the Regents refused to support inclusion of these campus constituencies on the Board. The First Board's opposition would deter legislative action until 1976. (143)

One of the defining aspects of the Board's relations with the presidents and the campus constituencies was in the selection of the chancellor (144). As "chief liaison" and "primary communication link", the chancellor represented the Board to these groups and vice versa. The Chancellor also was the Board's representative to the Legislature and the Governor (145).

The First Board of Regents had complete confidence in their first chancellor, Prince Woodard. An experienced state

coordinator of higher education, Woodard was "highly competent, absolutely honest, and extremely professional". As Board liaison, Woodard's role was to present the Board's case (146). The Board consistently expressed its faith and trust in Woodard's representation of their views.

The First Board endorsed Woodard's view of the chancellorship as that of "professional administrator". He was not a "political negotiator". He "chose not to argue or debate with members of the Legislature". In his testimony before legislative committees, he presented the Board's position based on the relevant facts.

In contrast to Woodard's experience with a coordinating board, his successor, Ben Morton, brought to the Regents the perspective of an administrator of a governing board. Morton was a "good organizer". He began to restructure the internal organization of both the Regents and the Board staff. He initiated a committee structure to accomplish the work of the Board and created the position of vice chancellor to assist him.

Unlike his predecessor, Chancellor Morton was more comfortable in the political arena. In fact, at times he "generated some controversy" (147). Morton also felt free to express his opinion, as well as the Board's. By 1976, some members of the Board were concerned that their original definition of the chancellor's role had been quietly rewritten.

One of the most dramatic changes in the Board's perception of their role in higher education came in 1974. The First Board had enjoyed an excellent working relationship with Governor Moore (148). Indeed the Board had accomplished much with the Governor's support.

Their relationship with Governor Moore began to change in 1972 when he first endorsed a medical school at Marshall University (149). From the time this prospect was first advanced to the Regents by Delegate Robert Nelson in 1970, they resisted it (150). As an alternative to a second school, the Board encouraged the development of the Charleston Division of West Virginia University Medical School (151).

Most of the Regents felt that West Virginia had one good medical school. They proposed using available funds to enhance the programs and facilities of that institution. In addition, the Board endorsed the regional affiliation of West Virginia University Medical School with the metropolitan hospitals (152).

Of course, the Governor identified with and adopted these projects as well.

The Board finally endorsed the project after the "infamous luncheon" at the Governor's Mansion. It was true that the Governor "forced the project through". He had achieved his immediate objective, but he had lost the confidence and support of his Board of Regents.

Regent Earle Andrews reflected on the Board's reaction. "There was no reasoning with the Governor on the issue. He wanted the federal money, at all costs. Despite some of the Regents' efforts to project the future impact of accepting the grant, Moore and the other politicians refused to even contemplate how would the State support a second medical facility."

It was very apparent to the Board that a political decision had been made. The process was the antithesis of what the Governor had oriented them to in 1969. It was absolutely incomprehensible to the Regents that they would be asked to support a third medical school within the year.

Yet "the next thing the Board knew the Governor had proposed the incorporation of the Osteopathic School into the State System". The Regents took an official written stand in unanimous opposition to this annexation. The Board offered to develop contract programs in the field of osteopathic medicine to meet the needs of West Virginians seeking such a degree. Recognizing the decision rested with the Legislature, the Board asked for a clear directive. Then "notwithstanding its own concerns and reservations, it would carry out the wishes of the Legislature, limited only by available resources" (153). Such a legislative directive was forthcoming.

Chancellor Morton responded for the Board. "Statutes are the supreme authority. ... The Board of Regents was supposed to do its best to implement the statutes" (154).

Endnotes

1. Rice (1983, p. 284). Arch A. Moore, Jr. was the first governor since 1872 who was eligible for a second four-year term. The Governor's Succession Amendment, adopted by voters in the 1970 general election, limited the succession to two terms.
2. West Virginia Blue Book (1969, pp. 241-254). The eleven institutions were: West Virginia University, the landgrant university with the State's only Medical School and Medical Center; Marshall University at Huntington; Bluefield State College; Concord College; Fairmont State College; Glenville State College; Shepherd College; West Liberty State College; West Virginia Institute of Technology; West Virginia State College; and Potomac State College, an accredited junior college affiliated with West Virginia University.
3. West Virginia Board of Regents, Minutes of Meeting (1974, August 13). Marshall University was authorized to develop a medical school funded under the auspices of a Veterans Administration Health Manpower Act.
4. West Virginia Board of Regents, Minutes of Meeting (1972, September 12, pp. 1-2). The Maier Foundation contributed two million dollars in matching funds toward the establishment of the Charleston Division of the West Virginia University Medical Center to be operated in conjunction with the Charleston Area Medical Center.
5. West Virginia Legislature, Acts of the Legislature 1975, Chapter 10, Extraordinary Session, pp. 719-21. The Legislature mandated that the Board of Regents assume control and responsibility of the former Greenbrier College of Osteopathic Medicine and to operate it as a newly created West Virginia School of Osteopathic Medicine.
6. West Virginia Board of Regents, Minutes of Meetings: April 6, 1971. The Board unanimously approved the conversion of the Parkersburg Branch College of West Virginia University into a comprehensive community college to be known as Parkersburg Community College. On May 11, 1971 the Regents created by unanimous vote Southern West Virginia Community College by conversion of the Logan and Williamson campuses of Marshall University. On May 9, 1972 the Board created by unanimous vote a third comprehensive community college by

conversion of the branch campuses of West Liberty State College.

7. *ibid.* Minutes of Meetings. Components were authorized within Marshall University, Bluefield State College, Fairmont State College, Shepherd College, West Virginia Institute of Technology, and West Virginia State College.
8. *ibid.* On April 11, 1972, the Board of Regents created this non-traditional college by conversion of West Virginia University's Kanawha Valley Graduate Center.
9. West Virginia Board of Regents. Statistical Profiles 1984-85, p. 3.
10. Morgan (1980, p. 410)
11. West Virginia Board of Regents Operating Revenues (1970-71, p. 6); (1976-77, p. 13).
12. Morgan (1980, p. 410).
13. *ibid.*
14. *ibid.*, p. 366.
15. Board of Regents Minutes of Meeting (1976, June 13, p. 10). With the accreditation of the College of Graduate Studies, the Board noted that all institutions were accredited by the North Central Association.
16. Seiler (1975, November 20, p.12D). Board of Regents Fiscal Affairs Director, Elwin Bresette reported that the State System had about \$126 Million in outstanding revenue bonds. This included \$26.1 million in bonds sold the week of November 20, 1975. The Board's debt service at that time was about \$10 million annually. Bresette indicated that the Board would not have to raise registration fees to pay the debt service on the new bond issue because "income exceeded debt service better than three times".
17. Earle (1973, March 23, p. 1C).
18. Personal interview with Earle Andrews (4/13/91).
19. Governor's Criticism of Regents Recorded (1975, May 15, p. 1B, 16B).

20. West Virginia Legislature Report of the Subcommittee on Higher Education, 1976.
21. Acts of the Legislature, 1976, p. 616-623.
22. Board of Regents Minutes (1974, December 4, pp. 6-8) and (1975, March 4, p. 3). Board rejected proposals by the Advisory Council of Students to support voting membership for a student on the Board. One reason cited was the "Board operated on a plane of being above special interests representation".
 Welling (1972, February 26, p. 3A) quoted Chancellor Woodard's testimony before the Senate Education Committee: "If the Legislature allowed all interests groups (faculty, students, non-teaching personnel, administrators, and alumni) to be represented on the Board, the Regents would be nothing more than a "coalition of vested interests".
 Associated Press (1975, March 5, p. 5B) quoted Regent Amos Bolen as asking "Would you support voting representation for other special interest groups, like the AFL-CIO or the Taxpayers Association?" Bolen directed the question to Rick Murensky, Concord College student representative. (In 1989, Murensky would be the House Finance Committee Chairman).
23. Board of Regents Minutes recorded the following appointments of presidents: Marshall: John G. Barker (March 1, 1971-July 15, 1974); Robert B. Hayes (July 16, 1974, acting to November 4, 1974 president). COGS: Roy E. McTarnaghan (September 12, 1972 - October 7, 1975); James W. Rowley (July 1, 1976). Bluefield: Clyde D. Campbell* (appointed May 1976, withdrew June 1976); Billy G. Coffindaffer* (July 1, 1973 - August 4, 1975); J. Wade Gilley (April 4, 1976). Concord: Meredith Freeman (July 1, 1976). Fairmont: Wendell G. Hardway (July 1, 1973). Glenville: William K. Simmons (appointed December 7, 1976, effective July 1, 1977). West Liberty State: James Chapman (September 1, 1970). West Virginia State: Harold M. McNeill (July 1, 1973). Parkersburg Community College: Robert H. Stauffer (July 1, 1971 - September 30, 1974); Jerry Lee Jones (November 4, 1974). WV Northern Community College: Daniel B. Crowder (September 12, 1972). Southern WV Community College: Ben L. Dodson (July 1, 1972 - August 9, 1972); Frederick W. Atherton (September 12, 1972 - December 31, 1972); Glenn F. Massey (January 1, 1973 - September 13, 1974); and James R. Randolph (January 1, 1975). WV School of Osteopathic Medicine: Roland P. Sharp (July 1, 1976).

24. West Virginia Board of Regents, Minutes of Meetings (1973, May 3). Concord College President Joseph F. Marsh, Jr. was given another assignment within the system.
25. Personal Interview with Arch A. Moore, Jr., November 11, 1991. Hereafter all quotations are from that telephone interview, unless otherwise annotated.
26. Rice (1983, p.284). Ratification of the Modern Budget Amendment made the governor rather than the Board of Public Works responsible for the preparation of the state budget.
27. Frasure and Davis (Volume I, p. 421) Moore considered the selection of the Board of Regents "one of the most important decisions that he ... would have the privilege of making". Commencement Address at Marshall University, June 1, 1969.
28. Morgan (1969, July 2, p. 6).
29. Personal Interview Moore (11/11/91).
30. Personal interview. The choice of an engineer had specific implications for the extensive capital construction projects undertaken in higher education. The choice of Earl T. Andrews would impact most dramatically on the development of West Virginia University's national prototype of the computerized mass transportation system.
31. Personal Interview. Governor Moore chose F. L. Blair, a Parkersburg surgeon because "the Medical School at WVU was getting to be a challenge". However, he noted that the "sensitivity to the medical schools did not ripen at this point in time". Dr. Blair would assume a leadership role for the Board when the issue did "ripen".
32. Personal Interview. Initially, Moore selected three practicing attorneys. Amos Bolen of Huntington was a past president of the West Virginia Bar Association, specializing in insurance and railroad litigation. Albert Morgan, son of former governor Ephriam Morgan, was a former prosecutor and U. S. attorney. John Amos was an attorney and partner in the firm of Amos and Brotherton with Senate president Will Brotherton and his father. Amos also was leader in the trucking and utility industries in the State.
Later Moore chose attorney Edward Greene also of Huntington. Greene, a former prosecutor and member of the State Board of Control, wrote extensively on law for the

laymen. In 1971 Moore appointed Frederick Stamp, Jr., a Wheeling attorney. Stamp who was both a bank director and hospital trustee had served on the State Republican Executive Committee. All of these men would assume prominent leadership roles for the Board.

33. Personal Interview. Moore refers here to former Governor Okey Patteson, a realtor and bank president. Patteson was governor 1949-1953. Moore was a newly elected member of the House of Delegates from 1952-1956. John Amos was concurrently a state senator serving as chairman and majority floor leader 1948-1956.
34. Personal interview. Moore refers to David Dalzell who was currently a trustee at West Virginia Wesleyan College. Dalzell, "a friend of Moore's from his childhood years", was president of Fostoria Glass and a bank director. Coincidentally, Okey Patteson was an emeritus trustee of West Virginia Wesleyan.
35. Personal Interview. Moore selected Elizabeth Gilmore "who had widespread recognition from the community in terms of her background in the field of Black education. She was a mortician (first woman to be licensed as a funeral director in Kanawha County). In addition, she was tremendously active in West Virginia State and a strong member of the Congress for Racial Equality.
36. West Virginia Blue Book (1969, p. 47). In a personal interview, Regent Earle Andrews referred to John Amos as "the leading member of the Regents from the political standpoint".
37. Morgan (1969, July 2, p. 1).
38. *ibid.*
39. Personal Interview. The Charleston Gazette editorial (Moore Choices Good ...) of July 2, 1969 gave Moore high marks in constituting the Board of Regents. "He chose people experience in business and government, all successful in their own right, and he had the foresight of giving the student community a voice on the Board" (page 4).
40. Morgan (1969, July 26, p. 1-2). Senate President Lloyd Jackson explained that the 17-16 decision was based on technical and legal objections, not objections to Hoblitzell

the person.

41. supra note 37.
42. Personal Interview with Moore. This assessment is confirmed by the legislative reaction. The real issue was who would determine the criteria for membership on the Board. See chapter note 40 for further explanation.
43. Board of Regents Minutes of Meeting (1969, September 16).
44. Frasure and Davis (Volume I, p. 367). Executive Order No. 4M-69 was issued on September 23, 1969. Moore cited his "strong personal belief that there was a need and desire" for better communication between students and administrators. He granted the student representative the same compensation that other members of the Board received, to paid from the Governor's Civil Contingency Fund.
45. Marsh (1969, September 25, p. 29).
46. Personal Interview with Moore.
47. supra note 28.
48. Frasure and Davis (Volume I, p. 113).
49. *ibid.* In his State of the State address, January 14, 1970, Moore announced his intent to have such a bill introduced. This legislation was never reported out of Committee.
50. Personal Interview. This discussion is corroborated by Earle T. Andrews.
51. Personal Interview. Moore told the Regents: "The job (of selecting the chancellor) is yours. You pick the individual". Frasure and Davis (Volume II, p. 392). Moore described Chancellor Woodard as an "outstanding educational planner, administrator ..."
52. supra note 19
53. *ibid.*
54. *ibid.* Moore further emphasized the Board's statutory authority over the "qualitative and quantitative aspects of higher education within institutions under its authority".

55. Frasure and Davis (Volume I, p. 262) In his State of the State address, January 12, 1972, Moore reflected: "Higher education continues to be represented by many remarkable improvements. The Board of Regents concept is daily proving to be our best effort in higher education. I believe we should make every effort to secure it safely for our future". (Volume II, p. 391) In an address to the West Virginia Foundation for Independent Colleges, February 24, 1973, Moore declared: "Our Board of Regents is fulfilling its responsibility in an outstanding manner".
56. *ibid*, p. 113. In his State of the State address, January 14, 1970, Moore declared that the 1970s would be the "educational decade in West Virginia".
supra note 19. Moore affirmed that "we have made an excellent effort collectively, legislative and executive branches of government, to meet the deficiencies (financially) ... since the advent of the Board of Regents.
57. *ibid*, pp. 158, 237, 342. Moore requested additional funding for the Board of Regents in the extraordinary sessions in 1970, 1971 and 1972.
58. *ibid*, p.188. Moore introduced legislation to affect a study of the development of a community college system on January 14, 1971. "In his judgment, we must engage in a full discussion of this question for which an approach, a plan and guidance must be developed". (Volume I, p. 262) When he presented the plan for a comprehensive community college system, January 12, 1972, he said "I support this report strongly and suggest its immediate adoption and implementation."
59. *ibid*.
60. Personal interview, Arch A. Moore, Jr. November 11, 1991. Lilly (1989) credits Chancellor Woodard as the catalyst in the development of community college. She quotes Jerry Beasley, current president of Concord College, who served briefly as assistant to Woodard in 1970 (Blue Book 1970, p. 42).
61. Personal Interview. In the State of the State address, January 8, 1975 (Frasure and Davis, Volume I, p. 318), however, Moore admitted that the concept of regional medical centers was conceived by others (namely, the regents and legislature). "Perhaps it was not conceived in

the office of the Governor of West Virginia, but here it was given birth, legitimacy and firm direction; otherwise it would not be happening today."

62. Earle (1974, October 4, p. 1A).
63. Coffindaffer Leaving Concord for State Post (1975, July 26, p. 14B).
64. At this point, Earle Andrews remembers the incident differently. Andrews confirms the Governor's presentation just as he reported it. However, after the Governor delivered his ultimatum, Andrews said to the Governor: "But Mr. Governor, what if some of us disagree with you?" Moore responded: "Then I would expect your resignations on my desk in the morning". Andrews told the Governor at the conclusion of the meeting "to never speak to him like that again".
65. Board of Regents Minutes (August 13, 1974, p. 2-3) indicate that the Board did pass a resolution of: support for the Veterans Administration funding of a Medical School at Marshall University; intent to provide for the School after the termination of federal funding; and authorization for the president of Marshall University to appoint a Dean of the Medical School.
66. supra note 19. Moore told the press: "They (the Regents) were biased against the medical college at Marshall University. It absolutely took on my part, the convening of the Board of Regents in the Executive Mansion at a luncheon and ordering them to move the applications to put the Marshall University College of Medicine in proper posture to go before the Veterans Administration".
67. West Virginia Board of Regents Minutes May 13, 1975. The Board, acting on the advice of the Attorney General, rejected the incorporation of the Greenbrier College of Osteopathic Medicine into the State System of higher education. Although the Legislature had enacted a measure which was signed by Moore, the attorney general ruled that the bill appeared to give the Regents' discretion with regard to acceptance of the institution.
68. supra note 19.
69. Personal interview with Moore.

70. supra note 19.
71. ibid.
72. Frasure and Davis (Volume III, pp. 140-141) This was Moore's State of the State address, January 12, 1977.
73. AED Report (1979, P. 113). Lewis McManus confirmed that the Legislature wanted to avoid the necessity of presidents appearing before it. That was a very divisive and time consuming process. The Legislature, according to McManus, put capital projects in the hands of the Board of Regents instead of the presidents.
Delegate James Moler confirmed that the Legislature wanted the Board of Regents to buffer it from institutional lobbying.
74. Van Tol (1988, p. 18). She also notes that there was also little or no judicial interference during the period.
75. Acts of the Legislature (1969, March 8, Senate Bill 330); (1969, July 25, House Bill 12); (1975, March 6, House Bill 1079).
76. ibid.
77. Acts of the Legislature (1969, March 4, House Bill 683); (1972, February 24, House Bill 664); (1973, April 11, Senate Bill 167).
78. Acts of the Legislature (1974, March 1, House Bill 941); (1974, March 8, House Bill 668).
79. Personal interview with Lewis McManus, December 10, 1991. In fact, the leadership of both the House and Senate "often met with the Regents, in their offices or for dinner". These personal relationships existed prior to the creation of the Board, but were assets to the Board in its formative years. John Amos was a partner in the law firm of Amos and Brotherton, as was William Brotherton, president of the Senate. Lewis McManus, speaker of the House and former House Finance Chairman, was a native of Southern West Virginia, as was Okey Patteson. All four of these men were leaders in the Democratic Party.
The Board particularly cited McManus for "aiding higher education development in an active, statesmanlike and positive fashion". The Board "greatly cherished and found invaluable the

constructive relationship with him both as speaker and chairman of House Finance" (Board of Regents resolution of March 2, 1976 in the Minutes of that date).

On the other side of the aisle in the House, the Board had another professional and personal friend. The Board looked to George Seibert of Wheeling, House Minority Leader, "for effective spokespersonship on matters of higher education. He was a constructive voice of thoughtfulness and reason with the House of Delegates" (Board of Regents resolution of March 2, 1976 in the Minutes of that date).

80. Grant (1969, September 11, p.39)
81. Board of Regents Minutes (1971, February 2, p. 3 and June 8, p. 4). This new fee yield an additional \$1,000,000 in its first year of operation, increasing student fee revenues by 49.8%. This according to a Board of Regents publication, West Virginia Higher Education Revenue and Expenditures, 1970 to 1975, p. 7.
82. Acts of the Legislature 1971, Chapter 161. This was House Bill No. 1115 sponsored by Delegates Boiarsky and Seibert, passed March 13, 1971.
83. *ibid.*
84. Acts of the Legislature 1975, Chapter 199, pp. 710 - 714. House Bill NO. 1079 sponsored by McManus and Seibert, passed March 6, 1975.
85. Earle (1971, December 15, p.1B)
86. Board of Regents Minutes (1971, April 6, p. 3-4), (1971, May 11, p.3) and (1972, May 9, p.3) respectively created Parkersburg Community College from West Virginia University's Parkersburg branch; Southern West Virginia Community College from Marshall University's Logan and Williamson branches; and West Virginia Northern Community College from West Liberty State's Wheeling and Weirton campuses.
87. Acts of the Legislature 1971. Senate Bill No. 255 was passed March 9, 1971.

88. Acts of the Legislature (1971, March 12, House Concurrent Resolution 16).
89. Seiler (1972, March 4, p. 3A).
90. For a more detailed account of the debate, see Dunn (1992), the Creation of the Community Colleges.
91. For a more complete review of the impact of the decision to create this new graduate institution, see Dunn (1992) Graduate Education in the Kanawha Valley.
92. Petterson (1973, May 25, p. 1A).
93. Marsh Firing at Concord Criticized: House Resolution Rakes Regents (1973, June 8, p. 11C).
94. *ibid.* For a full account of the merger, see Dunn (1992) the Merger of Bluefield and Concord.
95. *supra* note 62 and *supra* note 91.
96. Acts of the Legislature (1974, February 23) Senate Concurrent Resolution 19. The Board dealt with President Harlow on the matter (Minutes of the Board, April 9, 1974, p.7).
97. Acts of the Legislature 1974 (March 3, chapter 120) Committee Substitute for Senate Bill 371. Once again the Board dealt with the institutional president who was asked to justify the capital improvements within a board approved plan (Board Minutes May 1, 1974, p.6-7) A month later the Board accepted the resignation of Marshall University President, John Barker (Board Minutes June 11, 1974, p, 10).
98. Acts of the Legislature 1974 (Chapter 124) Committee Substitute for Senate Bill 81 passed March 7, 1974.
99. Board of Regents Minutes (1974, August 13, p. 3-4).
100. Frasure and Davis (Volume III, p. 318) Moore's State of State address 1975.
101. Acts of the Legislature 1975 (Chapter 200) Senate Bill 155 passed February 25, 1975.

102. Board of Regents Minutes (1975, May 13, pp. 1-6) noted a request of April 3, 1975.
103. *ibid.*
104. Acts of the Legislature 1975, November 5, 1975, pp. 719-21, Committee Substitute for Senate Bill 64 and pp.673-674, Committee Substitute for Senate Bill 65.
105. Morgan (1980, p.424). The other three bills included funding for the Marshall University School of Medicine, the National Track and Field Hall of Fame, and the Blennerhassett Island development.
106. Acts of the Legislature (1976). Committee Substitute for Senate Bill 173.
107. *supra* note 22.
108. O'Dell and Dunn (1984, p. 612).
109. Personal Interviews with Presidents James Butcher (1/9/92), Daniel Crowder (12/6/92), Harry Heflin (12/16/91), and William Simmons (12/10/91). Delegate James Moler confirmed that the presidents and the institutions respected the First Board of Regents.
110. Personal Interviews with Presidents Butcher and Crowder.
111. Board of Regents Minutes of Meetings (1969, August 5, p. 2-3); (1969, November 4, p. 2-3; and (1970, November 10, p. 1-2).
112. Board of Regents Policy Bulletin 40.
113. Personal Interview with William Simmons, President of Glenville State College.
114. Interviews with Presidents James Butcher, Daniel Crowder, Harry Heflin, and William Simmons. The Board of Regents clearly corroborate such an official philosophy. Members agreed not to act in any personal capacity with regard to the institutions under their control.
115. Board Minutes (1969-1976). Van Tol refers to this period in the Board's adjudicative history as "laissez faire" because of the Board's posture in support of presidents. She

assumed that the Board did not promulgate policies governing personnel administration. In fact they did; however, it was the single encompassing "Emperor's Clause".

116. Personal Interview with Harry Heflin who was Vice President for Finance and Administration at West Virginia University under Harlow. He also served as acting president on a number of occasions and was subsequently appointed president of West Virginia University in 1981.
117. Interviews with Presidents Butcher, Crowder, and Heflin.
118. Interview with Harry Heflin. The extent of control to which Heflin refers is best highlighted by the Board's decision to require their prior approval of any plaque that was to be hung in any building on any campus. This included the hanging of portraits of persons for whom buildings had been named or plaques naming baseball fields.
119. Interviews with William Simmons and Daniel Crowder.
120. Interview with Daniel Crowder, first president of West Virginia Northern Community College, 1972 - 1985.
121. Board of Regents Minutes. Corroboration by personal interviews with Presidents James Butcher, Daniel Crowder, Harry Heflin and William Simmons. In these formative years, the Board of Regents did periodically meet with the Advisory Council of College Presidents. Again this was at the discretion of the Board.
122. *ibid.*
123. Interview with Harry Heflin.
124. Interview with James Butcher, President of Shepherd College, 1968 - 1988.
125. *ibid.*
126. Interviews with James Butcher and Daniel Crowder. Both of these presidents emphasized Woodard's willingness to work through campus problems with them. "A president could call Woodard and talk with him. In turn, if there was a problem from Woodard's perspective, he would call the president directly".

127. Interview with Harry Heflin. The rough edges are corroborated by the Board Minutes. Dr. Harlow's relationship with Ben Morton was a slight improvement over Woodard. By then many of the policies and procedures had been worked through.
128. Board Minutes. Specific examples include August 13, 1974, pp. 19-21. Regent Amos Bolen objected to Executive Committee action in advance of Board recommendation. The Associated Press (September 15, 1976, p. 11B) reported that Regents Amos Bolen and Andy Clark complained that increasing amounts of procedural matters were being delegated to staff. They suggested that presidents needed to appear before the Board to give their views on such items as construction contracts. Michael (November 16, 1976, p. 9A) reported that Morton objected to such requests. The Chancellor wondered if the "Board trusted him". Finally, Morton negotiated an addendum including the president's recommendation to the forms submitted for Board approval.
129. For details of the Bluefield/Concord Merger, see Dunn 1992.
130. Michael (1974, April 26, p.1A).
131. Personal interview with Arch A. Moore, Jr.
132. *ibid.*
133. Personal interview with Earle T. Andrews, April 23, 1991. These decisions are corroborated by the fact that the size of the staff under Prince Woodard never exceeded seven administrative positions. All seven directors reported to Chancellor Woodard. So subordinate was the position of chancellor that Woodard's picture never appeared in a West Virginia Blue Book with the members of the Board. This was a practice abandoned with the employment of Ben Morton whose picture appeared as an equal with the Board members. In its Plan for Progress, the Board affirmed its belief in a small staff structure and the use of short-term professional consultant assistance. "This procedure kept operating cost at a minimum, avoided the emergence of a bureaucratic administrative operation, and enabled the State to benefit from the counsel of national authorities" (page 10). A small staff was also recommended by the West Virginia Committee on Higher Education 1966.

HEREAFTER ALL QUOTES ARE FROM THE ANDREWS INTERVIEW UNLESS SPECIFICALLY ANNOTATED TO THE CONTRARY.

134. Personal interview with Earle Andrews. Delegate James Moler observed that the First Board "started off to do the job. They were more professional and consciously tried not be political".
135. Frasure and Davis (Volume II, p. 240, 242). Beginning in 1973 pooled for investment purposes the several special revenue accounts held by each institution . Excess funds were reinvested and the income earned was returned to the appropriate institutional accounts earned \$628,495 in first year.
136. Board of Regents, A Plan for Progress. (1972, December, p.9-10).
137. *ibid.*
138. Board of Regents Minutes (1969, August 5, p. 2-3). In addition, the Board resolved on July 7, 1970 (p.3) that no member should interfere in or seek to influence the administration or operation of any college.
139. Board of Regents Minutes, 1969-1976.
140. Earle (1973, March 31, p. 1A).
141. Board of Regents Minutes (1970, October 13, p. 2).
142. Personal interview with Earle Andrews.
143. *supra* note 21.
144. Interview with Andrews. One of the reasons for the decline of the Regents' concept and public perception was, according to Andrews, the failure to select competent and effective chancellors.
145. *ibid.*
146. Interview with Andrews. House Speaker Lewis McManus observed that Woodard "was very good in his role as chancellor. He was very detail oriented". On the other hand Harry Heflin, who served briefly as interim vice chancellor at the Board of Regents, saw it differently.

"Woodard did not suit the legislature. He took charge of the program in higher education. But he was fearful of the political decision. He never went in and fought for higher education."

147. Interview with Earle Andrews. Lewis McManus observed that "Morton was more attuned to the political scene. But he wore out his welcome."
148. Interview with Harry Heflin. "Everybody at the Board of Regents went to Governor Moore for a decision. In general Arch told rather than be asked. But when you asked, he gave you the decision. The relationship with the Governor was good as long as they did what he expected."
149. Frasure and Davis (Volume I, p. 264) Moore's State of the State address 1972. Lewis McManus observed that "the First Board was beholden to Moore, who was a strong governor and who kept up with things. His will held sway over this Board. Then the Board grew weary of his dominance".
150. Board of Regents Minutes (1970, September 15, p.6). In response to Nelson's letter, the Board instructed Chancellor Woodard to advise the Delegate that the Board was concerned about the shortage of physicians and that the Board was analyzing the financial needs of the existing medical school.
151. Board of Regents Minutes (1972, September 12, pp. 1-2). According to Morgan (1980, p.189), Okey Patteson was the governor who decided to base the state medical center in Morgantown (as opposed to Huntington or Charleston) and to affiliate it with West Virginia University. In Marsh's article (1972, January 20, p. 1A), it was House Speaker Lewis McManus who first announced that an anonymous donor would underwrite the cost of such a Charleston facility.
152. Personal Interview Earle Andrews.
153. Board of Regents Minutes of Meeting (1975, May 13).
154. Little (1975, June 10). p. 9A.

Chapter 5
The Rockefeller Years, 1977 - 1984
In Perspective

The Policy Environment

By the end of 1984, West Virginia was facing the "worst economic conditions since the Great Depression". The State had the "highest unemployment rate in the nation". With reliance on a "trouble coal industry and the so-called smokestack industries, West Virginia suffered acutely from the recession of the early 1980s" (1).

During the first term of Governor John D. Rockefeller, the State had contended with "record low temperatures, heavy snowfalls and acute fuel shortages" (2). A rampaging Southern West Virginia flood and the longest coal strike in the history of the state had taken an additional toll on the State's economy (3). Teachers had walked out in thirty counties and another six to seven thousand had marched on Charleston in protest of state salaries (4).

By 1981, it was necessary for Governor Rockefeller to impose a mid-year budget reduction. This was the first of four such adjustments which would impact the administration of higher education (5). Then in 1982, two court decisions shocked both state officials and taxpayers alike.

Ohio County Circuit Court Judge, Arthur Recht held that "the legislature had failed to meet its constitutional obligation to provide a thorough and efficient system of free schools for all the children of the State" (6). In an "exhaustive document", Recht detailed steps to comply with the constitutional mandate. The initial estimates of the cost to implement Judge Recht's extensive plan for educational reform were as high as \$1.5 billion (7).

A few weeks later, the State Supreme Court ruled that real property assessments were below the true and actual value, as represented by the selling price of 1980. Therefore, the Court held that the assessments must be increased. Suddenly, hundreds of thousands of state residents were confronted with the likelihood of tax increases of several hundredfold (8).

As state government wrestled with these economic crises, higher education was struggling with enrollment decline. By 1984, the number of students enrolled in public colleges and universities totalled 68,553. This represented a 4.2 percent decline over the Rockefeller Years and a record low enrollment for the decade (9).

During this period, the state's largest institution and only comprehensive research institution, West Virginia University, had experienced a dramatic decline in enrollment. From a record high enrollment in 1977, the University plummeted

to a low for the decade in 1984. This was an 11.6 percent decline from 21,565 (30.1 percent of the 1977 total) to 19,071 (27.8 percent of the 1984 system total). (10)

Yet amid all these negatives, State policymakers had made a number of positive accomplishments. The state system of higher education has recorded its all time high in enrollment in 1983 (72,054 students). Thirteen of the public institutions had achieved record enrollments during the Rockefeller Years. Ten of the records were set from 1981 to 1984; five in 1983 or 1984 (11).

Throughout this onerous financial period, state leaders had committed record setting state appropriations to higher education. The allocation of the state general fund to the Board of Regents increased by 54.5 percent, from \$94.7 million in 1977 to \$146.4 million in 1984. The largest infusion of revenue, \$16.2 million, came in last year of the Rockefeller administration (12).

In addition, \$170 million had been invested in capital improvements on the campuses throughout the state. This construction included science buildings, libraries, and fine arts facilities. It also provided for classroom and laboratory space for the Marshall University School of Medicine which opened in 1978. The widely publicized \$20 million stadium at West Virginia University was dedicated in 1980 (13).

Faculty salaries had increased an average of \$5,000 during the Rockefeller Administration. The first minimum salary schedule for faculty had been enacted into law. State leaders had also increased the annual contribution to the State supported educational grant program from \$800,000 to \$4 million. (14)

Despite all this support for higher education, the Board of Regents was slated in 1983 for "sunset" in 1984 (15). The legislature and the regents were publicly at odds over a number of administrative issues in higher education administration. Closings, cancellations, mergers and consolidations were advocated, in principle, by the Governor, the Board, and the Legislature. Yet seemingly, no agreement could be reached on specifics.

In its second eight years, the Board had named eleven appointments to the office of president at its colleges and universities (16). This number did not include an additional seven acting appointments. Three of these appointments were at West Virginia University. At seven of the institutions, the president who had served under the First Board of Regents was still in office in 1984 (17). The Regents reportedly had forced the resignation of Marshall University's President in 1983 (18).

During the Rockefeller Years, five men had served the Board of Regents as chancellor. Two of these appointments were

interim. One of those named as acting chancellor was college president within the system.

Thus, eight additional years had produced more changes in the "idea" of the Board of Regents. What had been the effect upon the "established order"? In what ways did the views of the Governor, the Legislature, the presidents and the Board differ on this more mature concept?

The Governor's Perspective

(Rockefeller's) style was not to sit in the governor's office and do it all. ... (He) liked to get good people and then watch them closely and back them up. And when they were wrong, (he) told them so. When they thought (he) was wrong, (he) told each of them, they had better be sure they could stand up to him, because (he) did not admire or respect, and would not keep a long relationship with people who did not feel they could level with (him) to (his) face, anytime.(19)

This was Governor Rockefeller's approach to the administration of state government. It also guided his search for the "best appointments for the Board of Regents". In addition, he sought "men and women who would apply common sense to a common vision of the direction higher education should take" (20).

Rockefeller believed that the Board of Regents' "concept was rooted in the necessity of an independent, bi-partisan board to govern higher education". As a member of the legislature during

the 1967-69 debates over restructuring higher education governance, Rockefeller believed that "the Regents had been created in an effort to remove politics from the process of funding and planning. While politics always plays a role in the decision-making process of governors and legislators, it was to be less important to the appointed members of the Regents".

To that end, Governor Rockefeller invested "a great deal of time" researching his appointments to the Board of Regents. These persons would "play an important role in defining the direction and setting the priorities for higher education in the State". In retrospect he was very proud of the appointments he made to the Board of Regents" (21). The job of Regent "was always difficult" and those he chose "took their responsibilities very seriously" (22).

During his two terms as governor, Rockefeller made ten appointments to the Board. He named eight men and two women as Regents. His selections included: three lawyers; two accountants; two educators/administrators; an engineer; a minister; and an active civic leader (23).

Unlike his predecessor, Rockefeller did not chose to appoint anyone with experience in state government. Although all of the Rockefeller appointments were younger than those made by Moore, many of them were independent business owners, chief executive officers, or partners in private law practice. At least two of

the Rockefeller Regents had been very active in the State Democratic Party. Two others had strong affiliations with West Virginia Wesleyan College, where Rockefeller had served as president from 1972 to 1975 (24).

"Although Rockefeller met with the Regents individually and collectively throughout his two terms, he did not interfere in their administration of higher education" (25). Specifically, he did not "interfere in their searches for the best possible person to become Chancellor". As it happened Rockefeller believed the "Board selected superb people to serve in that capacity" (26).

Although Rockefeller was not actively involved with the Board of Regents, neither was he "entirely detached in the formation of policy for higher education".

Obviously, as Chief Executive, (he) spoke frequently with the Chancellor, and worked closely with the Board to formulate budget recommendations. The Board always wanted (and needed) more money than we could budget for them. Governors, however, are paid to set priorities, and make the tough funding and policy decisions. He made those decisions, but always with the full understanding of the goals and objectives set by the Regents. (27)

The Governor found that "few issues were as contentious as the direction and financing of higher education in West Virginia". In his role as chief state administrator, Rockefeller believed that the State "simply had too many institutions to

support". In fact, he felt there was a "proliferation of colleges and universities".

Building a political coalition, however, that could result in the elimination or consolidation of some of these institutions was very difficult. Indeed, several of his attempts at merger and consolidation simply failed in the Legislature, and created some of the most heated battles of his terms. Generally, he felt, if we were really serious about improving higher education, then we had to marshal our resources and focus them on fewer institutions (28).

In 1992 as he reflected on the accomplishments of his administration, he was especially proud of the investment that higher education had made in significant capital improvement programs. This would not have seemed possible as Rockefeller addressed the 1977 Legislature for the first time as governor of the State. His administration's program goals were: ACHIEVEMENT, EFFICIENCY, and AUSTERITY. It specifically encompassed facilities.

In the same spirit of austerity, he proposed that the State declare -- within the General Revenue Fund -- a one year moratorium on all major capital improvements exclusive of highway construction. (The State) was confronted with a host of requests for new athletic facilities, institutional improvements, campus acquisitions, and general building demands. All had merit, but few were of such total urgency that they cannot wait ... (29)

The new governor asked for the concurrence of the Legislature in this moratorium (30). While they acceded to his request

regarding the use of general revenue funds, the lawmakers did not feel that athletic facilities could wait. Therefore, the legislative leadership created a new Special Capital Improvement Fund to be financed through student fees.

Having saved the taxpayers the expense of a \$50.3 million revenue bond issue, Governor Rockefeller immediately threw his full support behind the projects. He was particularly enthusiastic about the construction of the new \$18 million stadium at West Virginia University and the \$14 million field house at Marshall University. On November 8, 1977, Rockefeller made a unprecedented appearance at meeting of the Board of Regents. The Governor addressed the Board.

He had given the matter of a new stadium a great deal of thought before signing the bill making it a reality. Further he had visited all three recommended sites and had thoroughly read the (proposals on each). He had not consulted nor discussed the matter with anyone; then taking everything into consideration, in his own view the Golf Course Site would be the most beneficial. In the Governor's opinion, that site would be the most student-oriented and best serve the overall needs of the general public.(31)

The Board selected the Golf Course Site (32).

One other hallmark of the Governor's oversight of the stadium speaks dramatically to the special role he played in its realization. Forced with cutting back on the original plan for a first-class Team Facilities Building, Rockefeller decided to

raise the additional funds. In December 1979, he convinced "thirteen of WVU football's strongest and most enthusiastic fans ... to pledge \$1,150,000" for the construction (33).

The Governor broke ground for the Morgantown project on May 3, 1979 (34); two days later he launched the Huntington facility (35). Through the special efforts of Rockefeller, West Virginia University's "magnificent new football stadium was built in record time". Just two months before the general election of November 1980, the Governor presided at the opening ceremonies of the State's premiere athletic facility (36).

Governor Rockefeller said, during a dedication brunch for the new stadium, "Mountaineer Stadium is more than just a football field. It's a symbol of the pride, spirit and determination of our people to look to the future with an exciting vision of what the future can mean to us all". (37)

As the financial condition of the State worsened, Governor Rockefeller did rally in support of other higher education funding, on at least two occasions. In response to the mid-year cutbacks of the 1980-81 fiscal year, the Board of Regents had eliminated summer school throughout the State. When the Legislature replaced only one-third of the necessary funding, the Governor "transferred \$500,000 from his Contingency Fund to keep the summer school program going" (38).

Although Governor Rockefeller called for a 7.5% pay raise for all education personnel in 1982, the Legislature refused to grant it. The Governor publicly criticized this legislative decision. For the first time in his governorship, he permitted the budget bill to become law without his signature (39).

When the Governor addressed the Legislature on the state of state in 1983, "the situation was grim and (he) was totally frank in his recitation of the facts: a potential revenue shortfall of \$91 million; the need to lay off another 1600 state workers which he already had ordered done; and the need to impose an immediate ten percent expenditure reduction for state agencies and a four percent reduction for public education" (40).

For higher education, he urged the Legislature to do three things. First he asked an additional \$9 million to restore full funding for summer school and full school terms. The Legislature approved \$3.5 million. Second, he requested authority for the Board to issue \$69 million in tuition fee revenue bonds for capital improvements. The Legislature demurred (41).

Finally, he sought the legislative termination of funding or closure of the West Virginia School of Osteopathic Medicine. He declared ...

... Ladies and Gentlemen, West Virginia just cannot afford three medical schools! In fact, four medical schools including the Charleston Area Medical Center. Someone is going to have to bite the bullet on this

issue. I'm going to do it, and I believe the Board of Regents should do all it can to encourage sharing and cooperation between the (other two) medical schools. (42)

Once again, the Legislature did not implement the second term governor's initiative (43). However, Rockefeller used his line-item veto power to reduce the appropriation to the Osteopathic School by \$1 million. He had the concurrence of the Board of Regents (44).

He also eliminated from the budget bill two capital projects inserted by the Legislature. One involved the purchase of a theater in Huntington and the other acquisition of a new center for Southern West Virginia Community College. Again the Board of Regents concurred (45).

The tax initiatives of 1983 yielded "an encouraging turn of events" in the last year of Governor Rockefeller's second term. This year the Legislature granted his request for a 7.5 percent pay increase for higher education personnel. Further they endorsed his proposed merit pay initiative of \$1.5 million. (46)

Three times during his eight years as governor, Rockefeller vetoed legislation that targeted regulation of higher education. As early as 1977, the Governor had to clarify his position with regard to the Board of Regents. In vetoing Enrolled Committee Substitute for House Bill 705, he explicated his position.

He believed that the present division of responsibilities between the Board of Regents and the Legislature was appropriate. The Board should retain its ability to make independent judgments concerning the location and programs of state institutions of higher learning with the Legislature exercising budgetary control. ... This action was consistent with his philosophy of insuring independence of all colleges and universities in the state, both public and private (47).

A year later, Rockefeller disapproved Enrolled Senate Bill 322, which sought to remove the exemption of the Board of Regents and the Board of Education from the provisions of the Administrative Procedures Act. If approved, the rules and regulations of these boards would have been subject to "review and possible disapproval by the Legislature".

Again, the Governor was emphatic in his position with regard to higher education.

As he had stated on other occasions, public education occupies a unique status in state government. He believed that the bill upset the proper balance that should be struck between public accountability and the political process in state education (48).

The Legislature's Perspective

The governor is not responsible. The Legislature is responsible. It intends to lead. (49)

The governor to whom Senator Hans McCourt referred was Arch A. Moore, Jr. The year was 1970. It would be seven years and one governor later before McCourt's declaration would come true (50).

It then would take a Supreme Court decision and a more experienced second-term governor to provide the necessary checks and balances to legislative leadership. On February 25, 1982, Governor John D. Rockefeller vetoed a bill by which a "so-called legislative rule" could be promulgated by an executive agency (51). In his message vetoing the measure, Governor Rockefeller offered the Legislature some advice.

The argument may be made that the purpose of the bill is to cure the "problem" of excessive and unwise rule-making by administrative agencies. If so the "cure" presented by the bill is far worse than the problem. If the Legislature is genuinely concerned about the effects of a particular rule, there is a simple way to address the problem. It can pass a law (52).

In the case of higher education, that was precisely the Legislature's answer. The Legislature would lead by regulation. It would administer by statute.

On May 3, 1977, the Legislature empowered its Joint Committee on Government and Finance to "make certain studies of programs and problems" in higher education. The emphasis was to be on "problems". Specifically, "the administration, structure and the organization of the Board of Regents" was to be studied.

The Legislature further directed the Joint Committee to appoint a subcommittee to conduct such studies and to "visit the institutions of higher education, confer with administrators ..., the Board of Regents and other such persons as it may deem appropriate" (53).

The Subcommittee began campus visitation immediately. And members of the Subcommittee regularly sat in on the Board of Regents' meetings from 1977 to 1983 (54). The Subcommittee also encouraged the Board to attend their meetings in order to "promote a meaningful exchange of ideas and information" (55).

The first major impact of the Subcommittee's recommendations was the Legislature's decision to employ the Academy for Educational Development [AED] to conduct a professional assessment of higher education (56). The charge to the Academy project team was to evaluate the performance of the Board of Regents. In addition, the team was asked to "make recommendations related to structure and governance of higher education that would best serve the State in the future" (57). The impetus for the 1979 study was Senator Robert Nelson (58).

As subcommittee chairman, Nelson was "disenchanted with the performance of the Board of Regents and its heavy-handed monolithic fashion of dealing with problems". Besides "pressure from constituents forced the Legislature to undertake the 1979 study" (59). Douglas Call, who was interim chancellor at the

time, noted that the legislative debate on the Report did occur in 1980, an election year. "Legislators who realized the Board had been "political" over the years wanted to secure votes by saying they had done something about the Board" (60).

The AED Report presented the Subcommittee with two possible options. First, a complete restructuring of higher education governance involving the termination of the Board of Regents (61). Second, the Legislature could make possible improvements in the existing Board structure (62).

After a formal hearing on the Report and written responses from the Board and others, the Subcommittee recommended the second option.

Although not formally rejecting the Option One recommendations, the Subcommittee was not convinced that a complete restructuring of the State system was in order at the time. Input and opinion received by the Subcommittee ... indicated that there was not a general consensus favoring such a restructuring. Furthermore, the Legislature's previous rejection of the recommendations contained in the 1966 report of the West Virginia Committee on Higher Education -- which virtually mirrored the Option One recommendations-- was evidence of a desire on the part of the Legislature in general to maintain a highly centralized system of higher education management and control (63).

House Education Chairman, Lyle Sattes, reflected that changes were not made in the governance structure in 1980 "because there wasn't anything wrong with the ... Board of

Regents structure. The problem was in the loss of support for the Regents" (64).

The prevailing sentiment was that the recommendation for structural change was "the incorporation of the ideas of a few legislators that did not reflect those of the Legislature as a whole" (65). Members of the Legislature did have opposing views on restructuring and the AED Report (66). While a complete restructuring was not in order, the Legislature did introduce significant modifications to the governance structure.

In 1981, the Legislature enacted the Higher Education Management Bill which implemented a number of the Academy recommendations (67). The Legislature directed the Board to hold at least four meetings per year on the college campuses. Further, the Board was required by statute to meet quarterly with their advisory councils of students and faculty (68).

In addition, the Legislature mandated program review of all programs every five years and evaluation of presidents every four years. The Board was required to prepare a master plan with extensive requirements for citizen participation (69). Moreover, the Board's budget request was to be submitted concurrently to the Governor and the Legislature. The Legislature further stipulated that a proposed allocation for each institution be incorporated into the request document, as well as a report of all external funding received (70).

Amid all these modifications to the Board of Regents, the Subcommittee recommended a structural change for the Legislature. It endorsed the AED recommendation number 31.

The Subcommittee found that legislative oversight of the State's higher education system was an invaluable tool in ascertaining the problems and needs of the system, in increasing legislative understanding of higher education, and in developing solutions and methods of improvement, both LEGISLATIVE AND ADMINISTRATIVE (71).

The Legislature acceded to the Subcommittee's desire for permanent standing status, empowering it to meet regularly with the Board of Regents (72).

During the Rockefeller Years, the Legislature enacted significant changes in the financing of higher education. Some of them with the concurrence of the Board of Regents. Each of these measures shifted the burden of financing higher education to the student.

In 1977 when Governor Rockefeller declared a moratorium on construction financed by general fund revenue, the Legislature was challenged to find the resources to build a new stadium at West Virginia University. Governor Moore had proposed \$14 million of surplus state revenue for the renovation of Old Mountaineer Field (73). Given Rockefeller's stance, the Legislature had no choice but to finance the project from fees (74).

The Board supported the Legislature in their efforts to fund the stadium project. In effect, the Board of Regents "captured all the tuition and registration fees" for capital construction (75). On April 9, 1977, the Legislature approved House Bill 1751 which originated in the House Finance Committee. This measure packaged all the preexisting capital improvement funds into one new, State System Tuition Fee Special Capital Improvements Fund (76).

The substantive modification of the financial powers of the Board was the following concession by the Legislature. As before, the Board could use any balance in the account after payments were made on revenue bonds to redeem outstanding bonds. In exchange for agreeing to build the Stadium and the Marshall University Field House, the Board was granted the authority to use the balance in the account for "any lawful purpose for which the Board may expend funds". (77)

In the 1981 Higher Education Management Bill, the Legislature established by statute a fee which the Board had been levying. Under this legislation, the Higher Education Resource Fee [HERF] was dedicated to very specific uses for direct student services. By law eighty percent of the fee was retained by the institution which collected it. The remaining twenty percent was deposited in a Board account and reallocated for general operating expenses, exclusive of personnel services (78).

The Legislature modified the fee structure one additional time during the Rockefeller Years. In 1983 the Legislature directed the lawmakers to "fix and charge" a Faculty Improvement Fee [FIF]. There were no general revenue funds available for a salary increase. Therefore, Senator Mario Palumbo sponsored the law requiring, for the first time in state history, that students would directly subsidize personnel services (79).

The Board opposed this controversial measure, as did students. The Regents argued that the bill "transferred the burden of funding salaries to the students who already paid all capital construction, repairs and alteration expenses". In addition, the students had recently begun to pay the Higher Education Resource Fee (80).

There was fear expressed that "the Legislature might later see this fee as an alternative to state funding of salaries". That fear was unfounded according to Lyle Sattes, House Education Committee Chairman. The Legislature saw the Faculty Improvement Fee as a means of responding to "a serious chronic problem which it could not address from the general fund" (81).

Throughout the Rockefeller Years, the Legislature intervened on behalf of their constituents to mandate Board action. At other times the lawmakers implemented legislation requested by the Board itself (82). It was more often the case, however, that

the Legislature set the course for higher education administration than the Board (83).

Throughout the Rockefeller Years, the perspective of the Legislature was that "the future performance of the Board of Regents, ... would be a determiner of necessary legislative action". It also was true that the Legislature regularly determined Board of Regents action. Through the Sunset Law and the performance audit (84), the Legislature promised, even threatened that ...

... All structures and systems must be subject to change in order to meet changing needs, and all avenues of change must be available for consideration (85).

The Presidents' Perspective

The perspective of the Presidents on the Board of Regents had changed radically in the Rockefeller Years. Their views on the composition of the Board, its selection of chancellors and staff differed markedly from those of the Moore Years. The Presidents questioned the effectiveness of the Board's advocacy with the Governor and the Legislature. A number of Board decisions threatened the autonomy of the campus, as the Presidents saw it.

"Rockefeller had a tendency to appoint younger people with less status and less leadership experience". The "stature of

Rockefeller appointees never equaled that of the First Board (1969 - 1976)". Governor Rockefeller "added persons who were politically aligned with him". As a result, there developed "a lack of confidence in Board members, without regard to issues. Presidents simply doubted the ability of members to direct higher education." It became obvious to the Presidents that their views were "shared by many legislators" (86).

From the Presidents' perspective, the lack of effective leadership was reflected most dramatically in the Board's selections of chancellors. During the Rockefeller Years, there were five chancellors at the helm. Four were selected by the Second Board (1977 - 1984) (87).

The Presidents remember Ben Morton as "starting off on a positive note". But they credit him with creating an internal hierarchy within the Board staff and expanding the size and scope of staff activities. It was under Chancellor Morton's leadership that the Advisory Councils of Faculty and Students began to play more important policy roles (88).

On the other hand, Robert Ramsey was a chancellor with whom many of the presidents found it difficult to work. "Under Dr. Ramsey, the confidence in the office of chancellor deteriorated to an unworkable level". Presidents "never knew what to expect from him". "No one was ever sure what processes he would use in

problem solving or reaching conclusions. He was thoroughly unpredictable" (89).

"The forced resignation of Robert Hayes as president of Marshall University destroyed any working relationship that remained with Ramsey. The involvement of individual Board members in this action caused Presidents to question the credibility, integrity and ethics of the Board" (90). It had reached a point by 1983 that presidents did not know what to expect from either the chancellor or the members of the Board.

"The selection of Bill Simmons as interim chancellor marked a real turning point for the presidents. He was one of theirs, one of them". Simmons had served as "president of the presidents". He had a "good working relationship with the Presidents and with Board members". More than any other person, the Presidents credit Simmons with "restoring their faith in the Board and the Board concept" (91).

Unfortunately, interim Chancellor Simmons could not undo all the events of the Rockefeller Years. There was the matter of "staff expansion which required more and more resources". As the presidents remembered the original intent of the Board was that the "Staff would be limited". By 1983, there were "vice chancellors, directors and layers of decision makers with whom to deal" (92).

The presidents were clearly disappointed with the "burgeoning bureaucracy". More significantly, the expanded staff required a larger and larger share of the higher education budget. "The expansion at the Board office was clearly an unnecessary drain on limited resources". (93)

A concomitant problem was the change in what the presidents interpreted as the original intent of the Legislature. "The Board was to coordinate activities, develop policies and to present a unified budget for higher education". "The philosophy was and remained that the Board should not be an operating unit".

Yet in the Rockefeller Years, the Board "began to move operations into the Central Office". The Presidents cite the example of the "creation of the West Virginia Network for Telecomputing. The Board took over statewide computer operations from West Virginia University. Then they began to bill the institutions, and the charges went up for everyone". Other operational undertakings included the Center for Educational and Research which was first housed at the Board and the subsequent administration of the public broadcasting station, WWVU-TV (94).

The Board "became obsessed with the details of higher education". It "kept trying to run the management details of the system from the Central Office. This alienated the Presidents."

There were also intrusions into campus affairs. The Board no longer "provided guidance and leadership. The Second Board did not suggest or ask Presidents, rather they directed presidents to "do this". On a number of occasions they mandated the tenure or promotion of faculty and the changing of the residency status of students. Once and only once, the Board mandated a change in a student grade (95).

These intrusions could be explained as the result of administration dictated by judicial decisions, a national phenomenon. Such bureaucratic intrusions were corrected readily through modifications of policy and procedures. Although these actions were serious, they were considered to undermine institutional autonomy, not specifically the office of president.

What the Presidents considered critical and could not accept was that "budgets were going in the wrong direction".

Budgets were being clobbered, not just from freezing and cutting back. Additional responsibilities were passed through to the students to pay. (96)

The legislative trend was to provide higher education with more total dollars, but a smaller share of the state general fund appropriations. By 1978-79 the percentage of the State general funds going to higher education had dropped to 13.5 percent from 17.9 percent in 1969-70 (97). By 1983, it had hit a record low of 12 percent (98).

The conclusion of the Presidents was: the Board was not an adequate spokesman for higher education with the Governor and the Legislature. "The Board had forbidden presidents to talk with state government leaders". But no one was making the case for higher education. "As a result the percentage of the state general fund appropriations kept falling". The Board "never waged the appropriate fight for the appropriations or the necessary legislation" (99).

Then there was the matter of evaluation. Presidents "did not object to evaluation. Their concerns were in how the evaluation would be used by the Board". As the evaluation process unfolded, "it became a forum for venting of problems or complaints against the president" (100). Once again, "trust and confidence between the Presidents, the Regents and the Chancellor was strained".

By 1983, the Presidents felt they had been "undermined and were not respected" by the Board. They were not "treated as members of the team. The relationship was definitely not collegial" (101).

But Bill Simmons' chancellorship changed things. Under his leadership, the Board scheduled a joint meeting with the Presidents "to learn from them". The Board devoted "more time to budget sessions with the presidents and sought their input into the State budget request." The new "president of the

presidents", James Rowley, made oral and written reports for his colleagues at Board meetings (102).

Most of all, Chancellor Simmons involved the campus presidents and their constituents in restoring legislative relations. Simmons redefined "higher education" for the Legislature. Higher education was not synonymous with the Board of Regents, although the Board was an integral part. Simmons reminded the legislature that higher education was sixteen colleges and universities comprising thousands of state employees who served tens of thousands of students. United under the leadership of a man they "trusted and wanted to succeed, for the sake of all of higher education" (103), the Presidents and the Board successfully made their case for an increased appropriation in 1984.

The renewed unity was somewhat shaken when the Board decided to appoint Leon Ginsberg as Simmons' successor. The Presidents felt "Ginsberg had been selected for all the wrong reasons". He was a "political appointment", a "transplant from the Rockefeller administration" (104). However, the Presidents took a "wait and see" attitude as 1984 came to an end.

The Board's Perspective

Governor Rockefeller expected the Board of Regents to be an independent board. The Board was an excellent spokesman for the needs of higher education. It stood up for higher education, a single voice that (when necessary) opposed situations (105).

This was the understanding that the Board of Regents developed with Governor Rockefeller. It was certainly the view of the Board during the second term of the Governor's administration. By 1981, eight of the nine lay members of the Board were Rockefeller appointees. Indeed by 1980, a majority of the members had been appointed since the change of governors in 1977.

The Board's perspective on its role was shaped during this period by the addition of three new voting members. In 1977 the Legislature granted voting privileges to the chairmen of the Advisory Councils of Students and Faculty. Later, the chairman of the Advisory Council of Classified Employees was granted similar status (106). "These constituent councils became more active and began to help the Board of Regents to distinguish its role" (107).

As in the case of its predecessor, this Second Board (1977-1984) often spoke with a single voice through its chancellors. During the Rockefeller Years, there was a sequence of five

chancellors. This reflected the Board's "inability to arrive at a consensus on the role of the Chancellor".

Of course, Ben Morton had been selected in 1974. He became known as the "Iron Chancellor" to the Regents, because he ruled the Board with an "iron fist" (108). Members complained to the press and in Board meetings that they were excluded from the real decision-making process (109).

After several controversial encounters with legislative leaders, Morton announced his resignation in 1980 (110). The Board then selected Robert R. Ramsey, Jr. as chancellor.

He "was selected because he was the exact opposite of Ben Morton. Ramsey was the servant of the Board. He merely did what members of the Board wanted done. (111)

After a period of years, "this (definition of the chancellor's role) was not satisfactory to the total board. There developed a feeling that the Board needed leadership, someone to initiate, to bring about change". As a result, the Board "hired Leon Ginsberg, who was a much stronger leader than Ramsey" (112).

This Board's perspective on its responsibilities during the Rockefeller Years focused on planning. In 1979, the Board took pride in its "progress and prospects" for the overall development of higher education.

Great progress has been achieved in welding together a true system of higher education, rather than a conglomerate of institutions competing for individual advantage at the expense of the common good. Higher education has become an enterprise where the main spirit is one of cooperation in addressing educational needs rather than special interest competition. (113)

The Board declared its intent to "preserve the integrity of each institution and to enhance its initiative and innovative capacity". It was, however, the responsibility of the Board to "maintain a balance system for service to the people of the state". It accomplished this through "the clarification of the role and scope of each institution". To do this it exercised its authority through the: allocation of financial resources; review and approval of programs; approval of administrative and organizational change; and appointment and retention of presidents (114).

In the securing and allocation of capital and other financial resources, this Second Board established precedents that would endure for the life of the Board of Regents. In 1977, the Regents had not supported the public campaign for the two popular athletic projects. In fact, Chancellor Morton had stated that the Board was more interested in the development of academic facilities (115).

Yet, privately "the Board had discussed for sometime, the

desirability of capturing the total tuition fee revenue stream". It readily became apparent that the 1977 Legislative Session was

... the opportunity to win the necessary legislative approval. So the Board proposed that a new stadium be built at West Virginia University in return all tuition fees would be dedicated to capital construction. Thus the Board captured not only the revenue to service the debt, but any excess for additional buildings (116).

From the Board's perspective, there were a number of advantages that would accrue from this arrangement over the next eight to twelve years. For the most part, it "provided a more disciplined approach to capital construction", avoiding the historic "legislative pork barrel: who ever had the political clout got the building". The Board still needed the Governor's and the Legislature's approval of projects and priorities. Yet the political leaders usually "were reluctant to change priorities, to take from one institution and give to another" (117).

Another advantage to the dedication of tuition to capital construction was "these fees were not subject to mid-year cutbacks". There were four such budget reductions in the Rockefeller Years. "In a cutback, institutions could more readily give up their state appropriated funds in the Repairs and Alterations and Equipment Accounts" (118).

There were some disadvantages which the Board discovered. First, "such revenue is totally dependent on enrollment". When enrollment declined as it did in the Rockefeller Years, then questions about bonding covenants and debt capacity were raised. Another disadvantage of such dedication is that "it limited the amount of money available for general purposes" (119).

Another advantage that the Board realized from the creation of this special tuition fee revenue account accrued from another of the Board's financial management practices. Beginning in 1973-74, the Board adopted the practice of "pooling" its investments. With the addition of all captured tuition fees in 1977, the interest on the pooled investment increased by \$3,000,000 in one year. By 1981-82, the Board's capital improvements account earned \$5,097,100 or 44.6 percent of the total interest earnings (120).

Understandably, the Board of Regents could see advantages for the dedication of other special revenue accounts. By 1979, the Board was actively exploring the dedication of Higher Education Resource Fees [HERF] as well. As originally structured the HERF was collected by the Board, but deposited in the State's general revenue fund (121).

The Board sought an attorney general's opinion on the legality of "depositing the HERF income into the general fund without assurance that it would be used for higher education".

Further the Board sought a ruling on the points of law involved in "requiring the appropriation of excess earnings on HERF income to higher education and the provision by statute, special account provisions of a nonreverting status for deposit of such student fee income" (122).

It was the combined effort of the Board and its Advisory Council of Students that resulted in the dedication of the HERF income to higher education in 1981. A campaign was mounted with the Subcommittee on Higher Education, especially during its campuses visits. As a result, the Subcommittee recommended to the Legislature that the HERF be established by statute and a special revenue account be established for deposit of the fees. However, the use of the fee monies was restricted to a very delineated list of direct services to students (123).

By 1981, the Board was very confident in their relationship with the Governor, and with the Legislature to a lesser degree. Regent William Watson described the Board's perspective ...

... The Board had no reluctance to say that Governor Rockefeller's budget for higher education "stinks". The Board regularly testified in opposition to the Governor's request and he understood. He expected the Board to be an independent entity, representing the needs of higher education. He was not concerned nor threatened by the Board's opposition. (124)

On the other hand, the Legislature questioned the Board's

approach. According to Watson, the Board saw itself as somewhat independent in legislative relations, as well.

The Board tried to maintain a good working relationship with the Legislature. But it was the Board's job to keep the needs of higher education on the front burner.

Therefore, the Board had legislative affairs committees. The Board developed political action agendas. The Board lobbied the Legislature. The Board met with legislators all over the state at the various campuses to convince them of the needs. (125)

The arguments that ensued in 1983 were not about needs. Rather they were about how to finance the needs. Once again the dedication of fees was at the heart of the controversy. Governor Rockefeller called for severe cutbacks in all of state government. The Regents responded by proposing week long furloughs for employees and students and the elimination of summer school. (126)

Senator Robert Nelson, Chairman of the Senate Finance Committee, challenged the Regents to use their dedicated capital improvements account. The Regents countered with a proposal to the legislature to remove the restrictions on the HERF account (127). In the end, pleas by students and employees swayed the Legislature. The lawmakers found state general fund revenues to prevent the furloughs and to schedule a limited number of summer school classes (128).

The positive outcome was mitigated by the negative exchanges between Board members and legislators. The intensity of the issues was heightened once again when the Board mounted a campaign for salary increases for its employees. The Legislature granted it by establishing another fee (129).

The Legislature repeatedly chided the Board of Regents for "not being more innovative in dealing with the fiscal crises and for not taking a hard look at possible consolidation of institutions." Other legislators stated candidly that "they had no faith in the Board's leadership. Get on with the consolidating" (130).

The Board had a strong reaction to the Legislature's expectations.

When the Legislature couldn't find the money to do what was needed, they accused the Board of having "too many colleges". The Board got sick of hearing that it was not doing the job (131).

So the Board met the legislative challenge. The "Board proposed extensive program realignments and consolidations". And when the Regents did, "the Legislature backed out and would not support the Board's effort" (132). It was a "very volatile political climate in 1983" (133).

As the Board saw it, EVERYONE WAS LOOKING FOR A CHEAP SOLUTION TO THE PROBLEMS OF HIGHER EDUCATION. The Board was an excellent spokesman for higher education

needs. The efficiency studies and the complaints about the Board bureaucracy were the result of limited finances.(134)

In the midst of this heated debate, Chancellor Ramsey resigned. At the request of the Board, William Simmons, President of Glenville State College accepted the position as interim chancellor. The Board felt that they needed "someone to communicate higher education needs to the legislature in a very practical manner" (135).

Simmons took the job because it was obvious that the Board needed to "develop good working relationships with the legislators. Higher education was not doing well. The presidents had not been involved in legislative relations. As a result, funding was declining" (136).

Immediately, the new chancellor scheduled a joint meeting of the Board and the Presidents. Among their agenda items was a "strategy for unified approach to 1984-85 budget request and legislative program". A related item was the Board's position on the Faculty Improvement Fee. A decision was made to seek legislation to develop this into a faculty and staff development fund. (137)

Chancellor Simmons was successful in his efforts to restore harmony in the Board's relations with the Legislature. In addition, the Board received its largest appropriation of the

Rockefeller Years. Yet when the Board selected Simmons' successor, it was still concerned for its relationship with the Legislature.

As the Rockefeller Administration ended, Leon Ginsberg reflected on the Board's selection of him as chancellor.

Members of the Board ... told him that he had been chosen for several reasons. The overriding qualification was his close relationship with the Legislature, especially some of its key leaders who were also harsh critics of the Board. ... He was well respected by the press. ... His record as a commissioner (of welfare) was also good as were his relationships with Rockefeller and all of the other candidates of both parties who might succeed him. (138)

He further reflected on the Board's future and the role he would play in it.

The Legislature was determined that the Board would cease to exist under the state's sunset laws, unless it were specifically reauthorized in 1985. Legislative hostility toward the organization remained great. The Board wanted repeal of the faculty improvement fee, which many of the legislators considered one of their most positive steps in 1983. And the Board had proposed mergers and consolidations. ... Ginsberg thought these issues and relationships could be resolved through better communication between the Board and the Legislature. (139)

Endnotes

1. Rice (1985, p. 287).
2. *ibid.*
3. *ibid.*
4. *ibid.*
5. Personal Interviews with William Simmons and James Schneider. According to Morgan (1980, p.545), Rockefeller order a ten percent reduction in state spending on December 6, 1979. However, Morgan reported that the Governor "was getting leverage to provide money for other purposes in the up coming election year, specifically the 7 1/2 percent pay raise.
6. Rice (1985, p. 286).
7. *ibid.* According to Rice (p.252), many state leaders regarded many features of the Recht decision as impractical, unwarranted or too expensive. Although Governor Rockefeller withheld immediate judgment, by 1984 he, State Superintendent Roy Truby, and legislative leaders had accepted the Recht principles as guides for the future.
8. *ibid.*, p.287. Rockefeller called a special session in July 1982 to place constitutional amendments on the November ballot. The voters ratified ceilings of 60% on property assessments, but granted authority to the legislature to increase percentages and provide exemptions of up to \$200,000 for each property holder in the future if conditions warranted.
9. Board of Regents Statistical Profiles (1984-85, p. 3).
10. *ibid.*
11. *ibid.*
12. West Virginia Board of Regents, Operating Revenues 1977-78, p.3 and Statistical Profiles 1984-85. p. 112.
13. O'Dell and Dunn (1986, p. 834).

14. ibid.
15. Acts of the Legislature (1984, p. 980). House Bill 1216, March 6, 1984. The Sunset Law required regular legislative reviews of state agencies to determine if they should be continued. Senator Keith Burdette proposed that the Regents be included for a 1985 review because "the Board needed a good hard look" (Baker, 2/1/83, p.6A).
16. Board of Regents Minutes recorded the following appointments: West Virginia University: Gene A. Budig (7/1/77 - 7/1/81); Harry Heflin (7/1/81 - 11/16/81); E. Gordon Gee (11/16/81). Marshall: Dale Nitzschke (3/1/84). Bluefield: Jerold O. Dugger (7/1/78). WV State: Thomas W. Cole, Jr. (3/1/82). Parkersburg Community College: Byron N. McClenney (9/1/78 - 7/1/81); Eldon Miller (4/1/82). Southern WV Community College: Gregory D. Adkins (4/1/81). WV School of Osteopathic Medicine: Francis J. Hennessey (9/1/78 -6/1/80); Clyde B. Jensen (3/1/81).
17. Board of Regents Minutes recorded: College of Graduate Studies: James W. Rowley (1976). Concord: Meredith Freeman (1976). Fairmont: Wendell Hardway (1973, served at Bluefield 1967-73). Shepherd: James Butcher (1968). West Liberty State: James Chapman (1970, however, he resigned 1984); West Virginia Tech: Leonard Nelson (prior to 1965). WV Northern: Daniel Crowder (1972).
 Three other men who were administrators within the State System, but not presidents during 1969 - 1976, were presidents in 1984. They were: Glenville: William Simmons. Southern WV Community College: Gregory Adkins. West Liberty State: Lawrence Talley (acting).
18. Reich (1983, May 12, p. 1A). Robert Hayes resigned immediately after meeting with Regents' president Paul Gilmer. The Board had launched an investigation into an alleged deficit in the athletic department budget. No reasons were ever given for the Board's pressure for Hayes' removal.
19. Morgan (1980, p. 496).
20. Personal correspondence, John D. Rockefeller (1/10/92). Hereafter all quotes are from Governor Rockefeller's letter unless specifically annotated to the contrary.

21. *ibid.* Former legislator and college administrator, Lewis McManus also felt that Rockefeller "had made some strong appointments to the Board". McManus particularly cited John Saunders, President of Beckley College as one of the most effective members of the Board of Regents.
22. *ibid.* Lewis McManus assessed that "Rockefeller delegated, expected the job to be done. He assigned the Regents the job and expected them to do it".
23. Minutes of the Board of Regents. The ten Rockefeller appointees were: (1) Sue Seibert Farnsworth, an attorney from Wheeling was appointed on September 6, 1977. She was the daughter of former House Minority Leader, George Seibert. (2) Paul J. Gilmer, a minister from Kanawha County, appointed September 6, 1977 and reappointed July 18, 1983. He was active in vocational education also. (3) Russell L. Issacs, an accountant and president of major state based retail chain, from Charleston, appointed September 12, 1977. He also was a trustee at West Virginia Wesleyan College and a director of the West Virginia University Foundation. (4) John Saunders, president of Beckley College and alumnus of West Virginia Wesleyan College was appointed June 22, 1978. He was a member of the West Virginia Committee on Higher Education 1966. (5) Verl Snyder of Berkeley Springs, a former superintendent of schools and administrator at the U. S. Office of Education was appointed May 16, 1980. (6) Clark B. Frame, an attorney from Morgantown, was appointed on August 25, 1981. (7) Betsy K. McCreight of Huntington was appointed on August 25, 1981. Her undergraduate major was economics. She had served as a past president of the Humanities Foundation of West Virginia. (8) William E. Watson, an attorney from Wellsburg, was appointed August 25, 1981. He had served as chairman of the State Democratic Party, 1972-73. (9) Kenneth M. Dunn, appointed July 18, 1983, was an engineer and president of private firm. He served as treasurer of Rockefeller's 1980 campaign. (10) Louis J. Costanzo from Wheeling was appointed March 1, 1984. He was a certified public accountant and partner in private practice.
24. *ibid.*
25. *ibid.* Regent Verl Snyder confirmed that "Rockefeller never interfered in the operation of the Board, never pressured Board members". This was echoed by William Watson. "Rockefeller had a strictly "hands off" policy for higher

education. He never once asked me to vote a certain way or tried to influence a presidential selection".

Reich (1983, May 6, p. 4A). When asked if he had any involvement with the Regents decision to seek Robert Hayes resignation in 1983, Rockefeller said "absolutely not. Although he appointed them, (the Regents) were on their own".

26. *ibid.* There were four chancellors selected by the Rockefeller Regents: Douglas Call (May 1 - June 15, 1980), Robert R. Ramsey, Jr. (June 15, 1980 - October 10, 1983), William Simmons (October 10, 1983 - May 31, 1984), and Leon Ginsberg (June 1, 1984 - February 1986). Both Call and Simmons were interim appointments. Ben Morton who served under the First Board of Regents, also served the Rockefeller Board until his resignation effective June 30, 1980.

In response to a question regarding his role in the selection of the Chancellor, Rockefeller referenced only one of these men. "Leon Ginsberg provided an exceptional perspective for the Board. He was, and is, a visionary." Ginsberg served for seven years as Rockefeller's Commission of Welfare (1977 - 1984).

27. Personal Correspondence with John D. Rockefeller. This is corroborated by William Simmons who was interim chancellor in 1983-84. "As chancellor, I enjoyed a good working relationship with Governor Rockefeller. I found him to be receptive to the needs of higher education and he always was accessible to me to discuss them. In general, Rockefeller was support of the Board and we had opportunity to communicate with him".
28. *ibid.*
29. O'Dell and Dunn (1984, Volume I, p. 51).
30. *ibid.* In a personal interview with Regent Earle Andrews he recalled Governor Rockefeller's interaction with the Regents on the issue of the Stadium. "Rockefeller had opposed the stadium project that was originally proposed by Moore. Then when it became clear that the Legislature was poised to take action on the bill, Rockefeller telephoned the Regents' office and directed us to make no official announcements concerning the decision. He told us to wait until he got down to the Board Office, have the press there and he would make the announcement himself".

31. Board of Regents, Minutes of Meeting (1977, November 8, p.6).
32. *ibid.*
33. O'Dell and Dunn (1984, p. 440). Rockefeller also announced that a consortium of public spirited state banks purchased an additional \$1.6 million of bonds that were to be retired through a surcharge on non-student tickets. On January 10, 1984, the Board announced that the bonds issued on the Team Facilities Building were redeemed a full nine years ahead of schedule (Minutes, p. 3).
34. *ibid* (1984, p. 339)
35. *ibid.*, p. 356.
36. *ibid*, p. 342.
37. *ibid*, p. 454. The press release of Governor Rockefeller's remarks included one erroneous attribution. Rockefeller reportedly "praised the Legislature, which allocated the tax dollars to finance the Stadium". Although the Legislature approved the issuance of the revenue bonds to build the stadium, the bonds would not be retired by tax dollars. The students enrolled in colleges and universities throughout the state would pay for this "State Symbol" for years to come.
38. *ibid.* State of the State, February 11, 1981, p. 519; Call for the Extraordinary Session, p. 528; and Report to the People, May 26, 1981, p. 590.
39. *ibid.* p. 638.
40. *ibid.* p. 705.
41. *ibid.*
42. *ibid.*, p. 673.
43. *supra* note 30. Rockefeller asked the Legislature to close three other state facilities, of which two were (the Industrial School for Boys and Women's Penitentiary at Pence Springs). The Legislature also refused to close Spencer State Hospital.

44. *ibid.* p. 683. Rockefeller reported that he was assured by the Board that the School could raise the funds from private sources.
45. *ibid.*, p. 687. The projects had not been requested by the Board of Regents.
46. *ibid.* p. 782.
47. *ibid.*, p.71. Veto Message, April 27, 1977.
48. *ibid.*, p. 174. Veto Message, March 30, 1978.
49. Morgan (1980, p. 385).
50. *ibid.* As Morgan described it, Moore was engaged in a running battle with the heavily Democratic Legislature, for most of his eight years. He called 12 special legislative sessions (at least one per year and 6 in each term). Moore set a veto record of 159 bills (of which only 64 were overridden). He was involved in a minimum of 15 supreme court cases. In the three of his last four years, Moore's case before the High Court was a part of his continuing battle with the legislature to determine the limits of his fiscal powers. Moore played a game of budgetary intrigue with the Legislature, gaining control of the budget through the creation of surpluses. (pp. 410, 411).
51. O'Dell and Dunn (1986, p. 611-612). The year before the Supreme Court held that "a prior process of legislative review of rule-making was unconstitutional". The court case was necessary because the Legislature had overridden Governor Moore's 1976 veto of the Administrative Procedures Act. And "for five years the constitutional authority of the executive was abrogated by the legislative branch.
52. *ibid.*
53. Acts of the Legislature 1977. House Concurrent Resolution No. 3, adopted May 5, 1977. In many of its reports, the Subcommittee noted that many positive comments were received about higher education. However, it was the Subcommittee's charge to study problems and the reports concentrated on that charge.

54. Board of Regents, Minutes of Minutes (1977-1983). (July 19, 1977, p.1) Senator Bobby Nelson, co-chair of the Subcommittee and three members attended the Board meeting. Nelson invited the Regents to attend the Subcommittee meetings. (September 13, 1977, p.1) Three committee members present. (April 4, 1978, p.1) Two members present. (September 11, 1979, p.1) Three members present.
55. *ibid* (May 2, 1978, p. 1).
56. Acts of the Legislature 1979, January 9, 1979. The recommendation came from the 1978 Subcommittee Report. The action also extended the Subcommittee.
In 1974 the Board of Regents had employed AED to "review the fairness and adequacy" of its allocation procedures.
57. Academy for Educational Development [AED] (1979, p. 1). The AED Team was headed by John D. Millett, who had served as an advisor to the West Virginia Committee on Higher Education.
58. Lilly (1989, p. 42) quoted Delegate Lyle Sattes, Chairman of the House Education Committee and Douglas Call, Director of Community College and Vocational Education for the Board of Regents as crediting Nelson with the study.
59. *ibid*, p. 69, 70.
60. *ibid*. p. 70.
61. Academy for Educational Development [AED] (1979, p.). Option One was to abolish the Board of Regents and create in its place a state coordinating board, with governing boards for each of the three public segments: the university system, the state colleges, and the community colleges. The Project Team was headed by John D. Millett, Vice President of AED. In 1966, then Chancellor of the Ohio Board of Regents, Millett was a consultant to the West Virginia Committee on Higher Education.
62. Subcommittee on Higher Education Report (1980, p. 17).
63. *ibid*. p. 20.
64. Lilly (1989, p. 106).
65. *ibid*, p. 107. Lily quoted Douglas Call.

60. Hogwash - Senators Criticize Regents Consultant Report (1979, September 18, p. 1B). Senator Mario Palumbo called the \$92,000 AED Study "hogwash and a waste of money". He declared that "for years Senator Nelson had tried to abolish the Board of Regents. Apparently, he succeeded in having the consultants adopt his ideas".
- Senator Walter Rollins agreed. "Don't put the AED study on the shelf. It should be consigned to the trash compactor instead".
67. Folger and Berdahl (1988, p. 58) assessed the 1981 law as "strengthening the Board of Regents" as well as implementing several of the AED recommendations. Folger and Berdahl noted the strengthening of institutional advisory boards as statutory bodies with more delegated powers as another positive consequence of the law.
68. Acts of the Legislature 1981 (Chapter 91, pp. 347 - 358).
69. Folger and Berdahl (1988, p. 58) cited the Board's positive action in promulgating Policy Bulletin No. 11 (1982) which required the evaluation of all programs every five years. Also noted was Policy Bulletin No. 59 in 1984 implementing the evaluation of campus presidents at least every four years. Finally Folger and Berdahl credit the AED report and the 1981 law for the format of the Board's master planning document, Agenda for Action (1985) which seemed to involve widespread participation as recommended by the consultants.
70. *ibid.*
71. Subcommittee on Higher Education Report (1981, p. 42).
72. Subcommittee Report (1980, p. 30-31) and (1983, p. 1). The recommendations of the AED team and the Legislature's assumption of increased responsibility led the Charleston Gazette to wonder "Why Retain the Regents? After being deprived of its authority by the Legislature, the Board was left with little work to do." (Why Retain the Regents? 1979, February 15, p. 4A).
73. Frasure and Davis (Volume III, p. 133).
74. Interview with William Simmons. "There are only two sources of revenue: the State and the students". Interview with Arch Moore revealed that the rejection of his proposal necessitated a short term solution to affect these

politically popular projects.

75. Interview with James Schneider, former director of finance for the Board of Regents.
76. Acts of the Legislature (1977, Chapter 90, pp. 233-247). By 1983, tuition fees totalled around \$50 million per year, according to Ed Grose, Vice Chancellor for Finance and Administration at the Board of Regents (Reich, 2/12/83, p. 7A).
77. *ibid.* Senator Robert Nelson, Chairman of the Finance Committee, urged the Regents to use these funds to avoid cutting the academic schedule and summer school in 1983. The Regents obtained an attorney general's ruling which said that such action would violate bond covenants and contradict the statutes (Baker, 2/8/83, 1B).
78. Acts of the Legislature (1981, April 9, Chapter 91). The HERF legislation was supported by the Board of Regents and its Advisory Council of Students and recommended by the Higher Education Subcommittee.
79. Acts of the Legislature (1983, Chapter 75, pp. 407-408). Committee Substitute for Senate Bill 301, February 21, 1983. In its first year 1983-84, the Faculty Improvement Fee garnered as much as \$850 per full time faculty member. Only one-half of that was to be paid across-the-board. The other half was pooled for redistribution on the basis of merit. (UPI Staff, 1983, June 8, p. 8B).
80. Reich (1983, February 12, p. 7A). Vice Chancellor Ed Grose testified before the House Education Committee, as did Allison Henderson, Student Regent.
81. *ibid.* Governor Rockefeller signed the bill enacting the Faculty Improvement Fee citing similar reasons to those offered by the legislators. "At a time when education all across the country and in the state is under such extraordinary pressure, where one has a chance to give a break or to give an advantage, then lets do that." Jay Plans to Sign... (1983, March 3, p. 10A).
82. Acts of the Legislature. Examples here include: authorization for reciprocal agreements with other states concerning scholarships (1979, Chapter 30); creation of an education loan bond program (1982, Chapter 53);

privatization of the West Virginia University Medical Center and Hospital (1984, Chapter 65); creation of a minimum faculty salary schedule (1984, Chapter 67).

83. Acts of the Legislature. Examples include: required the Board to file rules with the Legislature (1977, Chapter 86); established procedures for the retention of probationary faculty (1979, Chapter 41); defined higher education to include proprietary institutions (1982, Chapter 52); provided for seniority rights for nonprofessional personnel (1983, Chapter 79); created the State Autism Training Center (1983, Chapter 80).
84. Folger and Berdahl (1988, p. 34-36) found that the Legislative Auditor's Office which conducted the sunset evaluation in 1984 relied heavily on the 1979 AED evaluation "which thus had a second life due to the overworked condition of the Auditor's small staff". The Joint Committee on Government Operations, to whom the audit was addressed, recommended continuation of the Board. Instead of a five year extension, (however, the Joint Committee) called for another sunset review before July 1, 1988. "This highly qualified vote of confidence reflected less the relatively muted criticisms of the Board in the audit report and more the volatile political climate in the state."
82. Subcommittee on Higher Education Report (1980, p. 21). The Subcommittee referred to the option to revise the governance structure.
86. Interviews with Presidents.
87. supra note 24.
88. Interviews with the Presidents.
89. ibid.
90. Interview with James Butcher. Reich (1983, May 12, pp. 1A, 4A). The abrupt resignation of Robert Hayes left many unanswered questions. Hayes resigned after the Board launched an investigation into fiscal irregularities involving the athletic budget. According to Hayes, he resigned because he no longer had the total confidence of the Board. Board President Paul Gilmer admitted that he privately urged Hayes to resign before the Board asked for his resignation. Although Gilmer labeled Hayes as a "very

strong president", who was allegedly "insubordinate", no reasons nor documentation was ever provided.

91. Interview with the Presidents. The "president of the presidents" was the individual selected by the members of the Advisory Council of Public Presidents to represent them at meetings of the Board of Regents in Charleston. When the Board met on a college campus, the respective campus president sat in on the meetings for his colleagues.
92. *ibid.*
93. *ibid.*
94. *ibid.*
95. *ibid.* This is corroborated by Minutes of Board meetings. Beginning in 1979, the Board began to remand cases to the campuses with specific directives for action, as opposed to reconsideration. Examples are: (1979, February 20, p.6) "directed Marshall University president to issue a new letter of appointment to a faculty member dismissed earlier". (1980, June 10, p.4) "remanded a grade appeal to Glenville State with instructions to give the student a passing grade". (1980, July 8, p. 3) "remanded a faculty appeal to West Virginia Northern with direction to appoint the person to the rank of associate professor". (1980, December 5, p. 2) "reversed the decision of Marshall University president and granted in-state residency to a student". (1981, January 6, p. 2) "directed the president of Shepherd College to appoint a trained specialist in career-vocational education". (1981, June 2, p.2) "reversed decision of president of West Virginia State and granted faculty member promotion to rank of professor". (1983, April 12, p. 6) "determined that in the best interest of West Virginia Tech, the president should appoint a (single) chief academic officer immediately". (He had three co-equal academic officers of independent units in his cabinet.)
96. Interview with Harry Heflin.
97. AED (1979, p. 121).
98. Interviews with Lewis McManus and William Simmons. The Subcommittee on Higher Education (1983, pp. 14-15) cited this as a concern of the higher education community. The Subcommittee admonished the Legislature to "strive to

provide adequate funding for higher education" and to "stop the trend toward a smaller share of the budget".

99. supra note 93.
100. supra note 87.
101. Interview with Daniel Crowder.
102. Interview with James Rowley.
103. Interviews with the Presidents.
104. *ibid.*
105. Personal Interview with William Watson (12/6/91).
106. Acts of the Legislature (1977, March 14) House Bill 1156 and (1983, March 4) Chapter 77.
107. Interview with William Simmons. The former chancellor was referring specifically to the role of the Board with regard to appeals and the rights of faculty and students versus campus autonomy and academic freedom.
108. Interview with William Watson.
109. Both the Board Minutes and newspaper articles noted that Amos Bolen regularly objected to decisions being made by the executive committee and the staff. An example is the April 10, 1978 article, Bolen Thrives on Argument, in the Charleston Daily Mail, p. 4A or the Charleston Gazette article of June 26, 1978, p. 7A, entitled "Bolen Enlivened Regents' Meetings".

Finally Bolen resigned in protest that "Morton called all the shots". (Charleston Gazette, June 21, 1978, p. 5A, "Bolen Rakes Morton; Resigns as Regent"; Charleston Daily Mail, June 21, 1978, p. 5A, "Bolen Quits; Claims Morton Makes All Decisions".

In a personal interview with Earle Andrews, he disagreed that Morton called all the shots. But he distrusted Morton who had "lied to him and to the Board on a number of instances".
110. Interview with William Watson. As it was told to Watson, "the Board went to Swickley Pennsylvania, to a Holiday Inn, to discuss the dismissal of Morton and later to conduct the

interviews with the new chancellor".

At the April 3, 1979 meeting of the Board, Delegate Clyde Ritchey voiced his opinion that Morton should be discharged. (Minutes, p. 2).

111. Interview with William Watson. His fellow regent, Verl Snyder, confirmed that the Board "enjoyed an excellent working relationship under Chancellor Ramsey. He and his wife were excellent hosts at the social gatherings which Ramsey regularly planned".
Ramsey's background was a secretary of education in Virginia as contrasted with Morton, who had been chief administrator of a governing board in Illinois.
112. *ibid.* As Watson told the story, he made no reference to either of the interim chancellors, Douglas Call and William Simmons.
113. Board of Regents, Profile of Progress (1979, p. iii).
114. *ibid.*, p. 3.
115. Morgan (1976, July 28, p. 1A).
116. Personal interview with James Schneider, Director of Finance for the Board, 1977-89 (11/8/91). According to Schneider, this "capture" generated over \$250 million for construction.
117. *ibid.*
118. *ibid.* Schneider pointed out that there would be seven such cutbacks from 1980 to 1991.
119. *ibid.* Schneider pointed out that in the late seventies and early eighties, one-half to two-thirds of all fees were dedicated to capital funds. By 1989, the Board had obtained other dedicated fees which reduced the amount for capital construction to one-fourth.
120. Board of Regents, Minutes of Meetings (1982, September 10). Attachment: Investment Earnings and Special Revenue Interest Allocations.
121. Ruling of the State Attorney General, dated January 23, 1979.
122. Board of Regents Minutes (1979, April 3, p.6).

123. Subcommittee on Higher Education Report (1981, pp. 4-5, 39-40).
124. Interview with William Watson.
125. *ibid.*
126. UPI Staff (1983, January 16, p. 11A).
127. Baker (1983, February 8, p. 1B).
128. Baker (1983, March 4, p. 9A).
129. Reich (1983, February 12, p. 7A).
130. *supra* note 124.
131. Interview with William Watson.
132. *ibid.* William Watson referred to the Board's 1984 publication on policy alternatives for 1990. The Board propose realignments, consolidations, and reductions throughout the state. Every institution and every legislative district were affected.
133. Folger and Berdahl (1988, p.). The newspaper headlines provide a graphic description of the times. "Regents, legislators battle over consolidation" (Seiler, 9/13/83); "Regents told to have study include school consolidations" (Seiler, 6/15/83); "Consolidation of colleges left to the Legislature (UPI, 8/16/83).
134. Personal Interview with William Watson.
135. Interview with William Simmons.
136. *ibid.*
137. Board of Regents, Minutes of Joint Meeting, West Virginia Board of Regents and Presidents, October 23-25, 1983.
138. Ginsberg (1986, p. 4-6).
139. *ibid.*

Chapter 6
The Terminal Years, 1985 - 1989
In Perspective

The Policy Environment

As Arch A. Moore, Jr. completed his historic third term as governor of West Virginia, the Carnegie Foundation for the Advancement of Teaching submitted its report, Building for A New Century: Higher Education in West Virginia. The Project Team reflected on the setting of their study.

In the fall of 1987, we were told by many that West Virginia is geographically divided, that the economy is sluggish, and that the state has been slow to move from the industrial to the high-technology world. ... We have found that West Virginia does, indeed, have severe fiscal problems. There is a gap in the current budget, Medicaid obligations remain unpaid, essential services have been cut, and, most relevant to our study, key programs in higher education are underfunded and gifted faculty are being lured away. (1)

Although the Team did not "ignore the depth of the State's dilemma", they were convinced that 1989 was "a special moment for education in the State". "West Virginia was ready, they believed, to enter the twenty-first century with its people stronger and its higher learning institutions vigorously reaffirmed". Their "bolder strategy" was one in which higher

education "would be viewed as part of the solution, not the problem" (2).

What was the problem in higher education? Enrollment once again had begun to increase. In the Fall of 1988, the system recorded 70,383 students. This was 5.5 percent more than the Fall of 1985. Indeed it had climbed steadily each year. Yet it was more than two thousand students short of the record high in 1983 (3).

Concurrently, West Virginia University was growing in student population. After bottoming out in 1986, the Flagship University enrolled 18,746 students in Fall 1988. Still this number was nearly three thousand less than a decade before (4).

The state general fund appropriations were at record highs for the twenty year period. However, during Governor Moore's administration, appropriations had increased by only 2.9 percent. In fact, the State appropriations actually declined from 1985 to 1987, before regaining strength (5).

In only one of the four years did faculty and staff receive a pay raise. That was the first year of Moore's third term. An across-the-board raise of five percent or \$675, whichever was greater, was granted. (6)

Considerable turnover had occurred in the office of president. In twelve of the sixteen institutions, the chief executive had been appointed since 1983. In fact, the Third

Board of Regents (1985-1989) had named ten of the sixteen presidents. Only one president employed in 1989 had been appointed by the First Board (7).

The Board had undergone significant changes in its leadership as well. There were three chancellors in the last four years of the Moore administration. Two of them were appointed by the Third Board. Both were current presidents of State Colleges (8).

Despite the Carnegie Team's recommendation to the contrary, the Board of Regents was not seen as part of the solution. How was it that the "idea" of the Board had come to this? Obviously, the Board or the "idea" of the Board had significantly "undermined the established order". In whose view (the governor's, the legislature's, or the presidents') was the Board "a part of the problem" and not the solution?

The Governor's Perspective

When Arch Moore came back to the governorship (in 1985), he found that the Board of Regents he had incepted no longer existed. There was complete loss of direction.(9)

The most significant change was the "erosion of the governor's authority under the Modern Budget Amendment". During

those "intervening years", Rockefeller (according to Moore) had "permitted the powers of the chief executive to be either taken away from him legislatively or to be exercised by the legislature with the admonition that it was their particular ball of wax and he shouldn't mess with it".

And that's the way it was in the totality of state government when Moore came back. There was no oneness or cohesiveness in state government. Nor was there a set of policies in place with which to address the deficiencies facing the state.

This was the result of "non-oversight by the executive", a "lack of force of the executive". Moore explained ...

State government is only going to be as successful as the dedication of its (executive) leadership. If the chief executive is passive in terms of leadership, then it is not surprising that the other agencies of government move in and take over. When there is a leadership vacuum, they move right straight in to overtake.

And that is how the returning governor "found the broad face of state government in 1985".

Every (agency or department) ran its own little territory. There were so many fees husbanded away by various organizations, outside the expenditure process, that private fiefdoms had popped up all over the place.

So one of the first executive orders issued by Governor Moore was a freeze on fees collected by governmental bodies (10).

He felt it was essential to "get a handle on controlled expenditures or expenditures outside the budget process". Moore found this process of getting a handle on fees to be complicated by other erosions of executive authority.

In Moore's eight year absence, the Legislature "had gathered unto themselves more power". Although they were "a citizen legislature and only in session part-time", they had once again organized "to control higher education".

The original board concept as implemented under Prince Woodard had taken "fundamental economic decisions out of the hands of the Legislature. They (the Legislature) never liked Prince Woodard because he was very strong in sticking to the rules. ... Under Woodard, he and the Board had the power to direct the administration of higher education". According to Moore, during the eight Rockefeller years, "the legislature had moved in as an overall active player. The negotiations between presidents and legislators that we had stopped during my first eight years had begun again to rear their heads".

Another disturbing change that confronted Governor Moore was "the composition of the Board". The "membership in those intervening years never matched that of the First Board". As a result of the caliber of the appointments, "the political structure could force the Regent to bend. And when the Regent bent, the Regent couldn't serve".

In his appointments to the Third Board, Moore named six men and one woman. This term he chose to appoint: two media executives; two educators; a banker; an attorney; and a business executive. In addition, three of the men had strong personal ties to the Republican Party. One of them had been Moore's executive assistant until the date of his appointment to the Regents (11).

The impact of legislative erosion of the original Regents' concept was most evident in the "expansion of the Board". In "proliferating the Board membership, the Legislature had built into Board lobbying organizations." The new third term governor was shocked and dismayed.

He never conceived that a student would be a voting member of the Board and had resisted it (12). He never conceived that employees would be on the Board of Regents. As a result, the very issues that we tried to keep in the environment of the college and university president ended up on the desk of the Board of Regents. The president is the one who should deal with personnel problems. And as soon as that happened the BOARD WENT TO HECK IN A HANDBAG.

The reality of this new arrangement confronted Moore directly in late 1985. Leaders of the Advisory Council of Students representing various institutions brought a class action suit against Moore. The students contested the Governor's executive order freezing interest withdrawals on the Board of

Regents' special revenue accounts (13). The chief plaintiff was Student Regent, Michael Queen of Marshall University (14).

It was then that Moore realized that "the whole mission of directing higher education was severely clouded" by the incorporation of "vested interests" into the governing board structure. Moore determined that he would have "to rinse that out". "That's when he advanced a new approach to higher education governance" (15).

In his state of the state address in 1986, Governor Moore proposed the creation of a higher education commission. This three-member professional board would serve full-time. In addition, Moore suggested a governing board for each of the sixteen institutions of higher learning (16).

"Essentially what Moore wanted was to get back to the original intent that existed under the Board of Regents". He simply "wanted to get back to square one", which was a lay board appointed by the Governor (17). Despite Moore's advocacy of an alternative structure and the potential for "sunsetting" the Regents, the Legislature voted to continue the Board (18).

Governor Moore explained why restructuring higher education governance was not enacted in 1986.

There was a lot of division on the manner in which he approached (the idea of replacing the Board of Regents). Newspapers in the State thought Moore was attempting to usurp control of higher education. There

would not have been any more control granted to the chief executive than under the original board of regents concept. Nevertheless, there was an awful lot of "You want to be afraid of Moore because he will control everything". It simply took the Governor time to flush out that confusion.

There was also "confusion" in 1986 about what Moore intended when he convened a meeting of the college and university presidents (19).

Upon his return to the governor's office, Moore observed that "the presidents also were disenchanted" with the Board of Regents. There had been "a transition in the office of president at many of the institutions". Moore observed that "the tendency of each succeeding administrator or president was to want to do better than his predecessor". This might require the new presidents "to accede to the demands and requests of their faculty and their communities". They "wanted to flex a little more of their muscle and began to feel confidence in themselves that they could obtain more benefit from the legislature if they approached the lawmakers directly" (20).

Moore wanted the presidents to know that the Office of Governor was open to them as well. He convened all of the presidents in early 1986 to tell them so. Such a meeting was not an extraordinary occurrence (21). On this occasion, however, the Governor "incurred a little bit of political flack, for some

reason or another". As Moore recounts it, "his comments were made in a public sense".

Moore said to the presidents: "If any one of you feels a sense of frustration in handling your responsibilities as a college or university president, or in dealing with the Board of Regents, you should never, ever remove from your consideration that you do have a court to which you can appeal". One of the presidents asked, "what are you speaking of, Governor?" Moore replied: "If any one of you has a particular problem, particular mission, or a particular discipline you want to strengthen, or if there is a particular challenge that you are not getting what you consider to be a fair evaluation of by the Regents, the Governor is here. I want you to know that in the areas of your dissatisfaction you should always feel free to come to me" (22).

Shortly thereafter, the presidents met with the Board of Regents in executive session to discuss personnel matters (23). The day after their meeting with the Presidents, the Regents fired Leon Ginsberg as chancellor. In a press statement, Governor Moore had this to say about the Board's action.

The Governor had not pressured the Regents to dismiss Ginsberg. It was no secret that he and Ginsberg had on occasion not seen "eye to eye". ... However, the Governor's differences were not based on partisan politics. Indeed, Moore considered the former chancellor to be a personal friend (24).

Upon the dismissal of Ginsberg, the Board appointed Thomas Cole, Jr. as interim chancellor. At the time, Cole was serving as president of West Virginia State College. Governor Moore

observed that as the presidents assumed leadership of the Board, "the Regents began to lose force." The presidents began "to attach themselves to the stronger of their numbers and to permit that person to be their spokesman. Subsequently that person became the chancellor. At that point in time, the higher education system had lost all resemblance to what we had put together in 1969" (25).

In 1987, Governor Moore ordered a five percent reduction in budgets of all state agencies. As they had done in the Rockefeller Administration, the Board decided to close the colleges and universities a week early in Spring Semester. In an event that made network television news, Moore ordered the Board to keep the colleges open. Further, he declared that the Regents should use "the interest money from their special revenue accounts to make up the budget cuts" (26).

Although Moore was expected to propose another alternative governance structure in 1988, he did not (27). Instead he chose to support the study undertaken by the Maier Foundation. Moore believed that:

The people of West Virginia wanted to know if higher education was carrying out its mission, was West Virginia getting benefit for the dollars spent in higher education and questions of administration and delivery. In other words, society wanted to know the "value for its investment". (28)

Moore agreed with the Maier Foundation's stipulations for funding of the study. First, there was to be no political influence. Secondly, the results were to be treated objectively and fairly and, if possible, put into place (29).

However, Moore lost the 1988 election to political newcomer, Gaston Caperton. The new governor had run on a platform of educational reform. Within days of his inauguration, he initiated the most "massive restructuring of state government in recent state history". It included higher education.

Governor Caperton declared in his first state of the state address that the "study was implementable" . It was "a blueprint to strengthen and clarify missions for all the institutions". He strongly supported the findings and would present legislation to encourage and expedite the recommendations" (30).

The Legislature's Perspective

A legislative committee told Chancellor Ginsberg that they had voted to continue the Board of Regents about the way it was in 1985 because they could not think of any alternatives. It was not because they loved the outfit! In other words, the Legislature viewed the Board as an unfortunate necessity for which there ought to be a more attractive replacement, but they couldn't think of one. (31)

It was obvious from 1983 that the Legislature was looking for an alternative. The Board of Regents was included under the Sunset Law annually from 1983 until 1986 when it received a two year extension (32). Although the Legislature recommended a four year continuation of the Board in 1988, Governor Moore vetoed the bill (33). As a result, the Regents again were placed under annual review (34).

The recommendation to continue the Board's existence and to concurrently place the Board under the Sunset Law came from the Legislature's own standing subcommittee on higher education. During the Ginsberg chancellorship, the Board worked through this Committee and the Legislative Leadership to affect change in higher education. Most specifically, the Legislature and the Board addressed the concerns of their mutual campus constituencies (faculty, students and classified staff).

In the 1985 session, the Legislature established faculty and employee continuing education and development programs (35). Upon the initiative of Speaker of the House, Joseph Albright, and House Education Committee Chairman, Lyle Sattes, the Legislature created the Eminent Scholars Endowment Trust Fund. This statute established a corporation through which the State matched one dollar of every two raised privately to employ outstanding faculty in high demand fields (36).

The controversial Faculty Improvement Fee (1983) was applied by law in 1985 to the Faculty Salary Schedule which was created in 1984 (37). Additional modifications were made to the Faculty Salary Schedule in 1986 (38). A classified employee salary schedule was enrolled by the Legislature, but vetoed by Governor Moore in 1985 (39). After addressing the Governor's concerns, the Classified Employee Salary Schedule and Classification System were written into the State Code in 1986 (40).

The Legislature also reduced the number of years required upon the return of faculty from sabbatical leave (41). Despite the existence of other statutory channels for faculty and staff grievances, the Legislature created yet another legal route for higher education employees in 1985. A grievance procedure for education employees was enacted on May 12 (42).

These legislative initiatives "were designed to limit the power of the presidents, who along with vice presidents and deans were (viewed) as the enemy of the faculty, staff and students" (43).

Legislators believed that even mandated salary increases were applied unequally in higher education. ... They believed that before funds were used to grant increases to faculty and staff, personal services money was used to reward administrators or create new administrative positions. They also feared that such funds were not used to equally improve the compensation of faculty and staff. (44)

The Legislature also had developed the perception that "the Board did what the Presidents told it to do" (45). Senate President Dan Tonkovich confirmed that legislative actions taken were to limit presidential prerogatives. He affirmed the positive response of the Legislature to the leadership of Chancellor Ginsberg. The lawmakers "were glad that presidential demands were no longer automatically supported by the Board of Regents" (46).

Shortly after the Legislature voted to continue the Board in 1986, the Regents fired Leon Ginsberg as chancellor. In fact the Legislature, at the urging of Ginsberg and the Regents, had rejected Governor Moore's proposal to abolish the Regents. Then in early February, the dismissal of Ginsberg was interpreted by the press to have been instigated by the Governor (47).

The legislative leadership, however, directed their anger and disappointment at the Regents and the presidents (48). The Board had operated like "a kangaroo court", according to Senator Keith Burdette. The Board's actions, he projected, "had significantly damaged" higher education's reputation in the Legislature". Most lawmakers, Burdette projected, would be "less likely to support funding increases" (49).

House Education Committee Chairman, Lyle Sattes reflected that the Legislature "had a great deal of respect for Leon Ginsberg" (50).

Most legislators were dismayed at the timing of (Ginsberg's dismissal) in the middle of a session, at the unknown factors involved, and, at the possible political nature of it. If (the Regents' action) was politically motivated, then obviously it hurt academic freedom in the State. Sattes also feared that the dismissal had created a cloud that would prevent the State from getting a good chancellor. (51)

Reinforcing the speculation that Ginsberg's dismissal was politically motivated was the knowledge of Ginsberg's personal and professional alliance with Senator Tod Kaufman. At the time Kaufman was embroiled in "direct and frequent conflicts with Governor Moore" (52). Another strong supporter of Ginsberg and political foe of the Regents, Senator Robert Nelson, had lost his bid to become senate president in 1986. He had resigned abruptly and, therefore, was unable to champion Ginsberg's cause with lawmakers (53).

The State's appropriations for higher education declined 1.2 percent from 1985-86 to 1986-87. This was not attributed to legislative reaction to the Ginsberg firing. Rather, the Governor and the Legislature provided for a modest increase which was offset by the elimination of interest income on Board accounts. This amounted to approximately \$20 million, which was close to a ten percent reduction in funds available to higher education (54).

Despite individual legislators' concerns, the Legislature officially delegated additional financial authority to the campus president in 1986. This action came under the leadership of newly appointed chancellor, Thomas Cole, although it was initiated under Ginsberg. The Legislature authorized internal transfers of monies between line items allocated or appropriated from state general revenue. The Act stipulated that the institutional Board of Advisors must authorize such transactions and subsequently report them to the Board of Regents (55).

No bills affecting the Board of Regents were enacted in 1987. "The Legislature had lost confidence in the Board. That is why they agreed to the study advanced by the Maier Foundation." (56). According to Senate Education Committee Chairman, Keith Burdette, the Legislature questioned "whether the Board had been managing the system of higher education or had been managed by the system" (57).

The Legislature was aware that the "Board had become politicized. Regents were injecting themselves into campus situations" (58). House Education Committee Chairman Lyle Sattes reported his own feelings on the subject. "Whereas the concept of a board like this is to insulate (higher education) from partisan politics, they have been very much involved in it in the past year." (59)

When Thomas Cole announced his resignation as chancellor in September 1987, leading legislators were disappointed. Sattes lamented Cole's decision. He could not "fault Cole for leaving, but wished that the chancellor could have stayed longer. The State had some very chaotic times (at that point) and really could have used some continuity" (60).

Senate Education Committee Chairman, Keith Burdette declared that "the Board of Regents was on very thin ice. There was a lack of confidence in the leadership there". Although he was not sure that abolishing the Board was the solution, he announced that the Legislature intended that "the Board insist that college presidents act as a part of the system and not as representatives of individual institutions" (61).

Following Cole's resignation, the Regents conducted a three-month search for a new chancellor. In December their decision to employ William Simmons, president of Glenville State College, drew harsh criticism from legislative leaders. Senator Tod Kaufman castigated the Regents' action. "The appointment of Simmons was an example of "unhealthy inbreeding" and "parochialism" that had hampered the Regents". Although Kaufman was "not personally antagonistic toward Simmons", he believed ...

...there were thousands of people around the country who would have wanted the chancellorship. (The Regents) did not need to turn to Glenville. The Board just took the least restrictive path". (62)

Senator Burdette also censured the Regents' choice.

Many legislators were upset over Simmons' appointment because of his involvement in the push to remove Ginsberg as chancellor (in 1986). (Recalling) Simmons' involvement (in the Ginsberg dismissal) touched quite a few (legislative) nerves. (The removal of Ginsberg) was carried off like a coup. That was excess baggage Simmons could not afford. (63)

Kaufman chided Simmons' decision to take a leave of absence from his presidency. According to the Senator, it weakened Simmons' position as chancellor. "Any person who has a vested interest in their return to a campus is not free to exercise independent judgment, and to lend some leadership to educational policy" (64).

Of the four Regents-related bills enacted by the Legislature in 1988, only one was actively sought by the Board (65). On June 18, 1988, the Legislature approved Senate Bill 11 sponsored by President Dan Tonkovich and Minority Leader Bud Harman. The measure was introduced "by request" (66).

This new statute continued the Board of Regents until 1989. More significantly through this enactment, the Legislature clarified its intent regarding the powers of the Board of Regents and the state institutions of higher education. It specifically provided for "the delegation of responsibilities and equitable distribution of state funds" (67).

The Legislature intended that the Board of Regents continue to have "the general determination, control, supervision and management of the financial, business, and educational policies and affairs of all state institutions of higher education". The Board's responsibilities still included, but were not limited to:

... making of studies and recommendations respecting higher education; ... allocating functions and responsibilities; and equitably allocating available state appropriated funds among institutions. (68)

The new provisions of the law dealt with the powers of the president. The Legislature required the Board to delegate to the president part of its "power and control over the financial, educational and administrative affairs". Specifically excluded were: the classification of employees; lawful appeals made by students, faculty or staff; and final review of programs.

Further, the Legislature stipulated that it intended for the president to have "authority and responsibility for overseeing the routine matters of the institution". These included but were not limited to: travel approval, sabbaticals, budget oversight and special student fees. The Legislature required that the president "seek community advice on academic or other programs" (69).

Finally, the Legislature mandated the Board implement a "funding formula for the distribution of state funds". This

formula was to provide for allocation of funds in an "equitable manner to achieve the goals of the system" and "to promote the mission of each state institution of higher education". The formula was to be in place by July 1, 1988. (70)

As the deadline for the submission of the Carnegie Plan neared, Supreme Court Justice William Brotherton observed that "the lawmakers' consensus against the Board of Regents finally jelled. They finally realized that the Board wasn't accomplishing things, citing the change in chancellors, three times in as many years. The Legislature came to the conclusion, according to Brotherton, former president of the Senate, that "we've got to try something else" (71).

Even after the Carnegie Plan had been submitted, the Legislature could not agree on the specific changes that needed to be made. Senate President Larry Tucker predicted that "the Greenbrier County people would be upset about the lost of their (School of Osteopathic Medicine). They would not want to lose the jobs" (72).

House Speaker Chuck Chambers of Cabell County shared Tucker's additional concern for Marshall University's proposed absorption into the new University of West Virginia System. Chambers predicted that the recommendations would be implemented if "it preserved Marshall's identity and brought parity to the

University. ... The status quo had not been good to Marshall for the last two decades" (73).

At first, House Education Committee Chairman, Lyle Sattes was skeptical about replacing the Board. "He personally felt that the structure of the Board wasn't so bad. But he really disliked a lot of the decisions by the current board." He cited the "bond financing system as the chief reason for legislative distrust of the Regents".

Citing the Third Board's acquiescence to Governor Moore's demand for a stadium at Marshall, Sattes declared that "a Board of that nature is supposed to insulate decisions from that kind of politics". Sattes reflected that "a board like the Regents is supposed to insulate higher education from partisan politics. This past year, however, the Board had been very much involved in it" (74).

Despite these obvious shortcomings of the Regents, Sattes was not convinced that two boards posed an acceptable solution. He would require "an awful lot of evidence as to why it would be advantageous to split the leadership of a small system of higher education into more than one board" (75). Apparently sufficient evidence was provided for Sattes and a majority of legislators.

On April 8, 1989, the Legislature enacted Committee Substitute for Senate Bill 420. A "key backer of the reform

plan", Chairman Sattes had this to say about the Higher Education Reorganization Act.

More important than changing the structure of higher education would be changing the attitudes of those who administer ... the state's colleges and universities. He really hoped that the presidents would look at this (structural change) with a positive attitude. An awful lot of it has to do with the implementation. (76)

The Presidents' Perspective

The Presidents' hopes for a return to the stature and progress of the First Board appointed by Governor Moore were dashed. The Governor's third term appointments were "lack luster, the exact opposite of the caliber of people Moore had appointed to the First Board". The perception developed that "Moore was choosing only political appointees, those he could control." (77)

As with previous boards, the Presidents defined their relationship with the Board in terms of the chancellor. "The key to working with the campuses was the chancellor". This was certainly true under the administration of Dr. Ginsberg.

The former commissioner of welfare and dean of social work communicated through his actions and his public statements that "the system really did not need presidents. With him as the chancellor, the presidents felt sure it did not" (78).

As one president observed the situation as it developed in 1985-86, Ginsberg "tried to be the president, to act for the president. He undermined the president". Many of the presidents agreed.

Leon Ginsberg may have been an astute politician, but he had absolutely no understanding or appreciation of the presidency. He had no conception of what a president did or what it took to administer an institution or what was required to implement a policy on campus. In fact, Ginsberg was antagonistic to presidents and to the office of president. He deliberately encouraged campus constituents to go around the president to him (79).

Ginsberg admitted consciously pursuing old grievances against presidents, issues that had lain dormant and unattended for years. He further stated that the campus constituents were not adequately defended and their interests were not advocated. He "put teeth into the evaluations of presidents" and later wished he had put more (80).

As the presidents perceived Ginsberg, "he preferred to work with the advisory councils of faculty, students, and staff". Ginsberg played a "divide and conquer game", "catering to the special interests with funds and influence". Ginsberg developed policy through these constituent councils, often without reviewing the proposals with presidents (81).

"The presidents objected to the inclusion of constituents on the Board", according to Chancellor Ginsberg. He suggested to

the Presidents that they work for inclusion of a President Regent. "This idea was abandoned, instead they agreed to a monthly report from the Presidents" (82).

For years the Presidents had designated a representative to attend the Board meetings in Charleston. In fact, since 1981 a representative of the Advisory Council of Presidents regularly sat in meetings of the Board that were not held on a college campus (83). Dr. William Simmons was the representative during 1984-85. On March 12, 1985 he gave an oral report from a "recent meeting of the Advisory Council of Presidents" (84). Beginning in 1985-86, Thomas Cole was selected as the "President of the Presidents" (85).

Much of the historic responsibility for personnel administration was no longer posited with the campus chief executive. Decisions with regard to salaries and classifications were "made in Charleston". Contracts were merely signed by the President, not negotiated by him. Any and every decision or recommendation made by the President could be appealed by a variety of processes, and generally was. Like the Modern Budget Amendment, the "Emperor's Clause" had been diluted over the past eight years. By April 1985, the Presidents requested a delay in the implementation of the classification system in order to study the plan further (86).

Presidents were summoned to a meeting with Governor Moore in late October. He shared their concerns for the changes in personnel administration policies. The Governor publicly stated "his willingness to hear gripes about the Regents" (87). A few weeks later students brought suit against the governor to obtain control of interest on student fees.

At the February 4, 1986, meeting of the Board of Regents, public college and university presidents were in attendance, as was former Regent, John Saunders. According to the Presidents, they were invited by members of the Board to attend the meeting. When the Board convened in executive session, the Presidents were invited to "discuss personnel matters" with the Regents.

William Simmons, president of Glenville State College, described the meeting with the Board.

There had developed some communication problems. The Regents had asked the presidents to talk with them about our problems. Those (problems) were personnel matters. At the meeting, each president was permitted to have his say. (Since the matters dealt with personnel), it would not have been professional for any of the presidents to discuss them with the media. As far as Simmons knew, no president did (88).

On the matter of the Board's decision to dismiss Ginsberg, Simmons was emphatic. "The Board made the decision, the presidents did not. The Board did not make unwarranted decisions" (89).

President William Watson confirmed that the Presidents did levy their grievances against Ginsberg. Further, Watson observed that the Board was aware that Ginsberg's relationship with the presidents was "terrible". In the short time he was there, Ginsberg had "developed a very antagonistic approach in dealing with the presidents, especially those who opposed him" (90).

The Presidents approved of the Board's decision to employ their colleague Tom Cole as interim, and then, chancellor. The Presidents "trusted Cole because he knew the presidency and how things operated at the campus level". In addition, they liked him personally and professionally. They wanted him to succeed (91).

Tom Cole was greatly respected as chancellor. He was a good choice, very positive for higher education. He worked well with the presidents (92).

In response to Ginsberg's charge that the Board of Regents had long been under the control of certain presidents, Chancellor Cole responded ...

The Regents had been "sensitive" to the needs of college presidents, but had gone against their wishes many times. And while conceding that there's always room to improve, Cole claimed most of Ginsberg's accusations were untrue (93).

President William Simmons was cited by Ginsberg and others as one of the presidents with whom the ex-chancellor most often

sparred. Simmons criticized Ginsberg's comments as unfair. "The role of the college president is to make the best possible institution he can" (94). While acknowledging that he differed with Ginsberg on some issues, Simmons declared that his personal role in Ginsberg's ouster had been "greatly exaggerated" (95).

When Simmons accepted the chancellorship for a second time, the Presidents were once again supportive of their colleague. Some of them "just could not say enough good things about Bill Simmons". "They wanted him to succeed. He had been one of them for such a long time" (96).

During both the tenure of Tom Cole and Bill Simmons, the Presidents continued to send the "President of the Presidents" to Board meetings. It was President Jim Rowley who initiated the distribution of a written report in addition to his oral presentation. In December 1986, the presidents extended an invitation to the Board to meet jointly with them, with the Board designating the agenda. The Presidents also considered "a unified position" vital for the 1987 Legislative Session, as well as a "comprehensive, long term approach to funding of higher education" (97).

Beyond this support for their colleagues (Cole and Simmons), the presidents could agree that the Board staff was too expansive. Increasingly, they were confrontational, presenting themselves as "the muscle of the Board". Their tact in dealing

with presidents was "WE have these data. The Board wants this done. You do it" (98).

In addition the staff was handling more and more details. There were "specific guidelines for all campus decisions, with no flexibility. If a president dared to deviate from the requirements, extensive documentation, justification and endless paperwork were required" (99). The Presidents found their position increasingly restricted and controlled by more and more levels of administration. They agreed on the need for deregulation of their campus management (100).

The Regents would make better decisions if they gave college presidents more latitude. The closer to the scene a decision is made, the more likely it is that it will be valid. (101)

Once the Carnegie Foundation Study was underway, the Presidents divided along the historic fault lines. The rivalry between the universities, the issue of medical education, the concerns over consolidation and merger divided the presidents (102). The new president of West Virginia University, Neil Buckalew, presented his perspective on issues affecting governance of higher education.

Regionalism is sometimes a factor in the decisions of the Board of Regents whose seats are distributed by Congressional districts. ... Presidents have pressed to expand programs, even though such a course results in costly and unnecessary duplication of programs. For

example, the state now has medical schools on two campuses in addition to the Flagship University. The Presidents naturally want to do more and to move up in the hierarchy of institutions.

Then, there is legislative interference. And the Regents decide to get behind a pet project to have an MBA in location X. It might not be educationally sound, but it's politically sound.

Buckalew did not want to close any of the State's 16 institutions, but he thought the State should be more explicit about missions, put a mechanism in place that would avoid unnecessary duplication, and require some merged activities (103).

The other university president, also relatively new to the state, Dale Nitzschke, did not see higher education problems as "the Board's fault".

The Board is a group of lay persons who come together to do an impossible job. They have no money. They have no staff.

He credited the board with creating a tuition revenue allocation system that earmarked the funds solely for construction and renovation projects. Under that system, the Board could build facilities even though higher education was short of operating funds.

That was the real problem. From 1987-89 Marshall had to absorb \$3.1 million in cuts because of state deficits. For example, the State financed only one half of the social security payments, leaving state agencies to find the money to make up the difference. ... For the last two years, higher education had been eating our seed corn. Institutions had been forced to tap library fees, student fees, and interest on accounts for operating expenses. Higher education just did not have the money to operate at the level it wanted (104).

Buckalew, "a strong proponent of reorganization", agreed with Nitzschke, that "the State couldn't reverse negative trends

without money. ... There would never be a healthy higher education system, when the state financial structure was not healthy" (105).

While the presidents of the community and state colleges agreed with the importance of improved financing, they were less confident in the Carnegie recommendation to create two boards. The new president of West Virginia State College, Hazo Carter was concerned that "the result would be two boards competing for funds". It seemed to Carter to be a "return to the situation before the Board of Regents" (106).

On the other hand, Nitzschke believed the new structure would "focus the attention of the state on the number one priority for economic development, which was education. It "brought the governor in on the action, business leaders, and all of higher education to focus on education" (107).

The president of West Virginia University had nothing but praise for the recommendations of the Carnegie study. The report was an "insightful, good reading of the University. ... They issued us a challenge and I think we can match it" (108).

Chancellor Simmons interpreted the challenge to college presidents. "There were a lot of end runs during the transition", Chancellor Simmons recalled (109). The Carnegie Team agreed that the challenge for presidents was "the spirit of

collaboration". West Virginia could not "afford the luxury of institutional competition" (110).

Higher education in West Virginia, as elsewhere, is vulnerable to "end runs". The new (structure) will fail if this undermining strategy is followed. The new board(s) must have authority and respect to shape policies and present them to the legislature on behalf of the system overall. If this arrangement is not fully supported by all parties, the proposed ... systems will not work. (111)

The Board's Perspective

The Board administers higher education as an executive agency, but also carries on legislative functions that, were it not for the Board, would be handled by the Legislature, itself.

The issues for the legislature in dealing with higher education as not as consequential as they might be because the Board makes decisions for higher education that the Legislature makes for other agencies. The Board makes significant decisions on personnel, programs, allocation of funds and most other significant matters.

The Board takes its signals from the Governor and the Legislature in making policy and look to those two institutions for guidance and direction. The legislature is the Board's primary constituent--equal, of course, with the Governor. But the whole operation must be responsive to the Legislature that views the Regents as its proxies in running the higher education enterprise. (112)

This was Chancellor Leon Ginsberg's view of the Board as he explained it to the Regents in 1985. Some of the Board members at that time did not share Ginsberg's theory that they were

proxies of the Legislature. Clearly, by 1986, they did not agree with Ginsberg's continuation.

As Ginsberg later observed "the Board that hired him, was not the Board that fired him" (113). The Third Board under the leadership of men like John Saunders and William Watson had made it clear that the Board was not the servant of the legislature. In fact these Rockefeller appointees had "thrown down the gauntlet" to the Legislature regarding consolidation and financing (114).

In their publications, the Board that hired Ginsberg made it clear that they had fulfilled their spokesman role for higher education. They challenged the Legislature to fulfill its financier role. For example, in Agenda for Action, 1985-1990, the Board made the following points about "Financial Support: A Challenge to Quality".

The 1979 long-range plan ... specified projections for ... enrollment and the financial resources required. ... The institutions exceeded their enrollment goals every year. ... It was proposed that the policy leaders of West Virginia increase the proportion of total State General Revenue funds devoted to higher education by two percent. Instead, the proportion decreased. Although the colleges followed the 1979 plan in good faith and grew to an even higher level of service than was asked, funding did not follow. ... (115)

Similarly, in both Proposal: Some Alternatives for Public Policy in 1990 and Agenda for Action, the Board made the "hard decisions

and proposed program realignments and consolidations". And when the Regents did, "the Legislature backed out and wouldn't support them" (116). This would be the Third Board's position until the end (117).

In October 1985 and again in October 1986, the Board endorsed budget requests for new monies for \$76.8 million and \$64.1 million respectively. In each case the Board "felt the request represented the long term needs of higher education". They were equally confident that the investment would "pay long term dividends for the State" (118).

Ginsberg objected to both lines of reasoning. He told the Board that "the strategy could have unintended consequences. He felt it conveyed the wrong message: The Legislature had not supported higher education, rather it had mistreated higher education. The Legislature ought to mend its ways" (119).

The Board and Chancellor Ginsberg did share a common perspective on the role of the Board in its relationship with the Governor. Clearly, the issue of the interest monies illustrates the Board's position, as it was carried out by Ginsberg.

When Governor Moore began his review of personnel actions in 1985, Ginsberg objected. He discussed his position with the presidents, but did not challenge the order or question the governor about it. ... (Then the Governor imposed the freeze on interest).

At the urging of the presidents and the Board, Ginsberg told the Governor about the impact of the interest. He told him in person, in writing, through

attorneys, through his staff, through mutual friends in the investment business, etc. Moore told Ginsberg (in person), if he challenged Moore on the interest, he would have trouble. ...

... (As Ginsberg saw it), Moore appeared to believe that issuing executive orders made law that superceded state statutes and common law. Of course, an executive order was only binding on the executive who issued it and those...subordinate to him. An executive order is a promise, not a law. ...

... Moore was incorrect and Ginsberg's obligation was to carry out the laws he was responsible for enforcing. Getting along with Moore and doing (the chancellor's) job were in conflict. Ginsberg did the job. ...

... Ginsberg was an employee of the Board's. He was not an employee of the Governor. (120)

The Board had agreed with Ginsberg that he was to lead the legislative campaign for the survival of the Board. To do this he had to lobby against Moore's proposal for a Commission and for extension under the Sunset Law. He was successful on both counts. "Success had led to his dismissal" (121).

In retrospect, Ginsberg saw the Board as "captive of college presidents". As he viewed his former employers, Ginsberg felt that "the authority of all the presidents was often exercised by a handful of longer term presidents who ... dominated their peers". While the president of West Virginia University is always a powerful influence, the position was vacant during Ginsberg's chancellorship (122).

Board President, William Watson dismissed the ex-chancellor's caricature.

The Board did work closely with the presidents. But the Regents were never captive of the presidents. Simply because there was never any agreement among the presidents as to what the Board's position should be. Leon Ginsberg had to say that to explain what happened to him. (123)

The Board was concerned more for its relationship with staff than with presidents. To some members of the Board, the "increasing staff bureaucracy" was a problem (124). Chancellor Cole promised that the "Board's agenda would be streamlined. No handouts, no carry-ons." (125)

Management of the central office was a challenge the Third Board gave to each of the three chancellors in its employ. Ginsberg had moved to reclaim some of the power in the chancellor's office. "Cole was a excellent chancellor and a fine gentleman but he could not realign the staff to overcome the dominance by the vice chancellors". It would take William Simmons to accomplish that (126).

Relations with Governor Moore stabilized as he was able to appoint a majority of the membership. Although these new Regents deny any overt influence from the Governor, other Board members remember it differently. According to Charles Printz, Moore never applied any political pressure to influence his role as a regent. The Governor "simply told him to do what was right for higher education" (127). As William Watson observed it, there

were other Moore appointees who "never voted until they called the Governor's Office" (128).

Once the Carnegie Study was under way in 1988, the Terminal Board was too busy with administering higher education to worry extensively about the fate of the Board. Representatives of the Board had an "understanding with the Governor and key legislators. The Regents thought that if the Board supported the Marshall University Stadium, then the state officials would endorse the continuation of the Board" (129).

Members of the Board also were very involved in evaluation and selection of presidents throughout the state. Whereas Ginsberg had wished he had "put teeth" in presidential evaluation, members of the Terminal Board strengthened the Board's role in the process. In fact, they take credit for inspiring a number of presidential resignations and early retirements (130).

Other Regents were preoccupied with the financial issues affecting higher education.

The Board was so busy with money problems ... there was no time to consider change in structure or governance. The Regents had to spend almost all their time on inadequate funding, how to divide a pie that was only half a pie. ... They were just trying to patch holes in the financial structure. (Besides) overall supervision of higher education could be handled any one of numerous ways if there were additional funding. (131)

Board President, Louis J. Costanzo, agreed that lack of funding was an impediment.

The Board served a pretty worthwhile role. The Regents played a major role in getting accreditation for various programs. The Board was basically trying to open access despite a lack of funding. (132)

Still other Regents thought reorganization of the structure was "a good idea". Newspaper executive, Regent Charles Conner thought "the Board was unwieldy and should be looking at a smaller area" of higher education. As far as he was concerned, the Regents "had too much to look after" (133).

Throughout 1988, Chancellor William Simmons was "overseeing the change" which was eminent. Upon the resignation of Tom Cole, the Board had selected Simmons as chancellor because "he was the most knowledgeable person for the job. Simmons was to work for a reauthorization of the Board or see it through the change" (134).

In fact, Chancellor Simmons was successful in securing legislative reauthorization of the Board until 1992. Governor Moore, however, did not agree and vetoed the bill. Then the Board was asked to cooperate with the Carnegie Project Team, to work closely with them. The Board and Chancellor Simmons did (135).

The Board looked at options (for change) with the Carnegie Team. Some of them were more workable than others. The Board wanted to provide options for the

governor, whether that proved to be Governor Moore or Gaston Caperton. (136)

Once the report was received, the Regents were recommended for continuation as the governing board for state colleges and community colleges. Regent Tom Craig was dubious of the proposal to "shift the Regents under the new super-secretary for Education and the Arts". In Craig's opinion, this structural change would "gut the Regents. ... The Board would be left with doing little more than hiring and firing presidents" (137).

In the final legislative debate, the Board was abolished. Chancellor Simmons "worked through the necessary transition" to the new boards. The Regents "increased fees to be in effect when the new boards took over". There were a lot of "end runs during the change, but Simmons did a credible job of holding things together, not a lot fell through the cracks" (138).

As the Final Moore Years ended and political newcomer, Gaston Caperton, assumed the governorship, "West Virginia was in a mood for change" (139). "Higher education needed to put the governance issue behind it. There were more important issues confronting higher education in the State" (140).

Governor Caperton embraced the Carnegie Foundation recommendations to restructure higher education governance. On April 8, 1989, the Legislature replaced the Board of Regents with a new dual board structure: one for the new University of

West Virginia and another for the State College System (141). Carnegie Foundation President, Ernest Boyer, called the Legislature's action "the most dramatic connection between a Carnegie report and implementation" (142).

Boyer explained the recommendation to create two boards, as opposed to modification of the existing structure.

It was an attempt to end the acrimonious criticism of the Board of Regents. At various times (in its history), the Board of Regents had been described as the "pawn of governors, legislatures, and the campus presidents". Its authority had been undermined by legislators and college presidents who regularly drafted bills concerning higher education policy over the last few years while ignoring the Board's recommendations (143).

The only recommendations of the Carnegie Study which were not enacted into law were the proposed continuation of the Board of Regents and the consolidation of the state's three medical schools. The latter proposal was "dropped because its inclusion in the bill could have killed the entire package" (144). The abolition of the Board of Regents required no public explanation.

As for the enthusiastic acceptance of the majority of the "unbiased, expert study" (145), Boyer explained that "an outside agency brings with it credibility and eliminates the question of whose opinion the report represents" (146). Lilly (1989) agreed.

The Carnegie Study of 1989 was an independent study-- independent of politics, of the legislature, of any one person involved closely with higher education (in the State). ... The fact that little or no political influence contributed to the study or resulted in any recommendations in the study says something positive about the validity of its findings and recommendations. ... Because of its independence, more value was placed on its advice, ... The study was implemented because it was independent. (147)

Endnotes

1. Carnegie Foundation (1989, p. ix) Ernest Boyer headed the Carnegie Project effort in West Virginia. He had served as the chairman of the Governance Section of the 1984 Academy for Educational Development Study at West Virginia University which was funded by the Benedum Foundation.
The Project Team Leader was James "Dolph" Norton of the University of Virginia. He was a former chancellor of the Ohio Board of Regents, a post held for many years by John D. Millett.
2. *ibid*, p. x.
3. State College and University Systems (1990, p. 10).
4. *ibid*.
5. *ibid.*, p. 116.
6. Board of Regents Minutes (1985, April 4, p. 4).
7. Board of Regents Minutes (1983 - 1989). Appointments were made at: West Virginia University, 1986; Marshall University, 1984; Bluefield, 1988; Concord, 1985; Fairmont, 1988; Shepherd, 1989; West Liberty, 1984; West Virginia Tech, 1986; West Virginia State, 1988; Southern West Virginia Community College, 1989; West Virginia Northern, 1985; Osteopathic School, 1986.
James Rowley, President of the West Virginia College of Graduate Studies, was appointed by the First Board in 1976.
8. *ibid*. The three chancellors were: Leon Ginsberg (1984-1986); Thomas Cole, Jr. (1986 - 1987); and William Simmons (1988 - 1989). Cole was president of West Virginia State College and Simmons was president of Glenville State College.
Carnegie Study (1989, p.42). Higher education leadership had in recent years far too many changes at the top. It's been a revolving door, with three chancellors in two years. There is also too much staff turnover. No system will work without leadership that has time to set the tone and maintain a willingness to changes.

9. Personal Interview with Arch A. Moore. Hereafter in this section, all quotes are those of Moore made during the interview unless specifically annotated to the contrary.
10. Queen v. Moore (1986). On February 12, 1985, Governor Moore issued Executive Order 2-85 ordering all agencies with special revenue accounts invested by the Board of Investments to stop drawing interest earned on those accounts, with exception of agencies specifically authorized by statute to use such interest.
11. Moore appointed: (1) Charles K. Conner, Jr. of Beckley and Huntington, a retired newspaper publisher and executive, on July 1, 1987; (2) Thomas L. Craig, Jr. of Huntington, an attorney, on October 8, 1985. Craig was Moore's assistant, 1972 - 77 and 1985; (3) Sister Mary Jude Jochum, of Wheeling, former superintendent of Catholic schools, on September 6, 1985; (4) James R. McCartney of Morgantown, a business executive who was active in the West Virginia University Alumni Association and Foundation. McCartney was appointed to the Board on July 1, 1987. Moore had appointed him secretary of state in 1975-77; (6) William McLaughlin III, of Fairmont, a bank executive, appointed on July 1, 1987; (7) Charles F. Printz, of Shepherdstown, former chairman of the Division of Business at Shepherd College, an accountant and business executive, appointed on October 30, 1985; (8) John C. Shott, of Bluefield, a television executive appointed September 6, 1985. He was an active Republican holding key state committee positions. He resigned the Board in 1987.

Moore was criticized for the caliber of his appointments to this Board.
12. Moore referred to the 1976 legislation which seated faculty and students as non-voting, ex officio members.
13. supra note 10.
14. Queen v. Moore (1986). The Supreme Court ruled in favor of the students. Chief Justice William Brotherton wrote the unanimous opinion. Queen was elected to the House of Delegates in 1988.
15. Personal interview with Moore. Newspaper accounts and Ginsberg (1986) confirmed that Moore began to campaign actively against the Board in late 1985. He called for its

abolition.

In the 1986 Regular Session, House Bill 1484 was introduced at the request of the executive. Its propose was "to streamline the administration of higher education by substituting a commission of higher education and decentralize decision making authority".

16. Jaschik (1986, March 5, p. A16).
17. Personal interview with Moore.
18. Ginsberg (1986). The new chancellor had achieved his mission; he had saved the Board from sunset. The Board was continued until 1988.
19. Ginsberg and others confirm that Moore told college presidents individually and collectively that if they had any budget concerns to come directly to him, essentially shoving the board aside.
20. Moore's reference to lobbying the legislature relates to the increased power of the legislature.
21. Moore contrasted the 1986 meeting with one he held during his first eight years. In that session the presidents were clearly satisfied with the Board of Regents and the contributions that the Board was making to higher education and to their respective institutions.
22. Personal interview with Moore.
23. This was all the impetus the presidents needed to convene a meeting with the Board of Regents to discuss their relationship with Ginsberg.
24. Jaschik (1986, March 5, p. A16) Ginsberg (1986) also saw Moore as a friend and did not attribute the Governor's actions to be partisan politics.
25. Personal interview with Moore. Jaschik (1988, January 20) indicated that Governor Moore had complained that the Board had not given enough authority to the campus presidents.
26. Jaschik (1987, September 16, p. A28)
27. Jaschik (1988, January 20, p. A28).

28. Lilly (1989, p. 50) Lilly also quotes Harry Heflin as crediting Moore's questioning of the Board's efficiency as one of the reasons for the study.
29. *ibid.*, p. 47.
30. Education is Do or Die (1989, February 13, p. 1A). In a personal interview with James Rowley, he felt that "Caperton asked: Who are these Regents anyway? Look who appointed them. The new Governor wanted an improvement, but he also want regents more related to his point of view, his philosophy".
31. Board of Regents Minutes (1985, November 5, p. 10).
32. Acts of the Legislature (1984, March 6, p. 980); (1985, April 8, pp. 1415-1417); (1986, February 10, pp. 546-7).
33. Interview with William Simmons.
34. Acts of the Legislature (1988, June 18, pp. 1124-1126).
35. Acts of the Legislature (1985, April 13, Chapter 70). Committee Substitute for House Bill 1854 sponsored by Delegates Givens and E. Martin.
36. Acts of the Legislature (1985, April 13, Chapter 67). Committee Substitute for House Bill 1664.
37. Acts of the Legislature (1985, April 13, Chapter 68). Senate Bill 634 originated in the Senate Education Committee, chaired by Ralph Williams of Greenbrier County.
38. Acts of the Legislature (1986, May 20, Chapter 12). House Bill 144 sponsored by Delegate Bailey.
39. Board of Regents Minutes (1985, July 9, p. 5). Senate Bill 317 was enrolled but vetoed.
40. Acts of the Legislature (1986, March 8, Chapter 68). Senate Bill 231 sponsored by Senators Burdette, Holmes, Whitlow, Colombo, Lucht, Yanero, Williams (both Bruce and Ralph), Spears, Carigo, Jarrell, Stacy, Sharpe, Cook, Parker, Boley, and Tonkovich.
41. Acts of the Legislature (1985, April 13, chapter 58). Senate Bill 661 sponsored by Keith Burdette.

42. Acts of the Legislature (1985, May 12, chapter 71). Delegates Murphy and Rogers sponsored House Bill 1970 which was modified in committee.
43. Ginsberg (1986, p. 21).
44. *ibid*, p. 99.
45. *supra* note 43.
46. *ibid*.
47. Jaschik (1986, March 5, p. 16).
48. Legislators Upset with College Presidents over Ginsberg Decision, (1986, February 6), Daily Mail, p. 4A. and Treatment of Ginsberg Called Deplorable (1986, February 6), Charleston Gazette, p. 6A.
49. *supra* note 47.
50. Jaschik (1987, June 17, pp. 15-16).
51. *supra* note 47.
52. Ginsberg (1986, p. 151).
53. *ibid*.
54. Ginsberg (1986, p. 73).
55. Acts of the Legislature (1986, Chapter 13). House Bill 145 sponsored by Delegates Murphy and Bailey authorized presidents to transfer up to five percent between line items. The measure gave a window of eighteen months from July 1, 1986.
56. Interview with Lewis McManus.
57. Jaschik (1988, January 20, p. A28).
58. Interview with James Moler.
59. Cage (1989, February 15, p. 20).
60. Jaschik (1987, September 16, p. A28).

61. supra note 57.
62. ibid.
63. ibid.
64. ibid.
65. Acts of the Legislature (1988). The other three bills were: (March 10, pp. 155-161) Committee Substitute for House Bill 4580 which transferred the accreditation and regulation of correspondence, business, occupational and trade schools from the Board of Regents to the Board of Education; (February 16, pp 174-176) Committee Substitute for House Bill 4042 clarified the powers and duties of the Board with regard to the State Autism Training Center; (March 12, pp. 170-173) Senate Bill 698 which added to the existing statute on issuance of revenue bonds and payment of relocation costs the provision that "or any projects initiated on or after the first day of July 1988", and required to the Board of Regents to reimburse those displaced by construction.
This last measure was introduced by Ned Jones, who was appointed by Governor Moore to fill the seat vacated by Robert Nelson. Like his predecessor, Jones presented his concerns for funding of Marshall University directly to the Board on March 4, 1986. He too was a "self-proclaimed advocate" of the home district and its university.
66. Acts of the Legislature (1988, June 18, chapter 6).
67. ibid.
68. ibid.
69. ibid. Jaschik (1988, January 20) cited Governor Moore and many college presidents as complaining that the Board and the Legislature have not given enough authority to the presidents.
70. ibid.
71. Wilson (1989, p. 4C).
72. Niiler (1989, February 7, p. 1A). The Carnegie Report recommended that the Osteopathic School be returned to private status.

73. *ibid.*
74. Cage (1989, February 15, p. A19-20).
75. *ibid.*
76. Cage (1989, April 19, p. A21).
77. Interviews with the Presidents.
78. *ibid.*
79. *ibid.*
80. Ginsberg (1986, p. 153).
81. Interviews with the Presidents. Ginsberg brought to Board meetings presidents of such organizations as West Virginia Education Association, AAUP, etc. He suggested that the Board and higher education should build coalitions with these organizations.
82. Ginsberg (1986, p. 28). Prior to his departure from West Virginia, Gordon Gee, former president of West Virginia University, had suggested that the state might be well served by having a council of presidents, instead of the Board of Regents. Such a council would have a small staff and would, by common consent, make decisions about higher education in the state. In other words, the presidents would have been self-governing on matters of statewide higher education policy. Although controversial at the time, Ginsberg later reflected that Gee appeared to be describing what Ginsberg came to believe actually took place (page 58).
83. Board Minutes (1981, November 11, p. 1). The minutes indicated that Leonard Nelson, president of West Virginia Tech, was "designated by the Advisory Council of Presidents to be its representative at Board meetings in the Central Office".
84. Board Minutes (March 12, 1985, p. 5). The issues advanced by the presidents were: the classification system and the status of administrative personnel within the system; impact of the Benedum Study at West Virginia University, as well as systemwide; efforts of institutional public relations in publicizing the system; impact of recent freeze on

- government spending; and overload pay for faculty.
85. Board Minutes (1985, October 8, p. 1).
 86. Board Minutes (1985, April 2, p. 5).
 87. Moore Willing To Hear Gripes about Regents (October 25, 1985), Charleston Gazette, p. 1A.
 88. Personal interview with William Simmons (12/10/91).
 89. *ibid.*
 90. Interview with William Watson.
 91. Interviews with the Presidents.
 92. Interview with Simmons.
 93. Jaschik (1987, June 17, p. A19).
 94. *ibid.*
 95. Jaschik (1988. January 20, p. A28).
 96. Interviews with Rowley and Butcher.
 97. Board Minutes (1986, December 2, p. 2).
 98. Interviews with Presidents.
 99. *ibid.* Interview with Delegate James Moler indicated that he and other legislators perceived the Board in later years to have exceeded the requirements for standardization across the colleges.
 100. Interviews with Presidents. Chancellor Ginsberg and the Board also shared the concerns about the dominance of the staff.
 101. Jaschik (1988, January 20, p. A28). Chancellor Simmons spoke on his philosophy of the Board's relationship with Presidents.
 102. Interview with William Simmons who noted "the competition between West Virginia University and Marshall was head on." Interviews with Ed Grose and James Schneider confirmed that

the competition between the two universities was very intense.

103. Cage (1989, February 15, p. A19-20).
104. *ibid.*
105. *ibid.*
106. Niiler (1989, February 7, p.1).
107. *ibid.*
108. *ibid.*
109. Interview with Simmons.
110. Carnegie Foundation (1989, p. 37).
111. *ibid.*
112. Board of Regents Minutes (1985, May 7, p. 7).
113. Ginsberg (1986, pp. 23, 148). Five of the 12 board members had been replaced by 1986. Of the seven continuing members, two of Ginsberg's supporters (Frame and Dunn) were absent the day of the vote to dismiss him.
114. Ginsberg (1986, p. 151) charged that his cooperative approach to the legislature was incompatible with that of the Board, the Presidents, and then, Governor Moore.
115. Board of Regents, Agenda for Action, (1985, p. 9).
116. Interview with William Watson.
117. Interview with Charles Printz who pointed out that the Board worked for consolidation, elimination, and regionalization of campuses and courses. They were foiled by politics and politicians.
118. Board of Regents Minutes (1985, October 8, pp. 7-8) and (1986, October 7, pp. 3-4).
119. Ginsberg (1986, p. 67).
120. Ginsberg (1986, p. 149-150).

121. *ibid.*
122. Ginsberg (1986, p. 57)
123. Interview with William Watson.
124. Interview with Charles Printz.
125. Board Minutes (1986, June 3, p. 8).
126. Interview with Charles Printz. This is confirmed by Ginsberg (1986) and by the Charleston Gazette editorial, "Regents Bond Sale", January 12, 1989. "Once in office, (Simmons) purged his top assistants, eliminating possible rivals".
127. *ibid.*
128. Interview with William Watson.
129. Interview with Charles Printz. In a scathing editorial, the Charleston Gazette decried the "Regents bond sale", crediting Governor Moore with the decision, declaring the motivation political, and citing the Board's concurrence with hardly a murmur. Regents Bond Sale (1989, January 12, p. 4A).
130. Interview with Charles Printz.
131. Niiler (1989, February 6, p. 12A) quoting Regent James McCartney of Morgantown, whom Moore had appointed Secretary of State, 1975-77. McCartney was also very active in the West Virginia University Alumni Association and Foundation.
132. Cage (1989, February 15, p. A20).
133. Niiler (1989, February 7, p. 1A).
134. Personal interview with William Simmons.
135. *ibid.*
136. *ibid.*
137. Niiler (1989, February 7, p. 14A) Under Caperton's proposed reorganization, one of seven super secretaries would prepare the department's budget and could shift money among

agencies. In effect, Niiler concluded that the secretary could divert money from the medical school to cultural festivals.

138. *ibid.*

139. Lilly (1989, p. 111) quoting Lyle Sattes.

140. Cage (1989, February 15, p. A19) quoting William Simmons.

141. Acts of the Legislature. (1989, April 8). Senate Bill 420.

142. Cage (1989, April 19, A21).

143. Cage (1989, February 20, p. A20).

144. Cage (1989, April 19, p. A28).

145. Cage (1989, February 20, p. A20) quoted Edward Maier who employed the Carnegie Foundation. Maier "told the Foundation to prepare a substantive report without worrying about hurting anybody's feelings".

146. *ibid.*

147. Lilly (1989, pp. 83, 113).

Chapter 7
THE LEGACY OF THE WEST VIRGINIA BOARD OF REGENTS

In Retrospect: The Accomplishments

"The evil that men do lives on, the good is oft
interred with their bones." (1)

The Board of Regents was not abolished because any one element in the policy system failed. Neither was it terminated because any single agency or individual was at fault. In fact, the reality was just the opposite. The governors, the legislatures, the presidents and the boards of regents could show an excellent record of accomplishments. Access, quality, and funding for higher education all increased under the Board of Regents system.

Together policy makers brought higher education within a reasonable commuting distance of most West Virginians (2). Access to both graduate and undergraduate education had been expanded by: the creation of community colleges and components; the innovation of the College of Graduate Studies; and the establishment of off-campus centers. Likewise the organization of a statewide satellite network, the nontraditional regents bachelor of arts degree, and courses by mass media encouraged participation in higher education. A state scholarship fund was

another incentive for attendance (3). Concomitantly, enrollment in public higher education climbed 37.7 percent, from 51,127 students in Fall 1970 to 70,383 in Fall 1988 (4).

Policy makers also attained a measure of their collective goal of quality in higher education (5). All sixteen institutions were accredited by the North Central Association of Colleges and Universities. Similarly, the medical schools and the West Virginia University Medical Center obtained required national certifications. A number of programs at member institutions were recognized as excellent by their respective professional societies.

Through the cooperative efforts of key decision makers, faculty and staff development programs were implemented. The Eminent Scholar and Distinguished Scholar Trust Funds addressed a need for and desirability of excellence in teaching. The number of sabbatical leaves increased in each college and university.

Similarly, it was a collaborative effort that produced an increase in appropriations from the state general fund. From \$54.4 million in 1970-71, state leaders had expanded their commitment by 194.5 percent. For fiscal year 1988-89, state general fund revenue was at an all time high of \$160.2 million (6).

Every campus throughout the system had improved its physical plant substantially (7). Together state officials and higher education leaders had invested millions of dollars in new construction. In addition to the much publicized stadiums and field houses, classroom buildings, laboratories, and libraries were built or expanded throughout the state.

All of this was possible because of the dedication of tuition and fee revenue to capital construction. Similarly, problems of deferred maintenance had been address by obligating a percentage of these construction funds to campus and building renewal. From 1984 to 1989, the Regents dedicated \$10 to \$13 million annually to deferred maintenance (8).

Yet despite these accomplishments, the Board of Regents was abandoned. According to informed observers, it was "time for a change" (9). Thus, in one sense, the Board of Regents fell victim to a pattern, a cycle of the political culture of the state.

In Retrospect: A Time for Restructuring

Reorganization is synonymous with reform and reform with progress. ... The myth persists that we can resolve deep-seated and intractable issues of substance by reorganizing. The conviction that the weakness of one organization can be cured by creating another remains a widely held article of faith. ... For the true believer, reorganization can produce miracles.(10)

Structural change is expected, anticipated in West Virginia on average, every twelve to thirteen years (Figure 3). Based on the state history since 1900, the life expectancy for any governance structure is eight to twenty-two years (11). According to former chancellor, William Simmons, "A twenty year history of any type of governance for higher education is normal in West Virginia" (12). Other policymakers agreed that periodic reorganization of state administration of higher education is a "natural cycle", a "necessary transition", and "an essential part of the evolution of governance" (13).

There are many who believe in restructuring. From the perspective of the governor, especially one who has run on a platform of educational reform, restructuring is viewed as "good management". Structural realignment affords a governor the means to influence higher education directly. The dissolution of the old structure enables incoming governors to determine how best to accomplish their agenda for higher education (14). Both Arch

1900

Board of Regents, West Virginia University, Morgantown
Board of Regents, West Virginia University Prep, Montgomery
Board of Regents, West Virginia University Prep, Keyser
Board of Regents, West Virginia Colored Institute, Institute
Board of Regents, Bluefield Colored Institute, Bluefield
Board of Regents, Normal Schools: State Normal, Huntington
Branches: Athens, Fairmont, Glenville,
Shepherdstown, W. Liberty

1909

State Board of Regents (educational function, policy, etc)
State Board of Control (business, finance)

1919

State Board of Education
State Board of Control

1927

Board of Governors, West Virginia University
State Board of Education
State Board of Control

1935

Board of Governors, WVU and Potomac State College
State Board of Education
Negro Board of Education/State Board of Education
State Board of Control

1947

Board of Governors, WVU and Potomac State College
State Board of Education: Marshall; Bluefield, Concord,
Fairmont, Glenville, Shepherd, West Liberty, and West Virginia
State Teachers Colleges; West Virginia Institute of Technology

1969

West Virginia Board of Regents

1989

Board of Trustees, the University of West Virginia
Board of Directors, the State College System

Figure 3: Changes in Governance Structures, 1900 - 1989

Moore in 1969 and Gaston Caperton in 1989 were strong advocates of reorganization in education (15).

Administrative reorganization permits a governor to appoint an entire slate of lay members to the new board or boards. Thus the governor can hope to achieve a personal or party agenda for education through persons who can be trusted and who share the governor's philosophy (16). This has particular significance in West Virginia. Over the years as much as seventy to seventy-five percent of the higher education operating and general revenue was outside the governor's direct budget control (17). In order to influence those expenditures, the governor had to influence the governing board.

From the perspective of the State capital, restructuring is viewed as "good government". The West Virginia Legislature takes very seriously its constitutional duties regarding higher education. Any decision by the Legislature to delegate some of its authority to a board of regents or any other state agency would be a momentous one. The continuing importance and the increasing magnitude of both the administrative responsibilities and budget in higher education warrant close legislative oversight (18). Reorganization is always one of the probable consequences of the performance evaluations conducted annually by the legislature.

Understandably, the outlook of the individual college campuses and the presidents who represent them will vary with the specifics of the structural reorganization. Yet, historically, colleges and universities collectively have benefited from changes in the state organization. Increased recognition and financial support for higher education have been corollaries to state reorganizations. Thus, from the collective institutional perspective, restructuring is "good financial strategy".

Substantial increases in state funding for higher education have followed structural changes in statewide higher education governance. In fact the state revenue appropriations to the Board of Regents increased to \$54.4 million in 1970-71, a rapid 19 percent from 1968-69. One year later (1971-1972), another increase of 11.8 percent was recorded (19).

Similarly, with the demise of the Regents and the substitution of the new dual board structures, appropriations to higher education increased \$20.6 million or 12.9 percent (1988-89 to 1989-90) (20). Again, this is understandable, and predictable. The "founding" governor, an enthusiastic slate of initial board members, and the sponsoring legislature throw their financial support behind their new creation.

Despite these "pressures" for structural realignments and a predictable cycle of past reorganizations, the Board of Regents endured for twenty years. Thus, it becomes clear that only under

certain conditions will "the time for change" be right. The creation, continuation, and termination of the Board of Regents clearly profile how and why change will be enacted.

In Retrospect: The How of Restructuring

Orthodox theory is preoccupied with the anatomy of government organization ... (A strong faith in reorganization is) coupled with ill-concealed distrust of politics and politicians as the natural enemies of efficiency. (21)

Procedurally, the reorganizations of 1969 and 1989 were initiated by an evaluative study supported by the incumbent governor and legislative leadership. A blue ribbon commission of "experts" was appointed to study and make recommendations about the structure of higher education at the state level and other related issues. The studies were undertaken in the last two years of the sitting governor's term or the "lame duck" period.

Although the study report was received by the governor and legislature that contracted for it, no action was taken. Restructuring was enacted in the first year of the next gubernatorial administration. To the incoming governor accrued the prerogatives of appointment to the new structure.

This was certainly the case in 1969 and again in 1989 (22). Yet in 1981, the legislature did not enact the 1979 recommendations of the Academy for Educational Development for restructuring (23). The environment did not augur for change although procedures were in place.

In Retrospect: The Why of Restructuring

The devils to be exorcised (were) overlapping and duplication, and confused or broken lines of authority and responsibility. Entry into the "nirvana of economy and efficiency" could be obtained by strict adherence to sound principles of ... (re)organization (and scientific management). ... (24).

What then were the conditions which portended reorganization? For example, what role did the economy or financial condition of the state play in the decision to restructure higher education governance? It is a truism that the State has never had sufficient funds to meet the ever increasing demands in all sectors of government. Yet the Board of Regents was reauthorized three times during "the leanest of the lean years" (1981- 1988).

Both the creation and termination of the Board of Regents were justified in the name of the state's perennial goal of economy and efficiency (25). Yet reorganization produced no economies, either in 1969 or in 1989. In fact, as previously

noted, policy makers invested more dollars in each new higher education organization. Instead of reductions, the number of public colleges and universities grew from 11 to 16 in just six years. Similarly, the number of medical schools or divisions jumped from one to five in the first decade of the Regents' existence.

What role did finances play in the creation or abolition of the Board of Regents? "None", observed Lewis McManus, chairman of the House Finance Committee (1969 - 1971), Speaker of the House (1971 - 1976) and Special Assistant to the President of West Virginia University (1985 - 1988) (26). Reorganization of higher education governance (1969 and 1989) had little to do with finances, economy or efficiency.

Rather the process of restructuring is a tactical and strategic political instrument for West Virginia policymakers. The decision to reorganize, as opposed to modify, higher education governance is based on the political conditions within the policy system. Procedures to restructure higher education were implemented when one or more of the enduring stakeholders could not finesse its jurisdictional claims. When the reality of the politics of higher education governance was publicly exposed, then and only then did restructuring become essential.

In Retrospect: The Politics of Restructuring

... the politics of implementation is the ultimate determinant of outcome (27).

To understand the political process and conditions, consider again the policy system that determines the governance of higher education in West Virginia. From 1969 to 1989, policymakers approached the governance issue first from the perspective of state accountability versus institutional autonomy. "Where you stood on the issue, depended on where you sat" on that accountability/autonomy continuum (28). The primary questions for stakeholders were: "How will reorganization or modification affect the balance of power between state government and the campuses?" "To whom will the political advantage accrue by such change (the governor, the legislature, the board or the presidents)?"

Thus, the process of structural modification enabled the governor, the legislature, the presidents and the existing board(s) to reassert their respective jurisdictional claims in higher education governance. This was an incessant, inherent, essential process of balancing the competitive, but interdependent political interests. Stakeholders understood that structure only had meaning as an expression of this continuous redefinition of political tilt or the new political compromise.

To understand restructuring within this system, recall the setting prior to 1969. The alignment of interests was perceived as tilting in favor of the institutions. The Board of Governors of West Virginia University was an institutional board positioned close to the University and concerned exclusively with that institution's welfare. In a similar arrangement, the constitutional entity, the State Board of Education, was aligned with Marshall University and the state colleges. Because of its statewide responsibilities, the Board of Education was perceived to be farther to the left on the continuum (i.e., more committed to state accountability) than the Board of Governors.

Obviously, the creation of the Board of Regents in 1969 represented a "centralization" of governance, a movement more to the center of the accountability/autonomy continuum. Although the debate on the issue was limited, enactment of the Board placed an unquestionable emphasis on state accountability in contrast with the preceding arrangements. The statutory responsibilities for "determination, control, supervision, and management" resound with overtones of accountability.

Prior to 1969, the balance of political power accrued to the Legislature. Institutional presidents lobbied the legislature directly for funding. The Modern Budget Amendment of 1968 "removed the presidents from the halls of the State Capitol", substituting a "strict chain of budgetary command" through the

ACCOUNTABILITY AUTONOMY

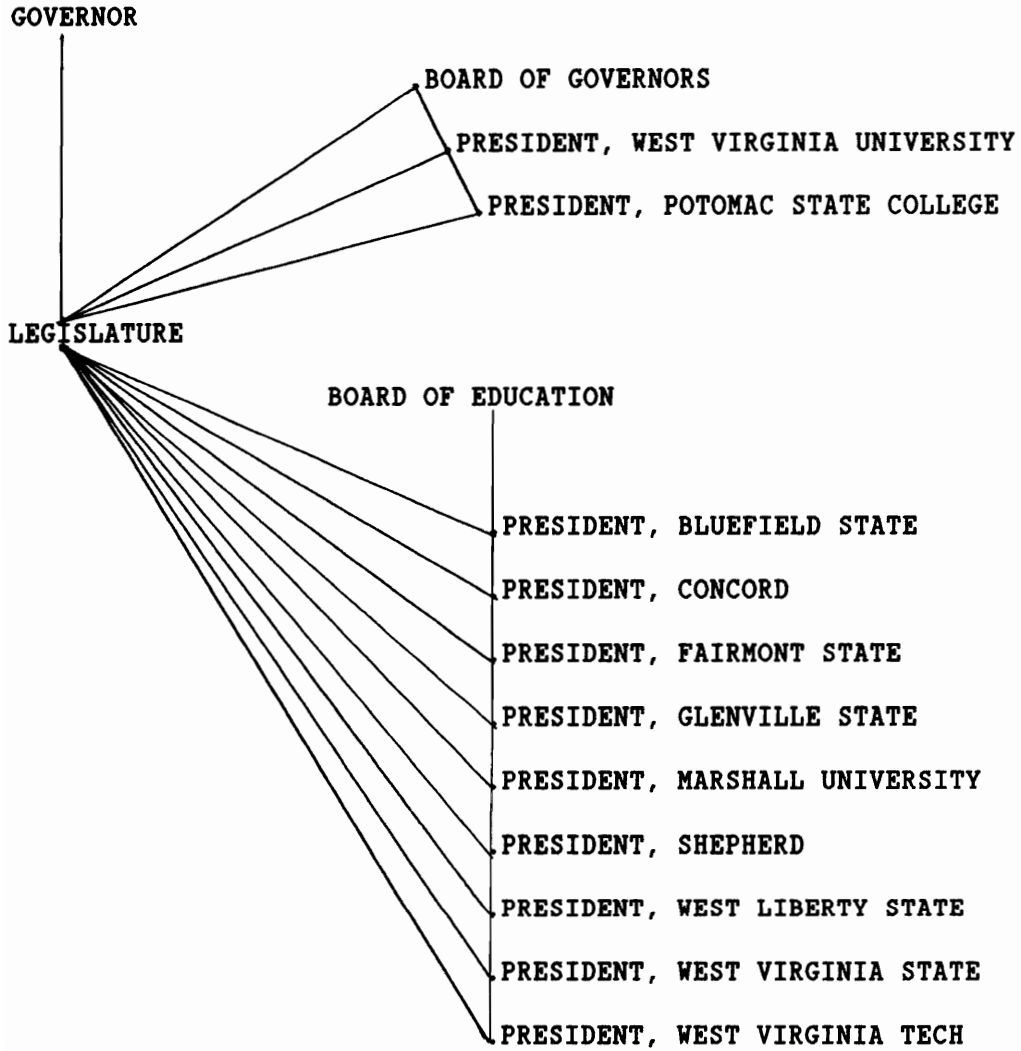


Figure 4: The Governance Structure, Prior to 1969

Governor's office. Then, Governor Moore shared that new budgetary authority with the Board of Regents.

In the arrangement as it evolved from 1969 to 1976, the presidents acceded to the Board financial authority provided that the Board effectively advocated their interests with the Legislature and the Governor. In effect, the presidents traded allegiance to this new centralized authority on financial matters in exchange for the right to decide non-financial policy issues on the campus. This compromise is reflected in the "Emperor's Clause" which has its genesis in the original statute.

The Legislature perceived the Board as an extension of the shared authority of the governor and the legislature for the financing of higher education. The strong personal relationships that existed between select members of the Board and key legislative leaders yielded financial dividends both for the Board and the presidents (29). The Legislature was confident in the leadership of men like John Amos and Okey Patteson.

In return, the Legislature expected the Board to act as a "buffer from institutional lobbying". In fact, the Board was created because the Legislature "was tired of being the whipping boy of higher education" (30). Further, the Legislature expected that the Board would eradicate financial deficiencies in a rational, objective manner. This arrangement was essential only

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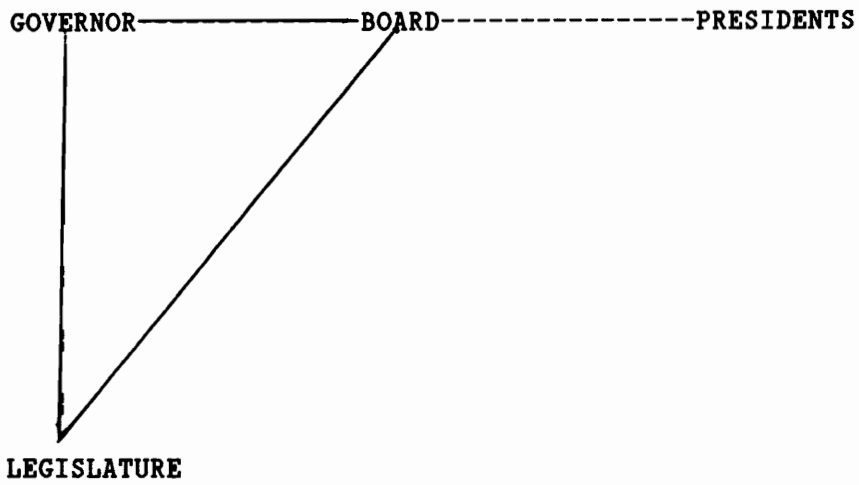


Figure 5: Governance Structure, 1969 - 1976
The Moore Years

until such time as the Board solved the accreditation dilemma that had cast such a pall over the State.

Governor Moore appreciated the role of the legislature in the financing of higher education and the role of the presidents in other policy areas. Yet he believed the people of the State had granted to him wide latitude in the Modern Budget Amendment of 1968. He also was ever cognizant of the tremendous power and influence of his office.

Consequently, Governor Moore saw the Board of Regents as an extension of his executive authority. He delegated to the Board sufficient financial authority and resources to accomplish the State's goals of accreditation for all institutions. He expected the Board he appointed to carry out his administrative philosophy of accountability. He further expected that the Board would recognize him as their governmental benefactor. In his second term, the Governor demanded a subservient response from the Board on high profile political issues (e.g., the Marshall Medical School, the Osteopathic School).

Because the Board acceded to Governor Moore or agreed with him on most of the issues, they were caricatured as the "Puppets of the Governor" (31). Yet by its official actions, the Board balanced allegiance to the Governor with an effective working relationship with legislative leaders. Likewise, the Board enjoyed a close working relationship with a majority of the

presidents. The Board had consistently upheld presidents in their campus-based decisions. The Regents had also rejected the pleas of faculty and students for a greater voice in campus government.

With the change of governors in 1977 began extensive modification of the role of the Board of Regents. For the next eight years, structural alignments would justify a new caricature for the Board. In the Rockefeller Years, the Board became known as the "Proxies of the Legislature" (32) and at other times "the Whipping Boy of the Legislature" (33).

In contrast to his predecessor, Governor Rockefeller perceived the role of the Regents as an executive agency in financial affairs. In other policy areas, he was willing to accede the Board a strong measure of independence. Yet he too expected acquiescence on certain high profile political issues, such as the selection of the site for the West Virginia University stadium.

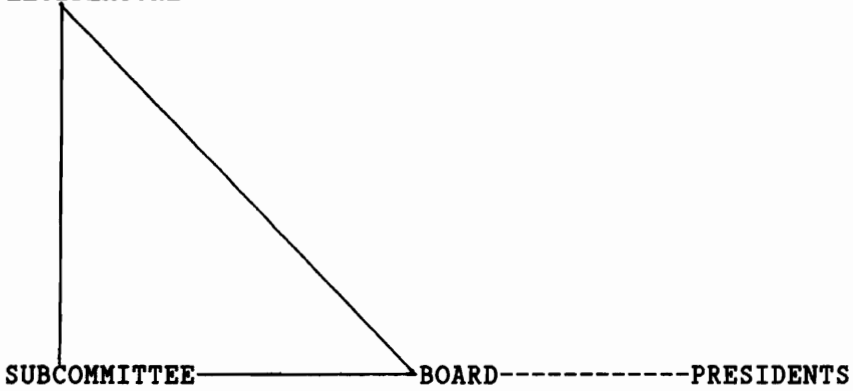
Governor Rockefeller perceived a shared authority for funding of higher education with the Legislature. Yet he also intervened to protect the Board of Regents from legislative interference in administrative rule-making. He did so because of "the unique status of (higher) education in state government" and to prevent an "upset of the proper balance that should be struck

ACCOUNTABILITY. AUTONOMY

GOVERNOR

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LEGISLATURE



ON
HIGHER EDUCATION

Figure 6: Governance Structure, 1977 - 1983
The Rockefeller Years

between public accountability and the political process in state education" (34).

Governor Rockefeller's view of the Board was not shared by the Legislature. From 1976 to 1983, the Legislature moved aggressively to reclaim its historic power, direct influence and control over higher education. This was accomplished not by direct reorganization of the Board of Regents. To have done so would have exposed the Legislature publicly to charges of "playing politics" with higher education. Instead the Legislature's goals were accomplished by restructuring within the Legislature itself.

Interim legislative committees were empowered as legislative coequals with the Board in addressing the needs of higher education. As an internal power center, the subcommittee on higher education asserted the legislature's prerogatives in the decision-making process. As a consequence of this arrangement, the Legislature permitted itself to concentrate on administrative details, rather than basic issues of public policy.

Thus in the Rockefeller Years, the contest for power to direct the Board of Regents focused not on issues of structure, but on the jurisdiction over the review and control of regulations. The Legislature wanted to subject all executive agency regulations to a review and possible veto procedure. It

was Governor Rockefeller and the Supreme Court who checked this movement to "strip the executive of all rule-making authority" (35). As a consequence the Legislature increasingly promulgated administrative regulations through statute. "If you cannot control the players, then the next best thing is to dictate the rules of the game" (36).

Meanwhile the Board moved decisively to claim more control over the financing of higher education. In 1977 the Board captured all of the tuition and registration fee revenue streams for capital construction and in 1981 the Higher Education Resource Funds (HERF) for direct services to students. Thus, the Board subsequently emerged as an equal player in the policy system.

The Legislature wittingly acceded this fiscal control to the Board while maintaining final approval of capital projects and statutory determination of categories for the use of HERF. The short term objective for the Legislature in 1977 was the Board's agreement to build a stadium at West Virginia University and a field house at Marshall University. The long term benefit which accrued to the Legislature was statutory relief of its responsibility for providing such funds, while producing tangible evidence of progress on campuses throughout the state. As a consequence, the Legislature was free to claim responsibility for

politically popular facilities, while asserting that construction was "tax free", quite a "bargain".

This degree of financial authority, coupled with Governor Rockefeller's "hands off" philosophy, tended to legitimize the Board's view of itself as the "independent spokesman for higher education". As legislative monitoring of Board policy making became more critical, the Board's response became more confrontational. The Board demanded that the Legislature fund higher education needs. The Legislature's response was to further abdicate its fiscal responsibility to the students by creation of the Faculty Improvement Fee.

Amidst increased legislative regulation and judicial participation in the administration of higher education, the Board began to micro-manage the campuses. Like the Legislature, the Board's attention focused on operational, rather than strategic, management. A policy hierarchy with a proliferation of decision points and actors developed both within the Board structure and the Board staff. This internal Board reorganization effectively reduced the role of president to that of a minister in a highly centralized political system.

The presidents refused to accept such a role within the policy system. Moreover, by 1983 it was obvious that the Board was faltering as the financial advocate for the Presidents. In

addition, the Board no longer deferred to the presidents in campus matters.

The 1983 legislative session marked a political turning point for presidents within the policy system. The Board had initiated presidential evaluation under cover of a legislative mandate. This process clearly characterized presidents as employees of the Board and, to a lesser degree, the Chancellor. Also, the presidents found themselves as the only advisory council that lacked a voting representative on the Board of Regents. Students, faculty, and classified employees in the system had more direct access to the Regents than campus presidents.

Uncertain of their influence, the Presidents moved to formalize a relationship with the Board. They chose to elect a "president of the presidents" to attend Board meetings. No longer would they rely on the chancellor as their liaison.

The Presidents' relationship with the Board and then Chancellor Robert Ramsey was further strained in 1983 by the forced resignation of Marshall University president, Robert Hayes. In an ostensible corollary development, Chancellor Ramsey resigned. Then, in an unprecedented action, the Board appointed the "president of the presidents", William Simmons, as acting chancellor.

ACCOUNTABILITY.AUTONOMY

GOVERNOR

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LEGISLATURE

PRESIDENTS

classified staff

faculty

students

SUBCOMMITTEE
ON
HIGHER EDUCATION

BOARD

Figure 7: Governance Structure, 1983 - 1984
The Rockefeller Years

In his efforts to improve the Board's relationship with the Legislature, Simmons also provided the leadership to restore the position of the Presidents within the policy system. Through the efforts of Dr. Simmons, the Board of Regents once again formally acceded a shared authority to the Presidents. Together, the Board and the Presidents advocated the financial needs of the system to the Governor and the Legislature. In return for stabilizing the its relationship with the Legislature, the Board affirmed the Presidents' restored stature within the policy system.

All these new understandings were overshadowed by events in the Fall of 1984. Arch Moore won an unprecedented third term as governor. The Board chose Leon Ginsberg as the new chancellor. It was Ginsberg who later caricatured the Board of Regents as the "captive of college presidents" from 1985 to 1989 (37).

Governor Moore's view of the Regents had not changed. He still perceived of the Board as an extension of his executive authority. The Governor expected executive agencies to accede to him, if not personally, then to the office of governor.

Two conditions within the policy environment presented the Board of Regents with competing loyalties. First, the Board of Regents in 1985 consisted entirely of Rockefeller appointees.

Their expectations for the Board of Regents clashed with those of Governor Moore.

This situation Governor Moore could deal with through appointments of persons he trusted. Only four vacancies existed, however, as of July 1985. In 1976, this would have been nearly fifty percent of the membership. In 1985, however, it represented only one-third of voting positions.

Realizing the time constraints of the appointment process, Moore turned to the second situation, which presented a more immediate challenge to the balance of power within the policy system. Triangular relationships had been built among the Board, legislative committees, the Presidents and other campus clientele groups. According to Moore, "when that happened, the Board had gone to heck in a handbag". It was a condition that must "be rinsed out" (38).

Governor Moore attempted to break the triangular alliance at its weakest link: the Presidents. His strategy was successful for two reasons. First, the Presidents used the Governor's position to reestablish a relationship with the Board which Chancellor Ginsberg had threatened. Second, the Board's linkage to the Legislature, or Ginsberg's linkage to the Legislature had been weakened during the off- year elections.

ACCOUNTABILITY AUTONOMY

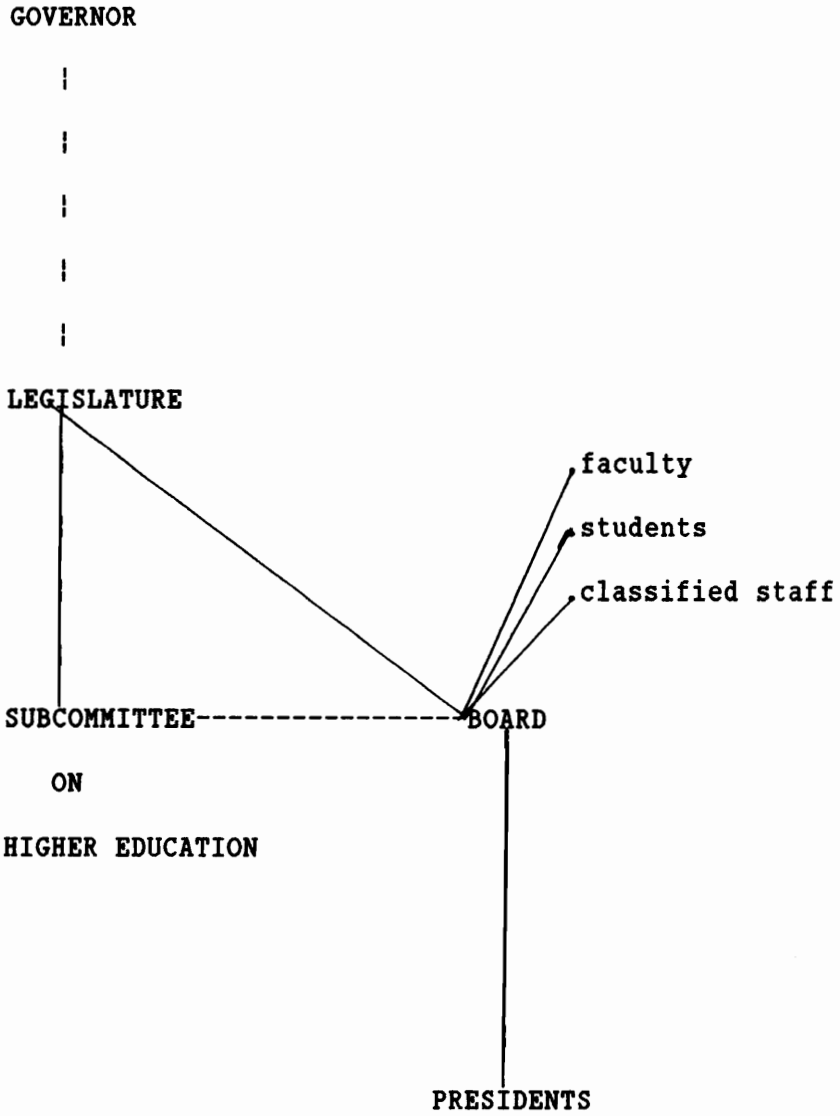


Figure 8: Governance Structure, 1984 - 1986
The Terminal Years

Thus, the Governor reasserted himself as a major, if not dominant player, in policy making. The Presidents were once again in control of the chancellor's office. Although the Legislature lamented the loss of its advocate, Ginsberg, it agreed to continue the Board of Regents, but only until 1988.

Thus by 1986 many policymakers began to lose faith in the process of structural modification as a means of achieving political balance within the system. Finessing jurisdictional claims behind the closed doors of state government gave way to open, unbridled competition. The unrefined use of raw political power was unleashed. The struggle for control of higher education became very public. Policymakers were embarrassed by the overt displays of political self-interest over the public interest.

As a result, it became necessary to explain, to confess, how politics had tainted the administration of higher education. Obviously, a sacrifice would be necessary to purify the process. Thus, the time-honored ritual of restructuring was invoked.

In Retrospect: The Ritual of Restructuring

The rhetorical use of "ideal-as-reality" serves another, (more subtle) purpose -- to draw a mask of rationality over the inescapably "political" decision ... (39).

Because the realities of power (and politics) are so widely unappreciated, the academic community tends to become preoccupied with structure (40).

The ritual of restructuring began with public confession by the primary stakeholders. Indeed, politics had been permitted to penetrate, even dominate policymaking in higher education. The weak link was obviously the structure. After all, it is the purpose of the structure, in this case the Board of Regents, to prevent such intrusion.

Structure is a bureaucratic device. It tells how the system should work under ideal conditions. Thus, a coalition builds for a study of how to restructure higher education governance to fit the existing conditions more ideally. Such a proposal veils the process in rationality, in a search for a bureaucratic or administrative solution for political conflict and dysfunction.

In an effort further to reassure their constituencies, especially the academic community, the politicians and those tainted with politics, agreed to remove themselves from direct contact with the new study. A blue ribbon commission of out-of-state, prestigious professionals would be employed. Furthermore, a non-partisan, philanthropic foundation would pay for the study. Restructuring became further draped with an apolitical cloak.

Thus, the ceremonial rites began. There was great public fanfare and support for the study. Extensive effort and time

were invested in assuring widespread participation in the research. Anticipation built for the unveiling of the professional assessment and recommendations. Meanwhile, in the halls of state government, the political stakeholders were at work preparing to receive the report.

By 1987 Governor Moore had appointed a majority of the Board members, persons he could trust. This was just in case the Board of Regents survived; although this was not the Governor's preference. The Board of Regents was tainted with legislative appointments of vested interests. The only way to "rinse that out" would be the termination of the Board.

If the decision was made to restructure higher education governance, then Governor Moore would achieve his goal of "returning to square one". He would relive the 1969 experience. If he won the general election in 1988, he was confident he would play a major role in the restructuring process. In any event, as governor he would control the appointment of the new board.

During those last critical months, Chancellor Simmons understood that his role was "to oversee either the continuation of the Board or the transition to the new structure". In either case, it was his responsibility as the "president of the presidents" to prepare the Board for the upcoming legislative debate. By 1988, the Presidents' desires for the deregulation of decision-making and broadening of campus authority had been

ACCOUNTABILITY AUTONOMY

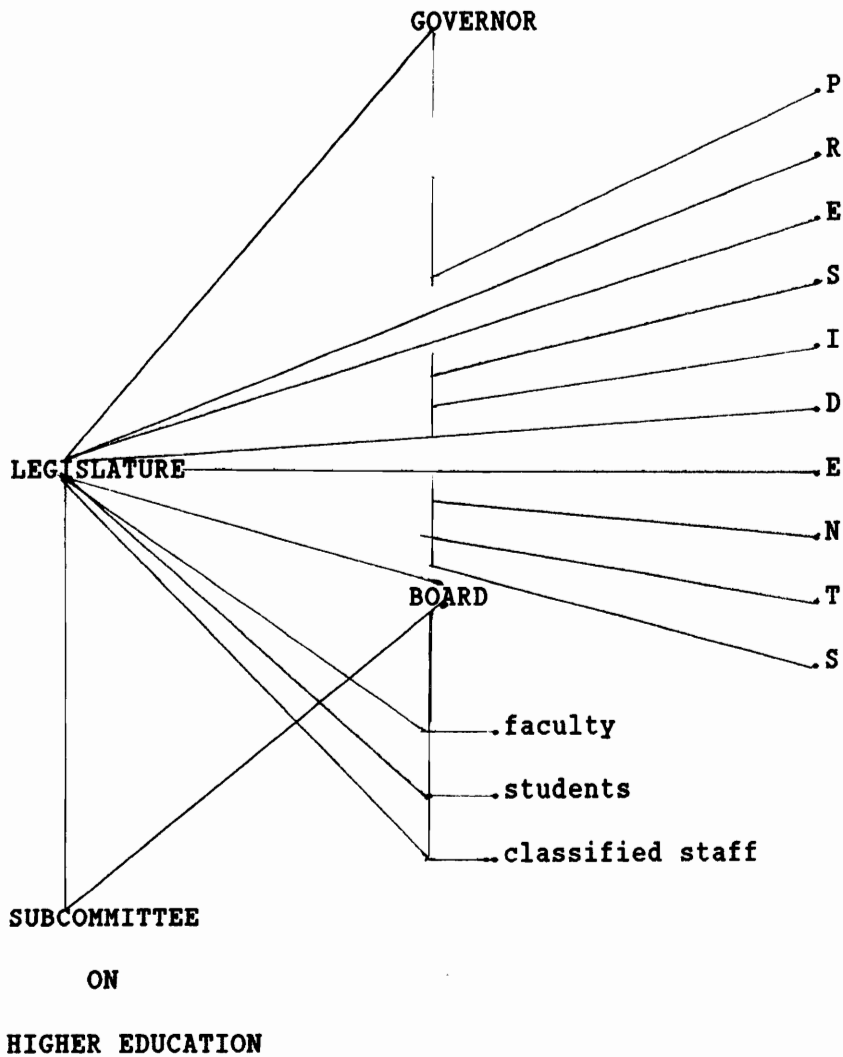


Figure 9: Governance Structure, 1986 - 1989
The Terminal Years

written into law. Regardless of the structural changes enacted in the future, the Presidents now had stronger legal basis for shared authority with the Board.

Except for this one point of consensus on deregulation, the Presidents were clearly fragmented in their support for the Board of Regents. Without question, the fate of higher education and that of each institution did not rest, at this point in time, with the Board of Regents. Presidents turned their attention to "positioning" their institutions and themselves for the future as they awaited the study report.

From 1986, the Legislature had made it clear that they preferred the abolition of the Board. They continued the Board only because they could not agree on a politically acceptable alternative. The study would provide such options.

Thus as submission of the report neared, the enduring elements of the policy system had decided that elimination of the Board was either in their best interest, or it could be (41). At least they were prepared, if not willing, to accept such a recommendation. Their hands had been washed clean. The fate of the Board of Regents now rested with the out-of-state experts.

Besides, "the people wanted a change". The Public wanted change. The Governor, the Legislature, and the Presidents would merely oversee restructuring on behalf of the people (42).

The anticipation and expectation mounted as submission of the report was repeatedly delayed. Finally the report was delivered to the new governor, Gaston Caperton. Fortunately, he had run on a platform of reorganization and reform in all of state government. He was most receptive to the restructuring of higher education (43).

The Governor proposed the enactment of the Study Report in its entirety. Although the continuation of the Board of Regents was recommended, it became clear that amid so many new beginnings, the past was a liability. As in 1969, a new structure was needed, with no linkages to the old.

Like so many of its ancestors, its progenitors before it, the Board of Regents was sacrificed. The ceremonial rite was simple, efficacious, and ageless. The Board of Regents, an abstraction without constituencies or political proponents, was quietly written out of the State Code.

In Retrospect: The Wherefore of Restructuring

Education in all forms in West Virginia has always been a valuable political tool. Excellence in education was never the polestar that guided so many of the decisions.

Arch A. Moore, Jr.

Whatever decisions were made it was always the political reasons or basis that prevailed, as opposed to the educational ones.

Harry Heflin

Even a bi-partisan board doesn't change the fact that some very difficult decisions had to be made, and those decisions, because of the controversy, were thrust into the political arena.

John D. Rockefeller, IV

There comes a time or times in government and in the life of a government that the POLITICS OF CONSIDERATION becomes the most important player. Government in West Virginia is the vital economic force in the state, and it is today more so than at any other time. As a consequence, decisions are not made on the basis of moving a state forward, but are based, by and large, on the political significance of an event and its impact.

Arch A. Moore, Jr.

Figure 10: The Wherefore of Restructuring

IN MEMORIAM
THE WEST VIRGINIA BOARD OF REGENTS
A Political Epitaph

The governance structure of public higher education in the great State of West VIRGINIA is what the GOVERNOR, the LEGISLATURE, the PRESIDENTS, and their creation(s), the BOARD(S) perceive it to be.

In its finest hours, STRUCTURING is a POLITICAL COALITION, a PARTNERSHIP, dedicated to the PUBLIC INTEREST, striving for QUALITY, ACCESS, and EXCELLENCE.

In its darkest days, STRUCTURE becomes a POLITICAL TARGET, an object of CONTROL, a source of POLITICAL RIVALRY, COMPETITION.

RESTRUCTURING is a RITUAL within a highly INDIVIDUALISTIC POLITICAL CULTURE which reveres HIGHER EDUCATION as an INSTRUMENT OF GOVERNMENT.

RESTRUCTURING is invoked when one or more of the PARTNERS is SHUNNED or SHUNTED and, as a result, PUBLICLY REVEALS that STRUCTURING is a POLITICAL PROCESS.

Then, STRUCTURE must be SACRIFICED to restore trust, to revive public confidence in those entrusted with GOVERNANCE.

RESTRUCTURING produces a new GOVERNANCE STRUCTURE and reestablishes a process of STRUCTURING.

Figure 11: A Political Epitaph

Endnotes

1. Shakespeare, Julius Caesar.
2. Personal interviews James Rowley (12/6/91), William Simmons (12/10/91) and William Watson (12/6/91). Rowley particularly cited the Board of Regents' movement on a number of statewide projects that only the Board could have effected quickly and effectively for all institutions (i.e., satellite network, computer technology, etc.)
3. Interview Arch A. Moore, Jr. (11/10/91) and Personal Correspondence John D. Rockefeller, IV (1/10/92). Both Governors cited the creation and continued investment in the state scholarship fund as significant accomplishments of their respective administrations.
4. West Virginia Board of Regents, Statistical Profiles, 1984-85 p. 3, and State College and University Systems, Statistical Profile 1989-90, p. 3.
5. Personal Interview William Watson (12/6/91) and James Rowley (12/6/91). Watson was particularly proud of the emphasis that had been placed on quality and integrity of higher education. Rowley cited the Board's attention to program review and its commitment to better teaching.
6. West Virginia Board of Regents, Statistical Profile, 1974-75, p. 17 and State College and University Systems, Statistical Profile 1989-90, p.107. President James Rowley of the College of Graduate Studies cited this specific accomplishment of the Board of Regents.
7. Personal interviews with James Butcher (1/9/92), Edward Grose (11/12/91), James Rowley (12/6/91), and James Schneider (11/8/91).
8. Personal interview, James Schneider (11/8/91).
9. Personal Interviews, Lewis McManus (12/10/91), William Simmons (12/10/91), Verl Snyder (11/14/91) and James Rowley (12/6/91) made this assessment.
10. Seidman and Gilmour (1986, p 3-4).

11. Jackameit (1970) traced the evolution of governance to 1969. His data indicate that a revision in the structure of higher education governance at the state level occurred on average every 12 years, from 1900 to 1989. Major changes in the structure with regard to allocation of function were made less frequently, about every 15 years. Yet the division of responsibilities between the West Virginia University Board of Governors and the State Board of Education endured from 1927 to 1969.
12. Personal interview, William Simmons (12/10/91).
13. Personal interviews: Lewis McManus (12/10/91), James Rowley (12/6/91), John Rockefeller (1/10/92) and James Schneider (11/8/91).
14. Personal interviews, Harry Heflin (12/16/91) and James Schneider (11/8/91) cited this motivation for reorganization.
15. Personal interview with Arch Moore. Cage (1989, April 19) reported on Caperton's "sweeping changes in education".
16. Both Moore and Rowley cited this advantage of reorganization.
17. Personal interview with James Schneider (November 8, 1991). In 1989, only 32% of the total operating and capital revenue was from the state general fund, documented in the State College and University Statistical Profiles (1989-90, pp. 99 and 107).
18. Both McManus and Moler cited the importance of legislative oversight.
19. West Virginia Board of Regents, Statistical Profile 1974-75, p. 17.
20. supra note 17, p. 107.
21. Seidman and Gilmour (1986, pp. 4-6).
22. Refer to Chapters 2 and 6.
23. Refer to Chapter 5.
24. Seidman and Gilmour (1986, p. 6).

25. Refer to Chapters 2 and 6.
26. Personal interview with Lewis McManus (12/10/91).
27. Pressman and Wildavsky (1984, p. 216).
28. Refer to Chapter 3 for development of the accountability/autonomy tension.
29. Personal Interview, Lewis McManus (12/10/91).
30. Personal interview, William Watson (12/6/91). Watson observed that because the Legislature was unable to fund all of the many needs of higher education and because the presidents lobbied the Legislature, it was the Legislature who bore the brunt of the criticism.
31. Charleston Gazette (1974, August), Political Cartoon.
32. Board Minutes (1985, May 7, p. 7-8).
33. Wilson (1989, July 2, p. 1C).
34. O'Dell and Dunn (1986, p. 174).
35. *ibid.*
36. Seidman and Gilmour (1986, p. 49).
37. Ginsberg (1986, p. 57).
38. Personal interview, Arch A. Moore.
39. Lunsford (1968, p. 102).
40. Hines and Hartmark (1980, p. 35).
41. Interview, James Rowley (12/6/91). "Knowledgeable people knew in 1989 that it was time for a change. Yet it was not clear what change was needed".
42. Interviews with Simmons, Grose, Rowley, and Watson. There was a loss of confidence in the Board among the citizenry. It was a "board born in controversy"; "it made controversial decisions". There "developed a perception that changes were needed".

43. Interview with James Rowley (12/6/91). "Gaston Caperton was very supportive".

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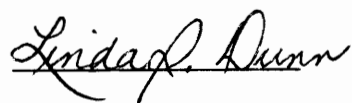
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- 1976 - 1988 **Shepherd College** Shepherdstown, WV
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Acting Academic Dean (1983-1984 & 1981-1982)
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Director of Continuing Education &
Off-Campus Education (1978-1981)
Project Director, Title I-HEA (1976-1978)
- 1971 - 1976 **WV Northern Community College** Wheeling, WV
- Assistant to the President (1974-1976)
Director of the Division of Special
Programs (1973-1975)
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- 1968 - 1969 **Board of Education** Charles Town, WV
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EDUCATION

- 1988 - 1992 **Ed.D. Education Administration** Virginia Tech
- 1969 - 1971 **M. S. Mathematics** West Virginia University
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