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Mr. Chairman and Members of the Southern Regional Conference,
Controllers Institute of America:

Our panel this afternoon, as I understand it, is further to develop the general theme of your conference in which you are, appropriately, taking stock of the position, responsibilities and problems of American business in our changing economy. The vast expansion that has taken place in the functions of government in the past two decades indeed makes government very much a part of your business and of mine, as this program suggests. In thinking through what I might say on the assigned topic of "Progress in Government", I realized that the subject is of such breadth as to appall the political scientist, and I do not purport to be a political scientist. In this situation there is the temptation to attempt an enumerative discussion of the many accomplishments of government at national, state and local levels. Problems there are many, but there is already much on the credit side of the ledger of which we as Americans have every right to be proud. One might take the executive, legislative and judicial branches of the Federal Government, for example, and spell out an interesting story of milestones of progress in each of these branches. There might be related the progress that has been made in the difficult tasks of reorganization and coordination of the executive agencies, despite the fact that the major part of the recommendations of the Hoover Commission have yet to receive implementing action. Notable steps taken by Congress, such as the Unification Act of 1949 for the National Military Establishment, might be pointed to and the

action of Congress in passing legislative authority to effect further administrative reorganization might be taken as indication that government at the national level with the advice of administrative experts is at last conscious of the need for reorganization and is moving in the direction of putting its house in order. If one wanted to dwell more particularly on progress toward a more orderly functioning of the Congress itself, there is the Legislative Reorganization Act of 1946 which marks an important start in that direction. Here again a significant start has been made for the much needed over-hauling of the legislative machinery. Committees have been reduced, auxiliary services to the Congress, such as the Legislative Reference Service and the Office of Legislative counsel have been improved and there are other notable gains. Omissions still bear the weight of the matter, however, and there is much in this area that must be dealt with in the future. If one wanted to analyze the judiciary, numerous accomplishments might be listed. The list would certainly include the work of the judicial councils and the annual conferences of judges facilitating the dispatch of judicial business by transfer of judges when needed. Inauguration of an Administrative Office of the United States Courts and the consequent improvement in the quality of personnel of the judiciary, together with the overhauling of civil and criminal procedure, might be dwelt upon at some length. A similar treatment of the accomplishments of the States and the local governments, including municipalities might be presented.

Hardly a state in the country has not felt the influence of the administrative reorganization movement with its emphasis on reducing the number of departments, centralizing the auxiliary services, and allocating definite responsibilities among departments. Although this has been a continuous movement among state governments, the creation of the Hoover Commission has accelerated critical reexamination of the administrative branch of the state governments. At least twenty-five states during the past four years have created Little Hoover Commissions.

The administrative reorganization movement has influenced and been parallelled by a critical examination of the legislative process. This has taken the form of reapportionment of legislative seats, the streamlining of procedures, and most important of all, the development of legislative councils and research committees; the purpose of which is to enable legislatures to act more intelligently on the problems before them. Twenty-six states have such agencies for the implementation of the legislative process and they have been established during the last twenty-five years. Revision and codification of state laws has been another field in which progress has been made.

Progress has been made within the state court systems in two important respects; the development of a new system for the selection of judges and the establishment of judicial councils. The new method for selecting judges stems from Missouri and attempts to combine the best features of the elective and appointive systems. A similar approach has been adopted by the state of California and is now under consideration.

in several other states. Judicial councils, designed to furnish necessary statistical information ~~and~~ the operation of the court system have been established in 35 states. Although these have been the most widely discussed reforms in state judicial organization, mention should also be made of the unified court system embodied in the new New Jersey constitution and the great interest in a judicial rule-making power.

One indication of the interest in improving state government can be found in the constant discussion in many states of the desirability of constitutional revision. In the last twenty-five years New York, Missouri, Georgia, and New Jersey have adopted new constitutions, and constitutional revision is presently under consideration in about a dozen states. Basic reforms have been made in other states through constitutional amendments.

Great progress has been made during the last quarter century in the field of improving local government. Outstanding in this respect is the development and increasing adoption of the city-manager form of municipal government. Throughout the country there has developed an awareness that many of the units of local government are too small to serve effectively as strongholds of democracy, or as adequate areas of performing services. The consolidation and elimination of special districts and the development of a consolidated city County government are attempts to meet this problem.

One of the promising possibilities in government developing during the past quarter century has been the experimentation for a middle ground between localism and complete centralization. Use of the grants-in-aid device in federal-state relations has made it possible to retain a large degree of state autonomy with some of the advantages of central revenues and uniform administration. Similar relations have been developed between the

state and local governments so that local government has been able to continue in spite of inadequate finances. The development of inter-state compacts and agreements again has pioneered an alternative way to national control which has definite possibilities.

Even in the field of the mechanics of voting, progress has been made. The short ballot movement has had an effect in reducing the number of public officers who must be voted upon by the electorate, and the increasing popularity of the use of voting machines has resulted in greater honesty in elections.

Although there is possibly no greater participation now in elections by those eligible to vote, there are evidences of increasing concern by citizens for finding non-partisan sources of information on state and local issues. Indicative of this is the development and great expansion of municipal and state bureaus of government research.

I will not further categorize such accomplishments as enough has been said to restore something of the balance which is so frequently weighed on the side of pessimism or cynicism and this audience is familiar with the good in all of the gains of this nature that have been made in recent years. I shall, therefore, confine my comments to a few of the aspects of a more general nature which seem to have a bearing on the general progressive developments in government of which we are inescapably a part in the United States today.

We know that thinking Americans are greatly troubled these days concerning the progressive development of our National Government in the direction of bigness and in the direction of a huge concentration of power in the national government with the consequent weakening of the position of the states as units of political effectiveness. This trend bears close and careful scrutiny if the United States, as originally conceived, is to continue as a federal system with a balance of power in both State and National governments.

As one illustration, let us turn the calendar back a bare three weeks. It is February 26, 1951 and opinion day before the Supreme Court of the United States. Chief Justice Vinson, the organ of the Court, announces the views of our highest tribunal in regard to the ~~constitutionality~~ validity of a statute, enacted as recently as 1947 by the soverign State of Wisconsin. The statute, known as the Public Utility Anti-strike Law, made it unlawful for employees to strike or for employers to lock-out the employees of public utilities. Under the State law, if an impasse and stalemate resulted in the collective bargaining process in public utilities, including water, gas, electric power, public passenger transportation

and communications, the State Employment Relations Board was empowered to try settlement by conciliation. If conciliation failed an arbitration which was final and binding upon the parties and which was subject to judicial review ensued. Two cases arose.

In 1948, the union, representing the employees of the Milwaukee Electric Railway and Transport Co., and the Company, were unable to agree upon the terms of a contract and a local strike which would have paralyzed the transportation system of the great city of Milwaukee was called. Invoking the powers of the statute, the State Employment Relations Board obtained a court injunction against the strike. In 1949, the agreement between the union and the Milwaukee Gas & Light Company and its subsidiary was terminated. A strike was called and the gas workers went on strike. For failure to obey a restraining order that had been entered to end the strike, under provisions of the State law, a judgment of contempt of court was entered by that State Court. In both of these cases the union and its officers petitioned the United States Supreme Court to review the constitutionality of the Wisconsin law.

Now here was a clear case in which the legislature of a sovereign state under our dual system of government, had decided that the importance of public utility service was so related to the public welfare as to call for the exercise of the plenary power of the State to end a work stoppage in such public utilities an activity which has been traditionally considered to be affected with a public interest. Nevertheless, in a sweeping 5 to 3 decision, the Supreme Court in both of these cases struck down the

validity of the Wisconsin Statute. The Court found that the Statute conflicted with federal legislation enacted under the commerce clause, particularly with the National Labor Relations Act as amended by the Taft-Hartley Act in that the federal law expressly safeguarded "the right.....to engage in.... concerted activities for the purpose of collective bargaining or other mutual aid or protection," that is, the right to strike. The Supreme Court refused to draw a distinction between a national manufacturing organization and a local public utility, holding that the federal legislation encompassed all industries "affecting commerce" and in both cases the Federal law could not be read as permitting concurrent state regulation of peaceful strikes for higher wages. "Congress occupied this field and closed it to State regulation," said the Court. Despite the fact that Congress has enacted special procedures to deal only with the strike that might create "national emergencies", despite the fact that, by no conceivable stretch of the imagination could the Milwaukee strike threats here involved call for intervention by the national machinery; and despite the admitted gravity of the strike in a local public utility, the Supreme Court concluded as a matter of interpretation that the end result of enforcing the State law would be to deny a federally guaranteed right - the right to strike. The Wisconsin statute was hence invalid and void.

The circumstances of this case are cited, not because it is believed the Wisconsin plan for the settlement of labor disputes in public utilities is an ideal solution. It is not cited to imply that legislation outlawing the right to strike is necessarily good. Rather it is to illustrate how alive is the problem of the alarming and increasing tendency, in making the delicate adjustments that are involved between State and National interests, to resolve those adjustments in the direction of a national power, even in a setting in which as a matter of statutory construction, the intention of Congress has not been made entirely clear. Might it not have been as easily concluded, as the dissenting justices point out, that Congress by rejecting proposals for the settlement of public utility disputes had done no more than to express its wish that local utilities should not be subject to the control of the Federal Government? Is it not a far sounder philosophy for us to recognize, as Justice Frankfurter stated in this case, that:

> "Due regard for basic elements in our federal system makes it appropriate that Congress be explicit if it desires to remove from the orbit of State regulation matters of such intimate concern to a locality as the continued maintenance of services on which the decent life of a modern community rests."

We have embarked upon a course which it may be difficult to arrest. Illustrations might be piled upon illustrations from a variety of fields, but the progress toward an ever increasing scope in interpretation and application of Federal Statutes creating additional Federal power and leaving the States helpless in meeting local situations is evident. The basic conception of the system of dual government is thus in constant jeopardy. There is much food for thought in the pungent observation of the dissent:

> "This Court should not ignore history and economic facts in construing federal legislation that comes within the area of interacting State and Federal control. To derive from the general language of the federal act a "right" to strike in violation of a State law regulating public utilities is to strip from words the limits inherent in their context."

The second progressive development which causes much concern these days, I shall call the problem of the two "B's", "bigness" and the "budget". Even two decades ago, a period which in present terms is almost ancient history, this problem evoked much concern. Charles Beard, writing in 1935, has described it thus: "Government" he said, "now involves life, liberty, and the pursuit of happiness at every point. It employs millions of people. It spends billions of dollars annually, augmenting the burden of taxes. It constructs, operates, subsidizes, and regulates economic enterprises upon which the nation depends for its very existence..... From the cradle to the grave we are subject to

its supervision, control and influence. Government registers our birth. It provides schools for our education. We cannot marry without its license, or enter the liberal professions without securing its approval and conforming to its standards. Every year we have to surrender to a large share of our income; (this latter part needs no quotation to a group of controllers) at any time we may have to fight, perhaps die for it. Wherever we live and work, we enjoy its benefits and protections and are subject to its restraints, penalties and compulsions. There is no field of industry, commerce or labor which it does not enter..... All these things may be deplored and criticized, or praised and welcomed, but the stubborn facts remain, staring us in the face. As we think, act and try to make our way in the world of persons and things we must reckon with government whether we like to do so or not."[1]

If this was true in 1935, how much more so today. We have in the subsequent sixteen years passed through the New Deal, to World War II and its economic aftermath. Today we stand in a divided world faced again with the problems of mobilization and re-armament. We face again the necessity for governmental regulations and economic controls spelling regimentation of a type that Americans abhor.

1. Charles A. Beard, American Government and Politics, New York (7th edition 1935) as quoted in Samuel McKee Rosen's Political Process (1935) p. 166.

Much of the normal bigness of government, is merely the inescapable parallel to the vast economic development with which we have been blessed in this Nation. Our very genious for production in turn creates the kind of complex industrial society which gives rise to an ever increasing need for and a reliance upon government as the agency to adjust the conflicting social and economic interests. Bigness in government, like bigness in business is not bad per se and it is much more true today than ever in our history that we are destined to have that bigness whether we like it or not. When one adds, however, to the normal bigness which our kind of society dictates, the additional scope in regulation, functions and cost resulting from the warlike world in which we live, Americans have reason to be concerned over the problem of how much can be added to the scope and cost of government and still keep the Ship of State afloat. Senator Byrd, a most aggressive advocate of economy in the National Budget, was quoted in the Congressional Record of February 2, 1951, as stating:

> "Secretary of the Treasury Snyder forecasts for the coming fiscal year expenditures of some $75,000,000,000. Including new taxation already enacted, Federal Revenue may reach more than $51,000,000,000 and, assuming conditions short of total war, we shall have an annual deficit of nearly $25,000,000,000. It is appalling", says Senator Byrd, "to contemplate continued $25,000,000,000 a year deficits. They must be wiped out or greatly reduced by more tax increases and by deep cuts in expenditures non-essential to defense."

These are sobering words. But even more ~~appalling~~ sobering is the reflection it seems to me, that even if all of Senator Byrd's recommendations for curtailment and economy were adopted; if governmental activity and expenditures for welfare, health, social security, housing, research, price supports, highways, airport construction and non-essential to defense activities, were all curtailed as the most noted Senate champion of economy advocates, the deficit would still be estimated according to these figures at $18,000,000,000, as only 7 billion could be saved through the Byrd economy proposals. Similarly we know that if all of the recommendations for reorganization of the Administrative machinery of the Government made by the Hoover Commission were adopted, it would result in a saving that has been estimated at $4,000,000,000 or less than 6% of the predicted expenditures for the coming fiscal year. This is not to say that these savings, if feasible, should not be effected.

These figures, however, illustrate the magnitude of the problem confronting us and certainly every possible economy in Government should be exercised and every possible curtailment should be made. However, when this is all done we are far from any final solution in the balancing of the budget or in the elimination of deficit financing.

As everyone knows, since 1931 we have had a deficit in the National Budget in every fiscal year with the exception of 1947 and 1948. While it is true that our present situation

developed from the necessity for large military expenditures and aid to Western Europe, there is nevertheless the basis for general concern in the prevalence of these deficits. We must not continue to drift into the easy philosophy that "the size of the national debt does not matter." The present demands on our economy are such as to make a balancing of the budget in the face of these demands a virtual impossibility. Tax increases, savings and economy in government must all be utilized to keep the national debt at a minimum or we continue to invite disaster.

A third concern to many people these days is summed up in what Senator Paul Douglas calls the popular epithet of "the welfare state." We are told that the progress of our government is in that direction; that we are undermining individual initiative; and that, in the search for security under the auspices of a benign government, we risk the loss of our cherished liberties themselves. Yet even among those who use the "epithet," most reasonable men would accept the idea that it is a paramount function and even the obligation of Government, next to the defense of the nation, to foster those conditions and insure a moral atmosphere under which opportunities are created and maintained so that the people of the Nation, by their industry, their thrift, their skill, their faith and their courage may build for themselves both security and welfare. Even among those who view the possibility of the Welfare State with alarm there are few who would advocate the abolition of our established pattern of social security, though similar objections were levied to it at the time of its inception.

To me this spells out the obvious consideration that the line of demarcation which determines what measures should be undertaken by government and those which should be left untouched in the hope of other solutions being found will always be a hard line to draw. That line will necessarily vary with time and with circumstances and the choice of the exact means will similarly vary. To the extent that this so-called tendency indicates too much dependence upon government by too many of our citizens there is just cause for concern. Consider for example, the matter of the number of employees and persons supported by government itself. A former President Hoover in his recent Palo Alto speech brought out the fact that a bare twenty years ago governments in the United States, Federal, State and Municipal (omitting Federal debt service) cost the average American family less than $200.00 annually while they now cost the average family $1300.00 annually; that twenty years ago there was one government employee to every forty people while we now have one government employee to every 22 of the population and actually one to every eight of the working population. Faced with such facts there is a basis for the complaint that the dependence and support of our people by the Government in employment alone is proceeding at an alarming rate. Referring to the danger from large numbers of persons dependent upon Government pay-checks, General Eisenhower has stated: ".....that the army of persons who urge greater and greater centralization of authority and greater and greater dependence upon the Federal Treasury are really more dangerous to our form of Government than any external threat that can

possibly be arrayed against us." In this area as well as in the consideration of further proposals to promote the general welfare through the powers of Government, vigilance should be our watch word, lest we endanger the very existence of our Government itself.

Americans need not resign themselves to the complete counsel of despair so prevalent today. We should as we contemplate the further progressive developments in the relation of the individual to his Government keep in mind certain fundamental considerations among which the following might be included:

FIRST: We should frankly recognize that in the adjustments to be made in the immediate future, the economic impact is bound to be greater than we can possibly imagine. In other words let's frankly recognize that we are in a struggle for survival in which regimentation and Governmental control must necessarily increase. We may be in for a regimentation of our economy for a period from 15 to 25 years and our situation must get much worse before it can get any better. As our elder statesman, Bernard Baruch told Congress: "...This is not a pleasant outlook. Neither is that of the young man who goes to battle. He risks all. Those who remain at home are called upon only to have less comforts." The controls of which he was speaking must be effective if we are to survive and we must learn to live with them. But the citizen called upon to submit to and support such measures has a right to demand that these controls be efficiently, fairly and competently operated.

SECOND: There must be no moratorium on the efforts to work at the problem of deficit financing. This means every possible economy in carrying out the functions of government at all levels in order to minimize and reduce as much as possible the rate at which our tax burden and our national debt are destined to grow. If the prospect of increased taxes causes us to lose heart, let us also remember that there will be an enormous growth in the total annual output of goods and services based upon the trend during past good years. Government in an economy which it is predicted will increase from 262 billion in 1948 to more than 300 billion by 1954, and 360 billion by 1960, can safely impose more taxes where essential to the stability and defense of the Nation. Again it is not pleasant, but it results from the inability to achieve a peaceful world.

THIRD: Wherever possible we should rely upon competition in lieu of regulation to achieve the particular end in view. All segments of American life, industry, agriculture, management, labor, possesses vast initiative and that initiative must be harnassed to blaze new trails in the solution of social and economic problems as they arise, otherwise those who cry out against government regulation will cry out in vain and government will be forced to deal with such problems. This means that we in America must renew and intensify our explorations for what Gen. Eisenhower has called "the line dividing governmental and individual responsibility", so that "in the quest for the American dream of constant betterment in the cultural and material standards of our people, we will use the specific powers of government only where absolutely necessary."

FOURTH: We must strike a balance between the spheres of responsibility of the State Governments and the Federal Government, with more consideration of the relationship of the idea of local self government to the very survival of the republican form of Government itself. This means simply, that in meeting new needs which are clearly not national in scope we should not strain for an increase in the Federal power and even where national in scope and within the admitted power of the Federal Government we should guard against the dangers of overgrown centralized bureaucracy and to the maximum extent possible decentralize decision and administration to the highest degree.

FIFTH: We must eliminate and cut out the growing cancer of political immorality in which too many of our public figures operate on a double standard of promising anything to get votes. We must insist upon fidelity, honesty and competence of all of our public servants and abandon the growing philosophy that Citizens may look to the government to support them.

Criticism of their government is one of the prerogatives of a free people. As business and professional men we enjoy that privilege and as we criticize and make proposals to avert dangers to our institutions, our liberties and to our way of life, we as Americans must always remember that much progress has been made by government toward the realization of the American dream. No where in the world are men as free to work out their destinies as we; no where in the world has a standard of living coupled with freedom comparable to ours been achieved. We can maintain that progress from threats without or from threats within. In that faith we need not falter.