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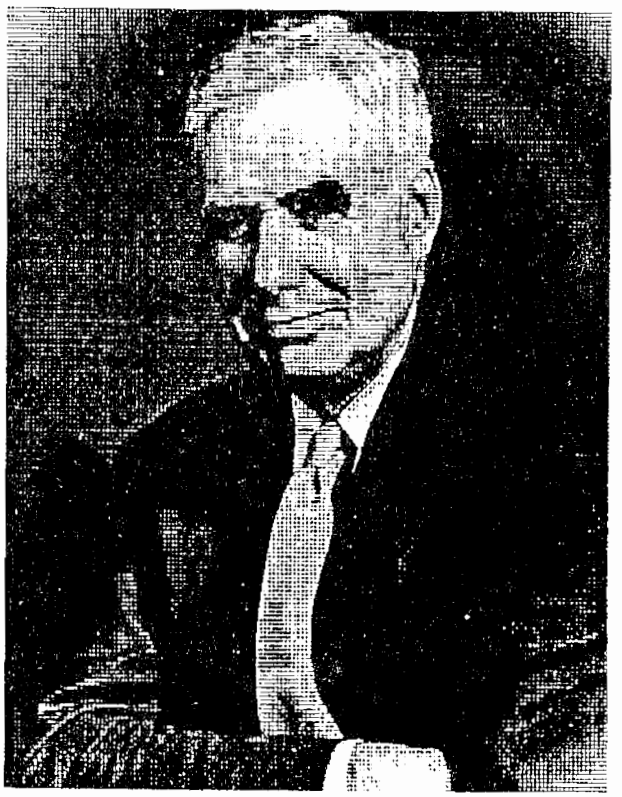
The Preparation of the Standard State Soil Conservation Districts Law

An Interview with Philip M. Glick



M.L. Wilson

Assistant Secretary of Agriculture
1934 -1937
Under Secretary of Agriculture
1937-1940

THE PREPARATION

of the

STANDARD STATE SOIL CONSERVATION DISTRICTS LAW:

An Interview with Philip M. Glick

U.S. Department of Agriculture
Soil Conservation Service
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INTRODUCTION

During several sessions in May and June 1983, Philip M. Glick explained to me the rationale for the various provisions of the Standard State Soil Conservation Districts Law. No one other than Glick knows the law in such detail, for he was there at the creation. As a young lawyer in the Department of Agriculture, he was called in by M. L. (Milburn Lincoln) Wilson, Assistant Secretary of Agriculture, to work on a new method whereby the Federal government might persuade and assist landowners, primarily farmers and ranchers, to utilize soil conserving methods. As Wilson and Glick discussed matters, the Soil Conservation Service was being transformed from a fairly small operation, restricted to demonstration projects, to a nationwide program under the Soil Conservation Act of April 27, 1935. Wilson provided the ideas on how local people should be involved and help direct this new cooperative activity. Glick provided the legal research and the transformation of ideas into a legal framework for cooperation between soil conservation districts and state and Federal governments. After President Franklin D. Roosevelt sent the proposed standard state statute to the state governors advising legislative authorization, the conservation districts became the conduit for assistance in soil and water conservation from the Department of Agriculture to farmers and ranchers.

Philip Glick has revised and edited the following transcripts of these conversations, which took place at his home in Chevy Chase, Maryland. His explanations are invaluable for an understanding of the history of the soil and water conservation movement. But we have another reason for making them widely available in this form. The discussion of the framing of the standard law can instruct district directors and supervisors, not only in the responsibilities of their positions, but also in the vast potential that the state conservation district laws bestow to deal effectively with conservation problems and issues. In this manner, we hope the interviews will serve to further the effectiveness and good work of the nation's soil conservation districts.

Douglas Helms
National Historian
Soil Conservation Service
Washington, D.C.

PHILIP MILTON GLICK

Philip M. Glick was born in Kiev, Russia, on December 9, 1905. After the family immigrated to Chicago, Illinois, Glick graduated from Crane Junior College, 1924-1926; the University of Chicago, cum laude, 1928; and also the University of Chicago Law School, cum laude, 1930. He married Rose Deborah Rosenfield on May 13, 1933. In 1933, he began his career with the Federal Government as General Counsel of the Subsistence Homesteads Corporation, Department of the Interior. From 1933 to 1942 he was Chief, Land Policy Division, and later, Assistant Solicitor, Office of the Solicitor, U.S. Department of Agriculture. Other jobs in the Federal Government included Solicitor (1942-1944); later Deputy Director of the War Relocation Authority (1945-1946); General Counsel of the Federal Public Housing Authority (1946-1948); General Counsel of the Institute of Inter-American Affairs (1948-1953); and Legal Counsel of the Technical Cooperation Administration, U.S. Department of State (1951-1953).

Glick was Visiting Professor of Economic Development and Cultural Change at the University of Chicago, 1953-1955, and thereafter entered private practice as a partner in the law firm of Dorfman & Glick, 1955-1967. Later he served as Legal Advisor of the Federal Water Resources Council, 1967-1969, and Legal Counsel of the National Water Commission, 1969-1973. He lives in Chevy Chase, Maryland.

May 12, 1983

HELMS: Mr. Glick, as we start out, could you give us your date and place of birth, where you grew up, something about your education, where you went to college, degrees.

GLICK: I was born in a village just outside of Kiev, in Russia. My parents brought me to the United States before I was seven years old. I discovered that when there is a change in residence and in environment so shortly after you are born, you forget very quickly many of the things that otherwise you would carry forward from your earliest years. I don't, for example, remember one single word of Russian or the sound of the Russian language. I must have heard it often enough so that I would have learned the language as a child of almost 7 would normally have learned the language spoken where he lived. Often, when I've tried to look back into my early life, I come up against that sudden solid blank wall. It's been a great obstacle to my development of memory.

Well, my parents brought me to Chicago and I registered in the elementary school in Chicago, the Thomas Jefferson Elementary School. Because I was already 7 by the time I entered first grade, I was always about a year behind my classmates and it really wasn't until I got into high school that I caught up with that class. After I graduated from the Jefferson Elementary School, I went to the William McKinley High School. I remember, people on the faculty and student body at McKinley used to like to refer to it as the high school that was typical of the ghetto in Chicago. It was a melting pot if ever there was one. Most of the European nations had former citizens in William McKinley High School. William McKinley High School was on the west side of Chicago and it drew from all those groups. It made the William McKinley High School an exceedingly interesting high school to go to. I wasn't aware of any of this at the time, except occasionally. I remember one high school commencement class, not my own, but one I attended. A member of the class made what I thought then was the most brilliant and eloquent speech I had ever heard in my life. This was being delivered by a senior in high school. He closed with, "My McKinley, the best school in the world." That was his peroration. At the beginning he described with great affection and respect the camaraderie between faculty and students, the eagerness to learn that most of the students showed, and that even students that came from families that weren't bookish obtained from their fellow students, a stimulus to study and a respect for the educational system and for what education can do to the individual and for society.

When I graduated from William McKinley High School, I wanted very much to go to the University of Chicago. I had grown up knowing that I wanted to go to the University of Chicago and that I wanted to be a lawyer. I'm guessing that both attitudes were due to what I kept hearing from family friends and visitors to the house. They would frequently, after talking to the children in the family for awhile, say, "That boy is going to be a lawyer." I think I've al-

ways had a certain verbal facility, a certain verbal gift. This is what people assume makes a good lawyer, so they told me I was going to be a lawyer. I accepted that; that seemed to me to be a natural thing. Furthermore, the more I learned about lawyers and law and the United States, the greater respect I had for the profession. So I knew even as a child what I was going to do. I also found when I graduated from high school that Chicago charged $75 a quarter as tuition. The University ran a four quarter year. That meant that it was going to cost me $225 a year for just tuition, not counting fees and books. At that time it seemed a tremendous sum of money.

As a matter of fact, my parents told me they couldn't afford to send me to the University of Chicago. The city of Chicago had a free two year college that didn't award degrees. It was called Crane Junior College. I went to Crane. I do remember, I think it's worth mentioning, that during that summer before the fall semester opened at Crane, I walked around the campus at the University of Chicago. I always did like walking around that campus. I still think the Quadrangles are beautiful and have an academic feel. It feels and looks like a college. I walked around the campus looking at the buildings and the tears were rolling down my cheeks because this is where I wanted to go and register and work. And I couldn't, I couldn't go. I went to Crane Junior College instead. And as a matter of fact, Crane Junior College was a very good college. They had some excellent teachers. It was nowhere near the quality of education offered at the University of Chicago, but it was very good, very adequate. When I graduated from Crane Junior College and wanted to matriculate in the University of Chicago, for example, they required only that I--and this they required of every single freshman, way back then--that I register for a course in English composition. They said every student has to be able to write. He has to know a sentence. So I took that course.

I was infatuated with my first year at the University of Chicago. I think that was and has remained the happiest single year of my life. I took chiefly courses in philosophy and sociology. I decided then that I had a great dilemma, a great problem. Should I go on with my plan to study law or go into philosophy? I remember that. Am I going into too much detail on things that are not relevant?

HELMS: Just go ahead, you're doing fine.

GLICK: I remember that on one occasion I went up to the library to get ready for class. We were doing some collateral reading in a book titled An Introduction to Philosophy, which was the philosophy course that I was then taking. I began to read in the book and I had about 45 minutes before class-time. I started to read and I found the book so fascinating that I forgot about the passage of time. I forgot about where I was. I just kept reading that book, An Introduction to Philosophy. It was translated from the German. I kept on and on and on. When I came to, it was almost two

o'clock and class had begun at one. I think I had begun reading sometime between eleven thirty and twelve. I realized that it was now too late; I couldn't get to class on time. But I mention this as indicative of the kind of teaching, the kind of stimulus, that one got at the University of Chicago and why I said that that one year was really the happiest single year that I had.

We had a course in sociology and the text book had an enormously ambitious title. It was called An Introduction to the Science of Sociology. Now, an introductory book in chemistry doesn't say an introduction to the science of chemistry, or in physics, an introduction to the science of physics. They took it for granted that everybody knew they were a science. Sociology was then still struggling to be recognized as not just a speculative discipline but as a science that was attempting to develop actual predictability and an awareness of what could be called scientific laws about social development and the nature of a human society. I remember, one doctrine that we were introduced to was that human beings living together go through a four-stage development. There's conflict at first. Differences of background, differences of attitudes, differences of interests produce conflicts within this group trying to live together. Out of the conflict grows competition. That is, there's a softening of impulses toward aggression. The situation ceases to be a conflict situation, but there is still competition, a product of the earlier conflict and an awareness that we were competing for teachers, competing for grades, competing for recognition, for status, et-

cetera, etcetera. So conflict became competition. As the competition continued and as people learned more about each other, they would enter the third stage, which was accommodation. It almost really explains itself in terms of what I have already said. And from that accommodation, if the process continues, without violent disruptions from the outside, the final stage is assimilation. The differing cultures and attitudes, even the differing languages come into an assimilationist process which produces not a homogeneous society, but a society in which all the varying elements can play their part and live together in peace and harmony. Even that, of course, we all now recognize as a considerably idealized picture of what actually happens.

Furthermore, all this is more true of American society than it is of many other societies. Within the United States it's been national policy to promote accommodation and assimilation. The assimilation phase of course, has always been resisted. The various religious groups were dreadfully afraid that the process of assimilation would wean their children away from their ancestral religion. My father was convinced that the YMCA existed in Chicago for the sole purpose of converting his four sons to Christianity. That part of assimilation he very, very strongly resisted. We were forbidden ever to go to a YMCA and therefore, I never was able to learn to swim as a boy. I was 42 years old when I finally decided that I was going to satisfy this childhood desire and I was going to learn to swim. And I went to the YMCA and took private lessons and

have learned to swim. I still swim three times a week.

I graduated from the University of Chicago, and got very good grades. My degree was awarded cum laude. Then I entered the University of Chicago Law School. I had overcome my hesitancy over the choice between law and philosophy for a variety of reasons that really wouldn't be sufficiently relevant to be worth explaining here. But I do remember one of the things that made it exceedingly difficult for me to make, to stick to my original decision. And that was this. I loved the courses in philosophy. I've already told you how I reacted to the book on the introduction to philosophy. I wrote a paper at one time on the philosophy of Kant, Berkeley, Hegel. This was the period of Romantic Idealism in philosophy coming primarily out of Germany and stemming largely from Immanuel Kant and then going into the post-Kantian idealists. I found that fascinating. This was part of what I was reading that lunch hour in the library. My instructor, Edwin Arthur Burtt, now deceased, an excellent teacher in philosophy, wrote across the top of my paper, "Remarkable mastery of this difficult material. Be sure to go ahead in philosophy." Something I've remembered word for word, because it made such a tremendous emotional impact on me, to read this across the top of my paper. So I had a real dilemma.

I went to see Prof. T.V. Smith, who was then professor of philosophy at Chicago, with my problem. We talked it out. He said, "You are going to find that teaching philosophy in the universities in the United States, will be a very, very difficult row for you to hoe. You are Jewish. Philosophy is the closest to divinity studies of any of the academic disciplines." You remember, of course, this was in the 1920s. He said, "You are going to find advancement difficult. You are going to find it difficult to get a good post in a good philosophy faculty, but it can be done. If you are determined, go ahead and see what happens. But if you were to choose some other discipline, you would find it vastly easier to handle, more rewarding, more promising." Then he suggested this. "You've told me your dilemma is between philosophy and law. Law has a great deal of philosophy in it. And philosophy is very much interested in the development and role of law in human thinking and in human society. Why don't you try one, the first year of law school, as a sort of experiment. If at the end of the year you're happy with law, go ahead and be a lawyer. If you are not, everything you've studied in that first year of law will be relevant for a PhD. in philosophy, and usable as such. In fact, you can study sovereignty as a philosophic principle. You can study jurisprudence as philosophic principles. You won't have wasted an hour." I thought that was a brilliant idea. Furthermore, it resolved the dilemma in the sense that I knew what to do tomorrow, register in a law school. So I did.

By the end of the first year in law school, I realized that I was going to be able to really draw on both fields. I had no dilemma. I graduated from the University of Chicago Law School. I then went into private practice for three

years in Chicago, and then came to the New Deal. In 1933, the New Deal particularly wanted to recruit lawyers and engineers, especially for the Federal Emergency Administration of Public Works, which came to be called the Public Works Administration. Friends of mine were already in Washington, already working in the Public Works Administration. I received a telegram giving me a date by which to report and offering me a salary of $4,600 a year, which was much, much more than I was then earning as a young lawyer in a large law firm in Chicago. I had no problem at all. During the previous presidential campaign I had been much impressed by Walter Lippmann's statement that Franklin Roosevelt was merely "an amiable young man who would like to be president." When I got the telegram of invitation in about September, we all knew that Roosevelt was a different kind of man than Lippmann's description. Walter Lippmann later retracted the description, and the New Deal sounded immensely attractive.

So I came to Washington to work in the Public Works Administration. I hadn't been there more than a month when some of my friends asked me whether I had met M.L. Wilson. He was director of the Federal Subsistence Homesteads Corporation in the Department of the Interior. Of course, the Public Works Administration was almost a part of Interior. They said that he was an exceedingly intelligent, able, attractive administrator, a professor of agricultural economics at Montana State University at Bozeman. I suppose it was the Agricultural A & M College at that time. I went to see M.L. Wilson, ostensibly to talk to him about some of the public works problems that I was at work on. I was enormously taken with the man. He was a solid, thoroughly muscled man. He was the first county agent in Montana as a young man. He looked like a Montana boulder and talked very much like that too. I then learned that there was a vacancy on the legal staff of the Federal Subsistence Homesteads Corporation. I applied for it.

Those were fluid years in the New Deal. You could transfer from one program to another with the greatest of ease. All you had to do was get the consent of the heads of the two departments. When it came to a lawyer way down in the ranks, the heads didn't know anything about them. There wasn't much difficulty about that. Well, M.L. Wilson asked me to come over and join the legal staff of the Federal Subsistence Homesteads Corporation.

He talked with a gentleness, and a humanity, and was explaining that a great many people were underemployed, and therefore had a lot of free time, and were underpaid. Now, he said, "If he could have a one-acre homestead in the country not far from the city, the man could commute. He could work in the city. At the same time, on that one acre, he could have a cow. He could have some chickens. He could raise his own vegetables. He could raise a great deal of his own food." And so this subsistence homestead, which would have such small acreage, less than an acre he argued, a half acre, would be enough for an average family of six to raise a great

deal of the supplemental food they would need. Milk and eggs and vegetables and chickens. What he wanted was to run a program in which the Federal government would help states and localities establish small subsistence homesteads.

This sounded very exciting. It sounded much more important than reviewing applications for loans and grants to build water works and sewage facilities in cities and towns all over the United States. And I liked M.L. I was nowhere near approaching Harold Ickes, who was the Administrator of Public Works. The whole atmosphere sounded awfully good to me and I did transfer. My first real job in the government was in the Federal Subsistence Homesteads Corporation. Within about a year I became general counsel of the corporation. But that sounds much more than it was. We had a total legal staff of three. I had two lawyers on my staff. Since the Corporation was organized as an independent agency reporting directly to the Secretary of the Interior, my title could be general counsel rather than assistant solicitor of the Interior Department, which is otherwise the title assigned to new young lawyers in the Department of Interior at that time.

But I had met M.L. Wilson, and this was to turn out to be one of the seminal events in my life. Well, so much for the educational background.

HELMS: While you were at the Federal Subsistence Homesteads, could you describe your work and maybe some of the climate of the time. The Resettlement Administration eventually became fairly controversial.

GLICK: Yes. One of M.L. Wilson's close friends was an economist by the name of Ralph Borsodi, who was both an economist and an educator. He had built a subsistence homestead for himself in New York State in order to demonstrate the effectiveness of a subsistence homestead. He had had a great deal of influence on M.L. M.L. knew about Borsodi and his works before he ever came to Washington himself. M.L. was a great decentralist. This will come out with great power and strength as soon as we get to talking about soil conservation districts.

M.L. believed that in as large and diverse a nation as the United States, and with a governmental structure that represented a federation of 48 sovereign, independent states, trying to operate nationwide programs wholly out of Washington was a mistake. It couldn't be effective, or would be effective only to the extent that major policy-making and major daily administration was delegated, under supervision, to regional and state and local levels.

And so, the first problem that Frank Fritts, who was then General Counsel of the Subsistence Homesteads Division and I, as then principal legal assistant, were given, was to develop a legal structure that would facilitate delegation of authority to the individual subsistence homesteads projects that we tried to establish. These projects were going to be operating with 100 percent Federal money. Therefore, the Federal Government had to be sure that it had control

over the money, at least to the extent that if it saw any gross inefficiency, or certainly any threat of corruption and abuse, theft, or waste of money and resources to any substantial extent; it could step in. It wanted to retain such potentially complete control, complete where necessary, less complete where possible. At the same time, it wanted to delegate.

M.L. believed in this profoundly. He said, "You cannot fool the people to whom you say you are delegating authority, if you don't in fact delegate authority. If they are not really helping make and carry out policy, if they are not even free to make mistakes, because they think that something is the right thing to do whether Washington thinks so or not, then you won't actually have delegated authority. The pretense will do more harm than good. The newspapers will discover they have not really delegated authority to the Subsistence Homesteads. This is just a lot of talk and palaver. Washington is running the entire show. The homesteaders will discover this. The people running the Subsistence Homestead Project will discover this. You will not only not have achieved delegation, but you will have introduced sources of conflict into the project. The projects will fail."

M.L. was convinced of this. In part, this is what Ralph Borsodi and other decentralists told him. But, more important, this was the essence of M.L.'s philosophy. As a director of agricultural extension work in Montana, he had known and taught this kind of principle. The county agent must work with the farmer and teach him. But he must remember whose farm it is, remember who has to be the real boss in the situation.

We developed a very interesting type of administrative structure--interesting but, of course, not a wholly new idea. At that time the Federal Subsistence Homesteads program was being run by the Subsistence Homesteads Division of the Interior Department. Mr. Fritts and I decided that we should incorporate the division and organize it under the laws of a state. We chose Delaware, which has a very broad incorporation statute. A great many private corporations in the United States are organized under the laws of Delaware. It's the favorite incorporation state as a matter of fact.

We organized a parent corporation. In the charter of the corporation, we gave it explicit authority to organize subsidiary corporations in any state of the Union under the laws of the state. But all of the stock of each subsidiary corporation was to be given to the parent Federal Subsistence Homesteads Corporation as security for a loan that the parent corporation would make to the individual subsistence homesteads corporation for the purchase of land, the building of houses, and the operation of a subsistence homestead project. Therefore, we now had a federal corporation that was organized in Delaware, reporting to the State of Delaware, and giving annual reports, etcetera. We had a number of subsistence homestead projects. I've forgotten now in how many states. At least close to two dozen, I think. Every one of those projects was organized as a local subsistence homestead community.

There was an Alabama Subsistence Homesteads Corporation, a New York Subsistence Homesteads Corporation, and so on, in every state where we set up a project.

First we organized that local corporation. We owned the stock. The Federal, parent corporation owned all of the stock in the local corporation. The Federal Division of Subsistence Homesteads talked to the state extension service and to the people whom it had brought in as public representatives without salary to advise and help organize such a project. People were, in those days of fighting the depression, eager to come in and take unsalaried jobs to just give whatever leisure time they had. The corporation would always meet in the evening so that it wouldn't interfere with farming practices of the directors of the corporation. We had no trouble choosing a board of directors in each particular state.

Furthermore, M.L. used to try to choose one or two people in whom he had confidence to help run the project. As the first county agent in Montana, and as a Director of Extension in Montana, and as a professor of agricultural economics in Montana, he knew agricultural people in almost every state. He was able readily to choose people who would sponsor the project and assume serious responsibility for the project, all without salary. Their salary was that they were elected a member of the board of directors of the local corporation. The press interviewed them and so on.

Then the parent corporation made a loan agreement with the subsidiary corporation. The loan agreement provided that they would make a loan of so much money, which sometimes went as high as two million dollars, as I recall vaguely now. It always had to be enough of a loan to enable them to buy land for building a new community. It had to make available to every family in the community at least an acre of land, and usually more than that, a little more than that. The loan also had to enable the subsidiary corporation to buy machinery and equipment which it would then lend to the subsistence homesteaders whom it brought in.

We then had to draft a model contract which each subsidiary corporation could use as a guide, but was free to develop for itself a loan contract between the subsidiary corporation and individual homesteaders. Then the homesteader would buy a subsistence homestead from the subsidiary corporation and agree to pay back so much a month or so much a quarter or whatever they agreed on. This was the administrative structure of the Federal Subsistence Homesteads Program.

The General Accounting Office found out about it, and said, "Now, what is going on here?" Remember, at that time there was no statute to regulate Federal Government corporations. Corporations had been used to a large extent, but largely where Congress had established a Federal corporation by statute, for example, the Reconstruction Finance Corporation. But this was a case where these were state corporations, organized under state law, and borrowing money from the Federal Government with no more security than

the corporation stock they issued.

What if you foreclosed? There was no power of foreclosure to protect the Federal loan in any of these loan agreements. Because the foreclosure power had to be held by the subsidiary corporation to assure repayment to them. But repayment to them didn't amount to repayment to the Federal corporation. In fact, the Federal corporation didn't really want repayment. It wasn't really making loans. This was clear enough in the structure, and of course, M.L. told this to the Congress all the time. He said, "We are not asking you to appropriate money for loans that will ever be repaid. You are never going to get interest on those loans. We are asking you to make the money available so that the federal government can lend money to subsidiary corporations to build these homesteads and make them available to homesteaders. We want the structure." Then he explained about the delegation and so on. And the Congress approved. The only way they approved it was by appropriating money every year to continue the operation and without questioning it.

But the General Accounting Office continued having questions. Every now and then it would suspend particular payments to the subsidiaries pending submission of long, detailed answers. I began writing a law review article about this whole structure. The purpose of my article was to do two things. One, justify to the public and to the legal community, the use of this kind of a structure for running a federal program. Second, answer the questions that the General Accounting Office was raising so they would stop suspending payments and loans and other activities of the Federal Subsistence Homesteads Corporation. But I wrote it as my own article. Of course I didn't get paid. A lawyer never gets paid for a law review article published in a law journal. The article, called "The Federal Subsistence Homesteads Program," was published in the Yale Law Journal. I can give you a copy of the article for your file. Is that enough on subsistence homesteads?

HELMS: You said M.L. had called all his friends in the agricultural community. I would assume most of those people favored this. They were not opposed to this as some competing program?

GLICK: I don't recall that there were any large areas of opposition to the subsistence homesteads program in any state. That's radically different from the substantial opposition to develop later to soil conservation districts. That we'll get to in due course. But I don't recall that there was any organized or strong opposition from any kind of state group. The land grant colleges didn't oppose this. They didn't see any reason to oppose it. On the contrary, the state directors of extension usually sent out either oral or written instructions to all of their county agents telling them these subsistence homestead farmers were people without farming experience. Of course, many of them had farming background and had then moved to town to work. Most Americans have some sort of farming background, or at least did for many decades. But these people were primarily urban people being moved out into

the country. The county agents were told, "They are going to need your help. They are going to need your help on how to prepare the soil, about seeds and fertilizer, and pesticide control and weed control. They are going to need your help on looking after a cow and pasteurizing the milk." They are going to need a great deal of county agent help."

The general impression that I have now certainly is that the state extension directors, the county agents, did not oppose this at all. They welcomed it and helped along with it. There wasn't much criticism of subsistence homesteads. It never became a major political issue. Somewhere among my yellowing papers, I have a long article that appeared in the **New York Times** on a Sunday, a feature story. Three or four pages long, solid. It talked about the possible introduction of a subsistence homestead subrevolution in the United States. Well, we in Subsistence Homesteads Division at the time laughed when we read the article. We said these reporters are starry eyed and they were deceived. We felt in the Subsistence Homestead Division that this would never really become a national trend. It couldn't. It was too small. American industrial workers didn't want to operate gardens of their own to supplement their income. In the depths of a depression they needed it and wanted it and these projects could succeed. But if they succeeded for a generation that would be splendid, we felt. Therefore, we felt the **New York Times** author was going overboard in predicting a sort of subrevolution in America in agriculture.

HELMS: Wilson looked at it more as a temporary thing.

GLICK: Yes. Yes.

HELMS: Although you were going to have community buildings and community ownership of community property. That would presumably continue....

GLICK: That would presumably continue. Then they would simply operate as a regular farming community in any particular state. Many of the occupants of the homesteads would also be working in industry. At that time, in the Depression, many industrial jobs called for only 6 or 8 hours a day of work. Therefore, since the average farmer works 12 to 16 hours, you could operate a subsistence homestead while having a job in a factory.

HELMS: But Wilson didn't have the idea of a lot of, what term should we use, social engineering going along with it? Just income and supplemental income and a decent place to live.

GLICK: Well, he probably did. He probably did. He valued rural living. He valued a tie to the farm. Thomas Jefferson was one of his ideal philosophers and thinkers. The subsistence homesteads fitted in nicely with that whole pattern of thinking. But he did not believe that he was introducing anything that would, in any major fashion, modify American agriculture or American industrial employment. He did not think that; although, the writers of the **New York Times** article said this was a possibility. I don't recall that they

attributed these ideas to M.L. Wilson. It's a long time since I read that article. I do remember that we laughed at it in the Division, that we thought this was too rosy a picture.

HELMS: You weren't getting into the things that they got into later, such as setting up factories and giving sources of employment within the community?

GLICK: Well, you see....

HELMS: That was up to the individual corporation?

GLICK: I joined the Federal Subsistence Homestead Corporation in November, 1933; November or December, 1933. In August of 1934, less than a year later, M.L. Wilson was persuaded by Secretary of Agriculture Henry Wallace to resign as Director of Subsistence Homesteads and go to the Department of Agriculture to become the Director of the Corn-Hog Program, which was one of the initial programs established by the Agricultural Adjustment Administration. Shortly after that, M.L. was promoted from that program to become Assistant Secretary of Agriculture.

M.L. then asked me to transfer to the Department of Agriculture and become his lawyer. He liked the work that I had done with him as general counsel to the Federal Subsistence Homesteads Corporation. He wanted me to continue working with him. He was a philosopher, philosophically inclined. He could talk philosophy to me. When he told me what he wanted I generally understood pretty well, and was sympathetic with him. He found me a congenial lawyer to work with. Since he was himself not sufficiently articulate except on technical agriculture problems, I could help him articulate what he wanted to say in particular areas. So he wanted me to work with him. I did transfer at a slight reduction in salary. I was so much attracted by the prospect of working with him, continuing as lawyer to the Assistant Secretary of Agriculture.

Jerome Frank was then General Counsel of the Agricultural Adjustment Administration, and so M.L. arranged for me to talk to Jerome Frank. Jerome, after he looked at my background and talked to me, approved my appointment. But he said that he would approve my being earmarked to be available whenever M.L. Wilson wanted a legal problem worked on. At the same time I was to remember that I was a member of the legal staff. My boss was Jerome Frank and I was to keep him fully informed about everything that I did, every new problem that was laid before me. Any memoranda that I issued, copies were to go to Jerome Frank's office for the usual review. In other words, he didn't want a loss of authority within his own office.

It's rare for an Assistant Secretary of Agriculture to ask to have his own lawyer. If he has a legal problem, he just sends a memorandum to the General Counsel and lets it go from there. I saw at once the rightness of his position. I told it to M.L. and M.L. nodded immediately. "Of course," he said, "you work that out with Jerry." He said,

"I'm sure there won't be any problem."

You see the reason I started in on this is that after 1934, which is only a year after I had become General Counsel of Federal Subsistence Homesteads, I ceased to have anything to do with it. Now, all of the later problems that developed became problems with what was called the Farm Security Administration, FSA. When Subsistence Homesteads, in fact, was transferred from Interior to Agriculture, it was transferred to the Farm Security Administration. Although M.L., as Assistant Secretary of Agriculture had, of course, a certain review jurisdiction over FSA, nevertheless he had many more difficult problems to deal with then than subsistence homesteads. I don't recall that any Subsistence Homesteads problems were brought to me after I transferred to the Department of Agriculture, except that every now and then, they'd ask me for some historical information. They were working on a problem and they called me and said, "You did such and such on this particular problem. Why? What did you do? What led you to do it? Did you issue a memo on it? Were there any legal opinions?" Of course, I was able to give them that kind of information. But beyond that, I really had nothing to do with Subsistence Homesteads after I transferred to Agriculture. Except that I brought with me in my mind and my file, the recollection of the General Accounting Office questions about the whole structure that we had established in Subsistence Homesteads.
I wanted to be sure that if later there were any Congressional or GAO audits and questions about this rather unusual structure that we had established for the program, I wanted something more than my memory that I could call upon to justify it. This was an article over 40 pages long in the Yale Law Journal, and I was very happy when the Yale Law Journal agreed to publish it. Because this gave it a considerable stamp of approval by the legal profession.

Actually there were no later questions. I sent copies of the article, reprints, to the legal staff of the General Accounting Office so that they would be informed in advance. I think that helped, the mere fact that the General Counsel of the Federal Subsistence Homesteads had laid it all out on paper, had raised all the questions. I tried to raise every question GAO might raise or a Congressional committee might raise and gave what I thought were the answers. Well, so much on the Subsistence Homesteads unless you have any further questions about it.

HELMS: So now we are in....

GLICK: Now, we are in Agriculture. I'm on Jerome Frank's staff responsible for looking after any legal problem that M.L. Wilson raised. That became true in late in 1934. Almost immediately, as a matter of fact, after I came over, Jerome Frank saw to it that a number of memoranda were sent over to me to prepare legal opinions for Jerome Frank's signature on problems that had nothing whatever to do with M.L.'s areas of supervision.

Jerome Frank was an exceedingly able lawyer-administrator. He knew how to run an office. He also wanted to know

more about me. Inevitably, much would be delegated to me. Inevitably, M.L. would be asking me oral questions and relying on my oral answers. Jerome knew that. He was testing me out, I think. In any event, for the first few months after I came over to Agriculture, although M.L. asked me a number of things, usually easy questions, he was just learning his own job. I was really working entirely on the problems for AAA that Jerome Frank had sent over to me.

Then in the spring of 1935, M.L. Wilson called me in one morning and said, "Philip, I have a number of ideas working around in my mind. I need some answers. I don't know what the answers should be. I don't know what questions to ask you. You are going to have to help me formulate the questions as well as the answers. We have in the Department of Agriculture now, the Soil Conservation Service. It's operating erosion control demonstration projects. It buys or leases or otherwise acquires control over considerable farm acreage on which erosion, soil erosion, is a very serious problem. Then, the Soil Conservation Service, having acquired complete control, by purchase or by contract with the owners over this acreage, develops what it calls a complete conservation plan for that particular acreage. They put in the structures, planting practices, and everything else necessary for complete conservation. Contour cultivation, strip-cropping, stopping the gullies, terracing, and all the other erosion control work necessary for that particular acreage. Then they put up signs on all four corners of this demon-stration project saying this is an erosion control demonstration project of the United States Department of Agriculture. Visiting hours are 24 hours every day. And the county agents will be here on such and such days. You are en-couraged to come and learn how to make a conservation plan for your farm, how to plow and cultivate and harvest both profitably and safely. You have got to be able to make a living on your own farm and a good one. You have got to produce good crops and you have got to conserve the soil. We have exactly these same problems on this demonstration farm. Come, look see."

Then M.L. said, "Well, the farmers come to look see. Then they go home and they've got all they can handle on their own farm. They say to themselves, 'Oh yeah, it's easy for those guys to build terraces. All they've got to do is call out some of these high-paid bureaucrats and have them hold the engineering lines, and lay out the terrace, and then they bring in some of their heavy equipment. Well, where am I going to get the money for that kind of equipment? I don't know how I am going to lay out a terrace. I don't know whether a terrace is well built or not. If one of the terraces washes out or breaks out, what do I do next?'"

So M.L. said, "Come, look see is not enough to spread good conservation planning and operations from the demonstration projects on to the farms of the United States. They've got several dozen of these demonstration projects and they are going to put up some more. Do you know what the cost of the demonstration project for a single year is?" He gave me the figure in a sort of

awe-struck tone. He said, "The farmers are going to learn that this is what it costs to operate a demonstration project, and they are going to say, 'Well, now, they have so many acres and I have so many acres. How can I pay my fractional share of that kind of cost?'" Even though this included salaries in Washington and so on, that the farmer would never have to meet in putting on a conservation plan on his own farm.

M.L. said to me, "I think I could sum it up this way. You will never be able to control erosion on millions of farms in 48 states out of an office in Washington, D.C. How do we get over that? How do we get around it?" And I said, "M.L., you've thought about this obviously a long time. What's your idea?" He said, "You know about the conservancy districts, don't you?" I said, "Yes." He said, "Tell me what a conservancy district is." I said, "A conservancy district is a local unit of government like a county or a city, established by a state statute, and the conservancy district is responsible for building water projects and regulating water flow, and making water available for irrigation, and so on. It deals primarily with water. It's a local unit. It levies taxes on the lands and also gets appropriations from the state legislature as a source of revenue to operate with. It deals with conserving water and helping irrigation."

Said M.L., "Couldn't Congress establish conservancy districts all over the United States?" I said, "No, sir, I don't believe it could. The Federal Government does not have the authority to regulate private land use. The Federal Government has no authority whatever to establish local units of government." He said, "The states can establish local units of government, but the Congress of the United States cannot?" I said, "That's right, sir. This is federalism. You know that there are many, many things the states can do that the Federal Government cannot do. So there is nothing very surprising about their not being able to establish a local unit of government. They cannot abolish it. Congress cannot abolish a county. It cannot consolidate two counties into one. It cannot establish a city or a town or a village. It cannot order a single county or a single city, or a single local unit of government to do anything. It cannot order them not to do anything. In the agricultural adjustment program, that isn't the way you operate as Assistant Secretary of Agriculture. If you feel that the production of certain crops needs to be increased, you can't order the increase. If you think it needs to be reduced, you cannot order the reduction. You cannot plow under little pigs, as you were accused of doing in the triple A. Congress can't do that sort of thing."

He said, "Well, we can't have conservation districts?" I said, "No, no, no, I'm not saying that. I'm saying Congress can't establish them." So he said, "Well, I like conservancy districts. I don't like them to be limited to deal primarily just with water. I want conservancy districts that can operate with erosion problems. I want to be able to do something of the sort of thing that we did in Subsistence Homesteads. I want to delegate authority. I want to

delegate the basic problem of making a conservation plan for a particular acreage and terracing the farm, and changing the crop practices, and building, planting soil holding crops, and dealing with the problem of water runoff, and wind erosion. I want all that to be planned and done by the farmers through these con-servancy districts. You'll have to tell me how we can get them established. But the two things I want are local units of government, and delegation to these local units of government and to the farmers. At the same time you get as much information as you can from the Department of Agriculture, and I'll give you some pamphlets." (He gave me boxes of them.) "See, you're a Chicago boy. You don't know what I mean by erosion control and gullying and terracing." I said, "No, sir, I don't." He said, "Well, you'll have to learn about that. Then let's talk about it together. Draw up questions. Come in and ask me the questions and I'll try to give you the answers and we'll go on from there." I'd like to stop here a few minutes and talk about M.L. Wilson. Is that legitimate?

HELMS: Certainly.

GLICK: The kind of districts program that we have in the United States is a natural child of the mind and background of M.L. Wilson. Milburn Lincoln Wilson. Well, when you are named Milburn Lincoln, you have to do something to your name and he came to be called M.L. M.L. Wilson was a thoroughgoing democrat of the small "d" as well as with a capital "D". He believed in democracy thoroughly. He had great faith in the common man, great faith particularly in the American farmers. He said as a county agent he had learned great respect for the American farmer. He told me about an experience; I wish you could hear M.L. tell this story.

After having been first county agent in Montana, he became a county agent leader. He became director of agricultural extension in Montana. In that capacity, on one occasion, he was invited to go out in Montana and in some of the adjacent western states. He was to be the main speaker at one of these big farm events. Well, it was one of these days where farmers come together, coming in their cars and trucks and wagons from all over. They remain in session for a week or more. They have any number of informal sessions, where, in effect, the farmers are taught how to farm better.

HELMS: A short course.

GLICK: Yeah, sort of a short course. They avoided all academic jargon. The farmer wasn't supposed to be told he was going back to school. He's a farmer and a successful farmer. You can't tell him that he has to be taught. But at the same time, you do have to teach them. He said, "You'd be surprised how much you have to teach them." He got up and talked to them. He had hit on an idea. The point of this story is what happened to that speech and that idea.

He got up and said that in the course of his work in Montana people are frequently coming to see him about their

problems. He remembered a time when two farmers whose farms were adjacent came to see him together and they told him that they weren't getting good crops. They weren't getting good yields. They were suffering from various kinds of pests and weeds and so on. They had listed all of their problems. He said to them, "Of course, in spring, you cleaned out all the roughage from your farm, and sort of were getting ready to plow, weren't you." And the farmer scratched his head. No, he hadn't been able to do that that year. The sows were pregnant, and there were problems in the family and what not, so they hadn't been able to do it. M.L. said the farmers shook their heads and grinned. They'd heard all of these excuses they had used. "They knew all about that," M.L. said. "Then I asked them the next question. At such and such a time, you began to do some plowing?" Well, they hadn't really been able to start at the right time. Furthermore, you saw that you had some hills, so you avoided plowing up and down the hill.

Well, one by one M.L. took them step by step through the whole agriculture series that a farmer has to go through--from the very tail end of winter on into the harvest season. At each step, the farmers said no, they had not been able to do that. No, this interfered with that. He said, "As I kept going, I could see in their faces, they were familiar with every one of these steps. They knew exactly what should be done. They knew why the average farmer didn't do it. They could understand all of the alibis and all of the excuses. "You know, they were laughing, but they were laughing with me. They were laughing at themselves."

Well, this story of course is vastly more effective and funny when you hear the actual steps spelled out. I've never been a good enough farmer to be able to recall what each step was. I can't tell you what each step was and what the farmers had done wrong. But every mistake that a farmer could make between early spring through the harvest season was made ostensibly by these two farmers who were talking to M.L. Now, I can't imagine a better way to entertain a large group of farmers without an outline, without any papers for them to read; actually give them a complete lesson in what every farmer needs to know about agriculture and about farming. He taught them that in the course of that lecture. It was enormously successful.

In his telling me the story, I could see the whole field. I could see the farmers. I could hear them roar with laughter at the various stages, the way everything was done wrong. M.L. drew this lesson. First of all, he was, in effect, teaching me what I must remember when I talk to farmers about erosion control. And about whatever kind of state statute may come out of this. He was teaching me how to go about that kind of a problem. He said, "I mentioned nothing that most of them didn't already know. I could see it in their faces. I mentioned no mistake that a farmer could make, that they weren't already familiar with. I mentioned every alibi that a farmer trots out to excuse himself. I could tell it in their laughter that they could recall themselves." He said, "You know, American farmers are highly intelligent.

They know what they need to do. It's economics. It's farm pressure. It's the fact that there are only 24 hours in a day. It's all of the usual reasons for human inactivity and lethargy and lateness. That explained a great deal of their not doing.

"Furthermore, I could see that every time I mentioned a piece of agricultural equipment that is costly to buy; every time they would have to go to International Harvester and borrow money to buy particular equipment, there would be a hush over a substantial part of the audience. Many of them would shake their heads as though they were saying to themselves, 'Mr. Wilson you don't know. How can a farmer buy that?'" He said, "I learned two things, that American farmers do know intimately the story of farming and erosion control. They are highly intelligent. Second, I learned that much of this they cannot afford to do. Much of this they don't see their way to do. They don't see how as farmers they can manage to do planning on this kind of a scale and terracing on this kind of a scale. How they can retire so much of their farm from cultivation, because it's deeply gullied, or because it runs up a hill. Or because there are no trees to give them shelter from snows and other problems of weather."

He said, "It's within that kind of a context that I think we need something like this. A state statute." He started originally talking about an act of Congress. It took me a great deal of time. "No, Congress couldn't do that either. Congress can't do that." Ultimately, he and I reached agreement. We are not talking about an Act of Congress. We stopped that. Congress is going to be needed to make money available, but we are going to have to work out some other method of making Federal money available. In fact, we practically agreed that all the farmer needs from the Federal government directly is money. Money or a way to get money. In order to get technical help, machinery, equipment, planting materials, that kind of thing. That they are going to need from the Federal government, but that's all.

Furthermore, the Federal government has got to figure out some way of giving that to them without having them sign any papers with the Federal Government or borrow money from the Federal Government or owe the payback payments to the Federal Government. All that we've got to do. But beyond that, we agreed, we want a state statute that will make it possible for the Federal Government to look to the states and to these conservancy districts to do all of this work.

M.L. Wilson had this kind of a background as he started thinking about the problems of SCS and the demonstration projects. He also had the subsistence homesteads experience. He had been chosen to be Director of Subsistence Homesteads, because as a professor of agricultural economics at Montana, he had already been talking about subsistence homesteads in Montana. M.L. Wilson and H.A. Wallace had been personal friends and acquaintances for many, many years. M.L. had worked in the Department of Agriculture briefly in the 1920s when Henry Wallace's father

was Secretary of Agriculture. So they had this close friendship to draw upon. That's one reason Wallace drafted M.L. to come to Agriculture.

But the very same man, M.L. Wilson, who was the father of subsistence homesteads in America was also the father of the giant wheat farm. Tom Campbell of Montana wanted to accumulate gigantic acreages of wheat. He called in M.L. M.L. was the leading agricultural advisor in Montana. Campbell went to M.L. and said, "I believe that if I can figure out how to do it, get the right kind of machinery and handle it properly, I can make a lot of money growing wheat, by growing it in tremendous quantities. I want to be able to control a substantial part of the wheat market through the wheat that I grow. If I have to go out of Montana, into Idaho, or into any other state that you tell me I have to go into, I'll go there too. I believe," said Tom Campbell, "in the giant wheat farm." M.L. said, " I believe in it too, but I haven't preached it very much to my farmers in Montana, because only a few could afford giant wheat farms. The few who could afford it had other things on their minds. They were more interested in yachts than in giant wheat farms." This was the depth of the depression. So M.L., the father of the smallest agriculture unit, the subsistence homestead, had earlier been the father of the largest.

Here was a man, you see, who was very imaginative. Although deeply rooted in American agricultural and rural traditions, he was not bound by them. He knew how to build on them instead of being tied down to them. He didn't revere them as something that couldn't be modified. He revered them for the fact that if they hadn't served useful purposes, they would never have grown deeply into the American culture pattern. He respected them. In that sense, he revered them. His was a very imaginative mind. He was the father of the domestic allotment plan which was the essence of agricultural adjustment. The very fact that it was M.L. who felt called upon to start thinking about soil conservation districts, had a great deal to do with the form that finally came out of them.

May 18, 1983

HELMS: Last time you had given us a portrait of Wilson after describing his calling you into the office to get you to work on this project for some way to carry out conservation. Could we continue with that explanation of the stream of events?

GLICK: Yes. Before going into the actual details of the ideas that M.L. outlined to me on his proposal for moving the nation into establishing local soil conservation districts, I'd like to give the general picture of American federalism that M.L. believed in and which gave birth to his notion of the soil conservation district. I covered the broad outlines of that notion of American federalism in an article that I submitted to the Journal of Soil and Water Conservation. It was published in their March--April, 1967 issue.

I pointed out in that article that the American farmer is a proud producer. He has astonished the world with his capacity to produce an abundance of food and fiber for a continental population and for export. But he is also a proud conservationist. During the last 3 decades he has changed the face of America's farms and ranches with his terraces, strip crops, contour cultivation, grassed waterways, and shelter belts. He has demonstrated that conservation farming can produce both plenty and beauty. But the American farmer would not recognize himself if you told him he was a creative political scientist. As a matter of fact, the American farmer is in the process of building a new device into the structure of American federalism, namely, the conservation district.

The American people are very slow and reluctant in amending the Federal Constitution. But they're very ingenious in solving problems that arise without resorting to formal amendment of the Constitution. Working within the limits of the Federal Constitution they develop devices that will bring the three levels of government; Federal, state, and local, into very close cooperation. Every school boy is taught that the Federal Government can exercise only the powers specifically delegated to it in the Federal Constitution. But the states, every one of the states, as a sovereign state government, has inherent, full legislative power. The local governments are a combination of both certain inherent powers to govern the local area, whether it's a city or a county, and also such powers as the state legislature chooses specifically to give its local units of government.

Saying this creates a picture, generally, of a rigid separation of power among the Federal Government, the state government and the local governments. But that isn't the kind of governmental system that American federalism has become in practice. Actually, instead of a layer-cake form of government, with three layers, Federal, state and local; we have a marble cake form of government in that governmental powers interpenetrate among the Federal, state and local governments. We do far more through cooperative action by the Federal Government, the state government and the local governments, than we do separately--the Federal Government carrying out its powers, the state governments carrying out their powers, and the local governments carrying out their powers.

People accept this in general, but they don't realize specifically how thoroughgoing is this three-level cooperation in the American governmental system. For example, consider even national defense, which you might regard as the most extreme example of the Federal Government's powers. There the Federal Government is supreme. It has exclusive authority if it chooses to make it exclusive. It can carry out and do anything necessary for national defense. One of the first steps in national defense is to establish a draft, a military service system. Then what do we do? We establish local draft boards to do the actual drafting, to accept the military service registration, to organize the records, to summon the individuals

for draft purposes, and to swear them in into the Army or Navy or Coast Guard or Air Force.

Just as the local government has to participate in National Defense, so the Federal and state governments have to participate in the supreme example of local activity, namely the educational system. The system of compulsory, universal, elementary education that we have is entirely in the hands of the local governments. They are the policy-making bodies. They are responsible for carrying it out. But they always want federal government assistance in policy and in various forms of scholarship loans and school aids, and grants to school systems. The states are always called upon by the local units to assist them both in the formulation and execution of education policy and to get state appropriation funds for operating the school system. Without the help of the Federal Government and the state governments, if the local units relied exclusively on the revenue and governmental authority of the local units of government, we wouldn't have anywhere near the powerful, significant, sensitive, local education system that we have, in fact, in the United States.

Going back to the general structure of American federalism, in addition to these examples that I have already cited, American governmental federalism has created ten or twelve devices for promoting intergovernmental cooperation. I'm not wandering from the subject of the soil conservation district. As we talk in detail about the soil conservation districts, we will see how completely this introduction illuminates what came to be the standard state soil conservation districts law and the actual operation of soil and water conservation in American agriculture.

We've developed, as I say, ten or twelve structures through which we can carry out intergovernmental cooperation in the United States. The first is explicitly spelled out in the Federal Constitution. The Federal Constitution provides that whenever two or more states discover that a particular problem overlaps state boundaries and therefore no one state is in position to deal with the problem adequately, two states may, with the consent of Congress, enter into an interstate compact. The device of the interstate compact, obviously, as a method of interstate cooperation, is already departing from the theory of three layers of government, and calling upon a marble cake cooperation between two or more states, with the consent of Congress, says the Constitution. The way that works is this. Any two states can go ahead and draw a complete compact without first asking the Congress; but then that compact must be submitted to the Congress for approval. The Con-gress can require modifications or amendments in that interstate compact if it wishes to before giving approval. The compact isn't lawful, it isn't binding, it isn't effective until the Congress has approved the proposed interstate compact. Therefore, the Constitution itself, way back in 1789, said, "Yes, we may have interstate cooperation, but the Federal Government must have a voice in it too."

Beyond this compact, let's just sort of tick off some of the other major structural systems that we use without adding to or amending the Constitution of the United States, in order to promote intergovernmental cooperation. Abraham Lincoln, way back in 1862, signed the law that established the United States Department of Agriculture. In the same year, he signed the land grant college act providing for the establishment of colleges for the promotion of agriculture, the technical arts, and the mechanical arts. Hence, A&M state land grant colleges were developed. We now call them state land grant universities as their areas of teaching and research have successively been expanded. President Lincoln, incidentally, also signed the Homestead Act.

On the basis of the land grant colleges, the experiment stations, the Extension Service, and the Homestead Act, we have the governmental base for the growth and development of American agriculture over an entire continent. Don K. Price, Dean at Harvard, has called attention to the fact, in a paper that he called the "Scientific Establishment." In that paper he said this. Now I want to quote one or two sentences. He called attention to the Federal grant-in-aid.

The Federal grant-in-aid, of course, is an appropriation of Federal funds to aid the states, or to aid the local governments, or both, in carrying out particular activities. The Federal grant-in-aid, like the interstate compact, is a governmental structure not provided for explicitly in the Federal Constitution, that the American people have developed as a way of promoting and calling upon all three levels of government to work together in making it possible to succeed. In discussing the Federal grant-in-aid, and I quote Dean Price, from that article that I have already referred to. The article, by the way, is entitled "The Coming Transformation of the Soil Conservation District." Dean Price said, "The most influential pattern was set in agriculture. Washington and Jefferson had been interested in fostering scientific improvements in agriculture and in federal support of a national university. They were blocked by the lawyers' scruples about states' rights until the agricultural scientists found the way to get there by a different route, one that evaded constitutional barriers by merging federal and state interests through the device of federal grants to states in either land or money by building a program upon a scientific and educational basis. The foundation, of course, was the Land Grant College. From it grew the Experiment Station, the Extension Program, and the whole system of policy which has let the Federal government play a more effective role in the agriculture economy than the government of any supposedly socialized state."

We discovered that we didn't have to adopt socialism in order to get all of its advantages without losing any of the advantages of the capitalist free market, free enterprise system. The ingenuity of the American farmer and the average American as a creative political scientist, in achieving his goals, his purposes, without precipitating massive philosophical debate about proposed

constitutional amendments--this genius was best expressed in the early decades of American history. It's unfortunate that successive administrations thereafter have fre-quently forgotten about it. We have precipitated totally unnecessary debates about the new federalism, creative federalism. American federalism was new in 1789. It was created in 1789. We don't need to reinvent the wheel. We don't need to redevelop and redefine American federalism. It's already defined in the Federal Constitution, in the 50 state constitutions, and the actual practice of Americans daily.

In addition to the interstate compact, and the grant-in-aid, there were some other things that we have gradually developed. We established a Tennessee Valley Authority. That covers a whole region. A number of states, a large number of counties, all of the cities, and a magnificent, entire regional river system, treated as a unit, funded originally by the Federal Government, funded largely today by the revenue that the TVA receives from the operation of public power projects. The projects that control floods on this river system, the projects that promote navigation on this river system also produce electric power. The TVA is one of the few Federal Government agencies that never needs an appropriation from Congress. On the contrary, annually, it gives us 50 million, 75 million dollars or more, to the American treasury as a dividend on the TVA program. What is the TVA program? It's a structure for enabling the Federal Government, and the state governments, and the local units, to work together to promote the development of the Tennessee Valley.

What's the Public Housing Authority? Here we have an application in the urban area, although it's also possible in suburban and even rural areas. The Public Housing Act calls upon the states to establish local housing authorities. The Federal government then provides a subsidy to the Public Housing Authority by underwriting the difference between the costs of operating the local public housing projects that are paid for through rents, and leaving a deficit, a balance, which is paid for by an annual Federal subsidy. Here we have, again, state legislation to establish local housing authorities that are locally administered, planned, and operated with the Federal Government providing an annual subsidy to make these public housing units come within the financing power of the tenants of the local housing projects.

We have it in the Department of Agriculture and ASCS, (Agricultural Stabilization and Conservation Service) administering the agriculture stabilization and conservation program. What's the first thing this program did? It established county and community committees in every state to help formulate the annual agricultural stabilization and conservation program. That program receives Federal appropriations to help fund the operations. These are partly conservation projects, and therefore, operate very closely in cooperation with the Soil Conservation Service. These are also commodity stabilization programs, to improve farm income. We didn't bother about jurisdictional lines. We just established the agency. It became a Federal agency parallel to SCS.

But it also became an agency operating through state and county committees. The farmers elect the members of the state and county committees. Very intimately, in every step of this governmental process, we have all three units of government collaborating. This is by no means the end.

In the Kennedy and Johnson administrations, we developed new regional commissions, in the Regional Development Act of 1965. The best known of them is the Appalachian Regional Development Commission, but there are half a dozen or more other such regional agencies working in other parts of the government. What do they do? They develop economic development plans and help arrange for the financing through public and private collaboration.

Then we have the river basin commissions that are provided for in the Water Resources Planning Act of 1965. Over every river basin in the United States, that act makes possible the establishment of a river basin commission. Some of the commissioners for each commission are appointed by the Federal Government. The others are appointed by the governors of the particular states. When the commission meets, it is a meeting of Federal and state representatives. And their function is to develop water conservation and water development programs for the particular river basin. The program is then to be carried out by Congress appropriating money for a Federal share, by each state appropriating money for its share. The whole thing is to be administered partly by the Federal Government, partly by the states, partly by local units, in accordance with the plan developed by the regional commission. Unfortunately, the Water Resources Planning Act ran into a great deal of difficulty. It would take us too far afield to go into all of that. The Water Resources Commission is almost a dying agency today, receiving smaller and smaller Federal appropriations. The principal reason, I think, for the failure or virtual failure of the Water Resources Planning Act is the opposition of the Federal bureaucrats. The Corps of Engineers didn't want to see the regional water basin commissions develop. The Bureau of Reclamation was cool about it. Because of this opposition from the major federal water agencies, the river basin commissions never really succeeded in dealing with the hardest problems of water resource planning, among them cost sharing among federal, state and local governments.

This failure, as a matter of fact, also helps illustrate what we are talking about. Let me back up. We mustn't expect that every time the American people succeed in developing a new organizational idea for dealing with one of their problems, it will succeed. Some programs fail for one or another reason. This one is in the process of failing. But it, nevertheless, still demonstrates the very fact that enactment was demanded and supported by the governors of the various states. The Federal, state and local governments did participate and still are formally participating in the river basin commissions in developing water development programs. We have here another illustra-

tion of the marble cake form of our government--interpenetration and cooperation among the three levels of government. Then there were the rural community development agencies, under the consolidated Farmers Home Administration Act of 1961. And community planning agencies under the Housing and Urban Development Act of 1965. Here again, this constant reaching out for structures that will enable the three levels of government to collaborate. The article that I have referred you to actually summarizes and it goes into some detail in describing, these eleven agencies.

M.L. had always played a part in these programs. He knew them intimately. He was always concerned about them, kept in touch with them. He was a father confessor to the federal administrators who were trying to struggle with these problems. He saw the Soil Conservation Service, a new bureau in the Department of Agriculture, trying to control soil erosion over the whole continent, trying to do so through demonstration projects. I have already mentioned some of the characteristics, some of the strengths and some of the weaknesses of the demonstration project. Briefly, farmers could come and look at the demonstration project, but they didn't know how to go on from there. They didn't have the money or the technicians or the self-confidence in administration to go on from there and put upon their farms and ranches the conservation practices that the demonstration project demonstrated. M.L. saw that something was needed beyond that. He encouraged Hugh Bennett, by all means, to go ahead with the SCS program. He kept telling Hugh that this is one of the soundest new governmental developments in agriculture. And he kept conferring with him on how well the states were collaborating. How well were they bringing farmers themselves into the program? Bennett was among the first to confess that this was an unsolved problem within SCS. "We are going to have to continue our research," he said, "we are going to have to continue our demonstration projects, but we need more than that." And he assured M.L., "We are working on that."

M.L. decided that he would do a little private thinking about that too, and help Hugh Bennett. But he decided that the best way he could help was to think it through alone, put down on paper something that would represent the definition of a problem and the structure of a program to deal with the problem, and lay that before Secretary Wallace and Administrator Hugh Bennett, the state extension services, the state experiment station directors, the state agricultural and conservation agencies, and say, "Now, here we've tried to do some of the preliminary think-through before you and with you. Now, let's talk about it. Is this something we can work together to put into effect?"

This is the way M.L.'s mind always worked. And this is the way his mind began to work on the erosion control problem. He called me in and said, "I don't want now to go to Hugh Bennett, and start talking about this. If I do, the first thing that will develop is, the federal bureaucracy within Agriculture." M.L. had great respect for the Federal bureaucracy. He was an outstanding

Federal bureaucrat. But he operated in the most intelligent and sensitive and farsighted method, as all bureaucrats hope to be able to do. Obviously, only the best of them can achieve it. But he said, "The argument of the SCS technicians is likely to be this, to Hugh Bennett. They'll say, 'Look, M.L. Wilson is threatening to destroy what we have built up and what we are going about doing. Where does the best core of American expertise in erosion control now rest? In SCS and its technicians. Where does the power to do something about it rest? Among the SCS technicians. So far we've already built the demonstration projects. Well, give us time. We'll go forward and we will get this job done. But now you want to break it up, turn it back to the states and counties.' They will say, 'The states and the counties have had this problem to wrestle with since 1789. Look how seriously erosion has spread and grown within the United States. Don't break up the only single sound corps of erosion control expertise that we now have in the federal government.' That's what they will say. And they are right. But that's not the whole story."

He said, "We mustn't break up the SCS. We must never lose this central national corps of erosion control expertise that we've got. What we've got to do is to figure out some way in which local units, individual farmers, the counties and the states can come in and feel just as much responsible for the problems of erosion control as do the SCS technicians today."

"That," M.L. said, "is what we want." He said to me, "Now, my thinking is fuzzy. You are a lawyer and you're supposed to know more about these structures of state and local units than I do. Let's work on this together. What I want from you is a sort of draft statute that states might consider, modify, and put into law to establish local units. Local soil conservation districts to be able to be established by a majority vote of approval by the farmers in the proposed boundaries of the district. Let them vote a district in. Let no district come into existence unless the farmers want it and approve it in a formal referendum." Then he said, "Let the district be governed by supervisors whom the farmers themselves will elect. We'll have these districts functioning as local units of government, established by the people, governed by the people through their elected supervisors, and then these districts should be given the complete authority to plan, to develop erosion control plans that are district wide. And carry them out." He said, "The bill should then provide that SCS should cooperate with every single district in the country. SCS should lend engineering and technical assistance to every single district in the country. It should make agricultural equipment, earth moving equipment, terrace building equipment, etcetera, available to every district, at Federal expense."

He said, "In this way we will have local initiative, local action, local responsibility, local planning, and local conservation guided and assisted by the states and by the Federal Government. When we have this kind of a structure on paper, then I'll talk to Secretary Wallace. I'll talk to Hugh Bennett. I'll

talk to the state extension directors. I'll talk to the experiment station directors. We'll organize them in national meetings and in regional meetings and in state meetings. We'll keep pushing away at this idea in the hope that, ultimately, districts will be organized in every single state."

HELMS: Let me interrupt just one minute. Can you give us, within a couple of months, about when this sort of conversation was taking place?

GLICK: Surely. It began in the spring of 1935. M.L. had come to the Department of Agriculture around June or July of 1934. He had brought me over in the fall of 1934. Sometime in the spring of 1935, he called me in. I would say that it must have been around April or May of 1935, when we started these conversations. Typically, M.L. developed his own thinking by talking to people about what he had in mind. During this period he was talking to a great many people in the department, but he never became as explicit with them as he was with me. He wanted to wait until he had something concrete to propose. He didn't want to organize and stiffen up an opposition before they even knew what they were opposing, and before he had figured out how to deal with every type of opposition that he anticipated. He wanted to be able to say to every person who offered criticism, "Yes, of course, I agree with you, I sympathize with you. But look, here's how we propose to deal with that." He wanted to be able to indicate specifically how this danger was to be avoided. For the next two years this kind of a process went on. M.L. was, if I may say so, gradually educating Secretary Wallace in why this kind of an operation would be necessary. He was planting in Hugh Bennett's mind the notion that it is perfectly possible to bring the states and the counties and the farmers into the erosion control planning and operation process, without in the slightest weakening the authority of SCS and the responsibility of SCS to participate in and direct erosion control work all over the nation. He wanted to win over the state extension directors without having them feel that SCS and the districts were planning to take over the responsibility of the county agents.

Having anticipated, having foreseen just exactly who the opponents would be and what kind of arguments they would offer, he was in effect asking himself, "How much soundness is there in their opposition? Let's work that into our plan. Their criticism offers us wisdom and a good many thoughts that we might not have been able to think of ourselves. This will enable us to test our idea against those problems." But he said, "The way to do it is to think it through clearly first and put it down on paper." Putting it down on paper was very important to M.L. "Let's get away from the fuzzy, generalized thinking which promotes so-called philosophic debates. Let's get down to concrete structures. Then we'll know, all of us, what we think the problems are and how we can meet them."

The basic idea that he laid out, I haven't clearly stated. Let me state it a little more fully. First, he wanted locally established soil conservation

districts. He wanted them to have broad power to plan and execute the erosion control projects. He wanted the supervisors of the districts to be elected by the farmers. That idea later was modified into a majority of the supervisors should be elected by the farmers. But assuming a board of five members, two of them should be appointed by the state soil conservation committee. He wanted a blend of democratic representation through elected supervisors and technical expertise so that at least two members of every single district board of supervisors, and of state soil conservation committees, would be people chosen because of their professional knowledge of the erosion control problem, and because of their knowledge of what techniques, machinery, equipment, supplies, practices would be needed to carry out the erosion control plan.

Two more ideas. One, he said, "Effective erosion control operations will require operation over natural boundary areas, more of a watershed approach than a county approach. The district boundaries should be defined so far as possible over natural watersheds, subwatersheds, small watershed areas, because many erosion control problems spill over county lines and spill over state lines. Within the district program itself, at the very least, we ought to be able to have a district that covers a natural land area instead of having jurisdiction end at a county boundary line."

The further idea that he introduced is this. He said, "We need something on the order of conservation ordinances, or land use regulations to be administered by the districts in addition to the establishment of erosion control projects to be operated and financed by the districts. Now, public regulation of private land use is not popular in the United States and least popular among the American farmers. But," he said, "we must not run away from governmental instruments and governmental exercise of authority where it is essential in order to solve the problem effectively. If we don't show courage here, whom can we expect to show courage on problems of this kind.

"These are bound to be specific problem areas where it's essential to use governmental authority to get erosion stopped and erosion control started. This kind of regulatory power will be needed in many cases to supplement the voluntary collaboration of a farmer with the district in controlling erosion. This kind of exercise of public regulation power will be wholly unpalatable unless the technicians take the time and trouble to conduct public education programs. They will have to educate the people on why particular lands have to be brought under erosion control in order to make erosion control effective on any other lands within the district. Furthermore," he said, "some lands will be so severely gullied, so badly eroded and the soil so erodible that parts of it will have to be completely retired from cultivation. The plan will have to provide for public purchase of some of the land and subsidies to make it possible to retire borderline lands from cultivation. "The district law will, therefore, need to authorize the districts to carry on not only project powers but also regulatory

powers."

Another point that he stressed at that time was that the districts must not be financed through the power to levy additional taxes on lands within the district. He said, "American farmlands today are too heavily taxed." You must remember these conversations were being held in the depth of the depression in 1935 and 1936. He said, "The best way to put the kiss of death upon the proposed state legislation is to authorize the districts to impose new taxes upon the lands within the districts. They will need money to finance their operations. But that money will have to come in other ways, not from putting new taxes on the lands." He said, "The supervisors themselves won't want to impose additional taxes even if the statute authorizes them to. They won't want to have anything to do with collecting taxes from their neighbors and other people whom they know within the soil conservation district." From the very beginning he stressed that the sources of revenue must not include taxes upon lands within the district.

These were the broad basic ideas with which he began. He asked me then to outline what could be considered a sort of standard state soil conservation districts law. Then he said, "We can go over that outline and agree, section by section, on what this standard act should say." I began to do work on just exactly that. What I'd like very much to do is to go through what we call a Standard State Soil Conservation Districts Law, section by section, and indicate essentially just what each section says and why and how this relates to the principles and policies that I've been trying to summarize by way of introduction.

Doug, maybe it would be a good idea at this point to stop and start our next section with section 1 of the district law.

May 26, 1983

HELMS: This is May 26th, and we are continuing our interview with Mr. Philip Glick.

GLICK: There is first something to be said about the title that we chose for the act. Practically every state has in its constitution a requirement that every general public law enacted by the state legislature shall open with a title that reveals the major provision of the statute in such a way that the attention of members of the legislature will be directed to the major effect that the new proposed legislation will have on government and the economy in the state. The courts have recognized that this kind of a constitutional provision is an internal safeguard on the work of the legislature and also serves a very important purpose of alerting the press and the public to the political, economic, and other implications of the proposed legislation. This is a sort of fairness to possible opponents of the bill, fairness to interests that may be adversely affected, so that the opposing interests will have time and opportunity to marshal their forces. This would make legislative hearings, when they come up, more penetrating, more suited to their

function.

Not everybody has seen all of these implications in these state constitutional requirements that every piece of legislation be preceded by such a title, but the courts saw it--saw it very clearly. So much so, that we have a long history of statutes that have been declared unconstitutional by the state supreme courts solely on the ground that the title of the act didn't contain these notices, these information flags, even though nothing in the statute violated any provision of the state or federal constitution. That was quite a development. As a matter of fact, lawyers in particular and of course competent political scientists, seem to be the only ones who know this. I've been personally surprised at how frequently I run into evidence in the course of political discussions of one thing or another, evidence that the speaker isn't aware of all of these significances in the title.

I called this to M.L.'s attention. He was intrigued by this. This was not in his area of thought and work, so he didn't really know about this particular thing. He pointed out, "We can use this to our advantage. We can then write a title that will not only be as revealing as the state constitution requires but would also be a very brief, terse summary of the whole act. Whenever we go to testify before a state legislative committee on the bill to enact such a law, we can call their attention to this. Let them look at the title as a quick introduction to what it is that we are about to do." He said, "What we are about to do will be profoundly significant. It will have a great effect, not only on state agriculture policy, but on federal state relations."

I'd like to tick off the points that the title that we wrote for the standard act includes, with this in mind. It starts out by saying that this is an act that will declare the necessity of creating new governmental subdivisions of the state to be known as soil conservation districts. That's obviously a very important point because these are to be governmental subdivisions, parallel to counties. It's not something to be done lightly without consideration of the effect it will have on the whole state governmental structure. That is the first point mentioned in the title, including, of course, the fact that these new political subdivisions will engage in conserving soil resources and preventing and controlling soil erosion. Then, the title calls attention to the fact that there will be established a new state administrative agency, the state soil conservation committee, and define their powers and duties. Then, to provide for the creation of these soil conservation districts--to define the powers and duties of the districts. We then point out that the powers of these new districts will include the power to acquire property by purchase, gift, or otherwise. Various state court decisions had already established the fact that when such a power is given in a statute, special attention needs to be called to it, because it's the kind of thing that will affect both public and private interests. So we called attention to it here.

Then, that the bill will empower the districts to adopt programs and regulations

for the discontinuance of land use practices contributing to erosion and the adoption and carrying out of soil conserving practices and to provide for the enforcement of such programs and regulations. You will notice that the wording there is somewhat indirect. We were very cautious. We were sensitive and nervous actually about this point. I will deal with that more fully when we come to the sections in which we actually deal with what we call both "conservation ordinances" and "land use regulations." But this is the cautious way in which we refer to it in the title.

Then, we point out that the bill would provide for establishing boards of adjustment in connection with land use regulations. That it would provide for financial assistance to the districts and make an appropriation for that purpose, because of the important effect that this could well have on the annual state budget that the legislature has to adopt. Then, to declare an emergency requiring that the act take immediate effect. All of that is in the title and serves the very purposes that I've just now outlined. Section one simply says that the Act may be known and cited as the Soil Conservation Districts Law.

Then comes an interesting and important section. We have here a section on legislative determinations of fact, and a declaration of policy. This is by no means unusual, especially in important new legislation that constitutes an important governmental policy departure. M.L. pointed out to me that this was an excellent opportunity for us to call attention to the basic facts about erosion control. You are not supposed to write an editorial in a statute. Policy declarations, therefore, are usually quite brief, all the more because the enunciation of a policy in a statute almost invites opposition. It will certainly invite a very searching analysis and examination of what is this policy that you propose to commit the state legislature to.

M.L. was keen and he saw that at once, although he was not a lawyer. He's not accustomed to analyzing and dealing with statutes. But he pointed out, "We can turn it to our advantage. We can come clean with the fact that the problem of erosion and the efforts to do something about it have become a very important aspect of agricultural policy, both for the nation and the state." He said, "This will in itself be an educational document." It's almost a preliminary argument to the legislature and to the press and to the public generally about why this entire program is so important and should be enacted by the legislature. You will notice that the subjects under that are the condition, namely, the facts about the widespread geography of soil erosion.

Next, the consequences. The consequences of the occurrence of erosion, the consequences of neglecting to do anything about it as it spreads into gullies, and blowing of soil and water washing of soil, etcetera, its effect upon runoff, floods, disease, death, impoverishment of families, damage to roads, etcetera. Then the appropriate corrective methods. It concludes then with a declaration of policy. Section two, therefore, again is something that