

General Welfare and Industrial Prosperity

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The most progressive communities of the United States are the ones that have the most delicate tasks of adjustment between old forms of government and new problems of social security and economic justice. Because the Illinois Municipal League is made up of representatives of the cities of one of the most progressive states of our Union, I have welcomed this opportunity to discuss with you some of the problems that vex all progressing administrations, whether federal, state, or city.

Many thoughtful Americans are made anxious by the intensity of the conflicts at home and abroad. For years we have thought ourselves insulated from the causes of hatred and unrest. We have pointed to our seemingly unlimited and diversified resources, and we have felt confident that the standard of life which they were adequate to maintain would leave no room for disappointment or dissatisfaction among our people. And it was long a part of our constitutional law and of our political philosophy that such problems of unemployment, dependent old age, relief of destitution, and economic maladjustment as we did have were only local and did not concern the Federal Government.

Perhaps the most tragic feature of the collapse of 1929 was this intellectual unpreparedness for it. Belated acknowledgment of a nation-wide social problem came, but there was no experience or tradition to guide its treatment.

It is one of the most surprising and dramatic facts in our constitutional history that never in the one hundred and fifty years before the administration of President Roosevelt was the Supreme Court of the United States called upon even to make a study of the clause of the Constitution that refers to the "general welfare." Our Federal Government was set up with broad powers, but no provision of the Constitution was more pregnant with meaning to our people than that provision which authorizes the Congress to lay taxes and appropriate moneys "to provide for the common defense and general welfare of the United States." Other of the great powers were tested and contested. They were used, defined, and judicial interpretation had fixed their meanings. But so dormant and neglected had been the "general welfare" clause that in 1936, in the Agricultural Adjustment Act case, the Supreme Court could truthfully say of the long doubt over its meaning that "This court has noticed the question, but has never found it necessary to decide which is the true construction."

And the "revolution" that some people professed to fear was chiefly that at last an administration was really using the power to promote the general welfare which was clearly granted but which they had forgotten or thought to be lost through disuse. The

causes of the appearance of this new attitude toward the general welfare are found largely in economic conditions.

The depression had revealed weaknesses in our underlying economic system that were suspected by some, but were acknowledged by few. Some weak spots were promptly and effectively mended. * * *

But to us as students of government it has been disturbing that, at the same time when these weaknesses in our economic system began to appear, serious weaknesses began to appear also in local governments, including state, county, city and town governments.

It has long been recognized that we have an excessive number of overlapping municipal authorities, involving divisions of responsibility, if not conflicts of responsibility, so that local government was not organized to bring out the best of which it was really capable.

But the dangers that threatened local government most seriously were more fundamental and more difficult to remedy. The first of these was the practical exhaustion of the taxing possibilities of the limited forms of property and activities that could effectively be reached by local taxation. Local governments had leaned heavily on real estate taxation because real estate is so definitely and permanently local. And it

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was once an entirely adequate source of revenue. Real property was able to provide taxes to look after the governmental activities made necessary by real property.

But the past century had as one of its most significant developments the rise in the activity and importance of personal property, and such taxable wealth is no longer physically located permanently within tax districts. It is hard to identify with any particular jurisdiction and is easy to move. This change in the form of wealth and the decline in relative importance of stationary wealth as against movables, placed the most productive forms of wealth out of reach of local governments. The burden upon real property became unbearable; personalty was concealed or for other reasons unreachable; relief became impossible, and even municipal obligations defaulted.

Equally fatal to the capacity of local authorities to meet the needs of a disordered economy was the competition which grew up between the states. States that would do without many of the improvements that follow industrialization set out to lure the wealthy taxpayer and his transportable forms of wealth to their jurisdictions with promises of immunity from income or inheritance taxes. This offered an almost irresistible temptation to those who were best able to bear the burdens of an industrialized society, and who were enjoying most benefits from it. They took shelter from those burdens by migrating a convenient part of the year and establishing more or less fictitious residences far from the places where their wealth was being made.

Moreover, a peculiarly destructive kind of competition between communities is when some of them produce goods without including in their price the full social cost. Most states have recognized that industrial accidents are a part of the cost of that industry; others began to recognize that the cost of unemployment is as much a social cost of an industry as its payroll. Otherwise the burden of the unemployed must be carried by society through its political organizations. And there is a growing awareness that the wear and tear on a man, which leads to his early retirement, is as much a cost of industry as the obsolescence of a machine, although depreciation on men is not included in the usual corporate accounting. Whenever some of the states attempted to add any of these costs to the cost of production, other state governments which were able to resist such movements sought to lure industries away or to outstrip them in competition. States like your own, which took a high standard of living for granted, found themselves competing, even in their own markets, with the industries of states whose governments regarded a lower standard of living as acceptable.

This competition between local governments made it very difficult for the progressive states to put the costs of social legislation into the costs of production without losing industry. And it was equally difficult to meet the costs of social legislation by taxes on wealth, without losing the wealth. Thus the several states were separately hamstrung—a situation greatly to the liking of those who were opposed to all social legislation. By 1933, when the Roosevelt administra-

tion came into power, many of the local governments were simply at the end of their rope.

In this state of affairs all eyes turned to the Federal Government as it passed under a new administration. Here was the one unit of American government from whose obligations wealth could not take flight, and which could enact social legislation without discriminating in favor of the less progressive localities. Here was the one authority whose jurisdiction could not be escaped by those who were bent upon wrong economic practices.

The masses of the people had never turned to the Federal Government before. The vast powers conferred in the Constitution for their benefit had remained unused. During long periods the Government had been in the hands of men who believed in the "trickle theory" of political economy. This theory is that if the Government will help the rich to get rich enough, they will let some prosperity trickle through to the masses of the people. Never had the Federal Government been permitted to reach the people themselves with a helping hand. Tariff laws, extravagant grants to the railroads, or subsidies to various kinds of enterprises had been made, but the "general welfare" was supposed to be served with a second hand prosperity.

When the Roosevelt program, based on a philosophy of the general welfare instead of the interests of special groups, began to develop there arose a demand for the imposition of restraints upon the Federal Government through constitutional interpretation which would render it as helpless as the states. One after another of welfare measures were challenged as



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unconstitutional. There was a studied determination that no government either state or national, should be equal to the task of promoting economic security and social justice.

You are, perhaps, not interested in the details of the legal battles which lately have been fought in the Supreme Court and which constitute one of the most fascinating chapters in legal history. It is sufficient for this occasion that a series of constitutional victories has overcome the paralysis with which the Federal Government was threatened.

The Labor Act decisions have cleared the way for the Federal Government to guarantee collective bargaining so that interstate wages will represent a bargain fairly arrived at, instead of an arbitrary figure fixed by one side.

The minimum wage decision releases the Federal Government from a limitation, imposed by prior decision, so that it may now place a floor under wages and a ceiling on hours in interstate employments, and the states are restored to their powers over wages and hours that are not interstate.

Care of the aged has been definitely construed to be within the general welfare powers of the Federal Government, and the implications of the decision are broad enough to include other kinds of social insurance legislation.

In the unemployment compensation case, the Court struck a telling blow against unfair competition between states by holding that the Federal Government has power, through the use of tax and credits, to equalize the burdens of unemployment insurance and, inferentially, of other burdens of the kind.

And with reference to the Utilities Holding Companies Act, the Court found ample power under the Interstate Commerce Clause for the Federal Government to control those aggregations of capital which reach across and defy state lines. The effect of these decisions is to restore the Federal Government to the virility and usefulness purposed by its framers.

The complaint that state rights have been impaired is a groundless one. No power has been taken away from any state, and the Federal Government is not doing anything that the states were *able* to do.

There is nothing in the decision which held that the Federal Government had power to enforce collective bargaining which sets up any limitation upon the power of the states to exercise a like power in their fields. The participation of the Federal Government in unemployment compensation did not prohibit the states from establishing such systems. They were already practically prohibited by competitive conditions, and the federal legislation has enabled states to do what they dared not do before. And federal control over the utility holding companies does not deny or interfere with the state's regulation of its own utilities, but merely requires financial decency of absentee landlords who had never submitted themselves to the jurisdiction of the states.

These federal activities, therefore, have not been at the expense of the powers of the states. They are activities which had heretofore been beyond the reach of any governmental body. They represent a gain to the

domain of law and an encroachment only on the domain of anarchy.

Of course, this extension of the activities of the Federal Government is opposed, on all kinds of grounds, many of them inconsistent, by that section of public opinion which wants regulation and discipline by the government and its laws to be applied only to the masses and not to the corporations or the owners of our big industry.

Many of the same people who want to escape all control by government make constant demands for "cooperation," and often have the strangest notions of what cooperation is. *Their demands upon municipalities and states and the Federal Government in the name of "cooperation" too often mean that government would take the burdens and private interests take the advantage.*

Let me be quite specific. I suppose the most dramatic and significant development of my lifetime is the revolution in transportation which substituted the motor car for the horse. No one doubts that it has been worth all its cost and that it has been brought forth by the inventiveness and organizing genius of business men who have deserved great credit and reward.

As I see it, the transportation revolution required three things, each of which was indispensable to the success of the others. First, there was the invention and production of cars. This was properly and naturally done by private industry which realized upon its profits that have created tremendous fortunes. There was, also, the manufacture of incidentals, such as oil and gas, which was also properly and naturally taken

over by private industry at a great profit. But there was a third necessity. Few cars would be bought to navigate mud holes or to stall in the snow. Real prosperity of the motor industry awaited the building and maintenance of hard surface highways. There was no profit in that, and that job was left to the Government, with ample propaganda to see that it was fully done.

We need only ask where the motor industry would be today if public officials had refused to tax heavily and to plunge into debt to build hard roads. Suppose private industry were left to build toll roads! That was the vital part that your municipalities, states, and the Federal Government have played in creating motor fortunes. And this building of highways accounts for a large part of the existing debt of every state, city, county, and town, and for a substantial expenditure by the Federal Government. The Government's share was debt and expense to build and then widen, maintain, patrol, and snow-plow the roads, while every dollar of profit was absorbed properly and naturally by private enterprise.

And yet, under date of July 11, 1935, in urging the stockholders of General Motors to oppose the President's proposals for a graduated tax on corporate incomes, Mr. Alfred P. Sloan, Jr., flatly and unqualifiedly stated: "Government does not create wealth—it dissipates wealth."

Just why is building a highway between two cities dissipation of wealth, while building an automobile is creation of wealth? How does he get the idea that building a perfectly unneeded gas station by private industry is creating wealth, while building a needed school house is dissipation of wealth? Yet Mr. Sloan is not lonesome in his attitude, and this kind of criticism must be suffered, not by any one administration, but by nearly every administration. It is one of the obstacles which must be met by all who anywhere in America assume responsibilities of government.

I mentioned to you at the outset one of the paradoxes of our time, which is that the most progressive communities seem to have the most problems. This is due largely to the fact that those communities have borne most of the cost of their progress while the profits went to private interests. Much of the cooperation between business and government resembles the story of the cooperative owners of the cow. One owner got the forward quarters which had to be fed. The other claimed the hind quarters which produced the milk. It is the Sloan idea that the Government's interest in the economic cow ends with feeding it.

It is useless to condemn men whose interests have been rationalized in such a philosophy, but it is equally useless for them to condemn those in government whose experience teaches them the shady side of this philosophy. Let us look at the growth of the average prosperous industrial city to appraise what has really happened.

A new industry or an extension of an old one makes its bid for a supply of labor. The response brings into that city young men from the surrounding country who leave farm life. Artisans, technicians, and workmen are induced to come from other cities.

Your community experiences a resulting shortage in housing. Everybody is stimulated to overcome it. Lots are bought, and homes are built. This compels the city to go to great expense, and often into debt, in extending streets, extending and enlarging sewers, building sidewalks, expanding the garbage collection system, providing additional police and fire protection, and other municipal services. Private utilities likewise extend their services. The city structure is thus enlarged in reliance upon additional taxes, which the occupants of these homes assume in reliance upon wages.

Then one morning something happens. It may be a recession in business, whereby the use of the product is curtailed. It may be a new invention or an improvement in the process of manufacture whereby this unit is no longer needed. Or it may be that a non-resident management has decided to move elsewhere or to place its business in some other plant because of business advantage or transportation conditions or to forestall labor demands. Few of the many affected will know what has happened, and fewer still will have a voice in the decision, but the results can be traced in terms of private and public disaster.

Jobless men return to these homes in despair. Soon they default in their mortgages or fail to pay their rent, and vacancies and forced sales begin to depress the whole real estate market. Then taxes are returned unpaid, and at about the same time that these properties fail to produce taxes for the city, the load of relief begins.

This labor supply, often specialized in its craftsmanship and assembled for the purposes of this industry, is calmly dumped onto the municipality at the same time that its taxing resources are curtailed. When city resources are exhausted, it must turn the burden to the state, and when the state is exhausted, the emergency care of this labor supply must be underwritten by the Federal Government.

Then many of the owners of the industry demand lower taxes. They bewail and belittle relief. They start patronizing "back to the farm" movements which really mean a demand that the farming communities which took the burden of raising and educating these men, should now take them back and take care of them again, while the great factory does not want them and refuses to bear its fair load of supporting them. They denounce public works as wasteful, and insist that public government confine itself to underwriting their properties against risks of violence, and that the steps leading to the demoralization of the masses, which is the only source from which disorder ever proceeds, is none of the government's business. They insist that neither the state nor the city nor the Federal Government shall have any voice in the decisions of the business which produce this chain of events. They denounce government "interference" with business. They demand to be let alone. And then they demand that the workers whom they have thrown out of industry keep out of politics, or vote without any reference to their own plight.

This philosophy just isn't going to work. Such persons may think of themselves as conservative, but

their doctrine is radical and provocative. It is neither just nor prudent. A really fair apportionment of the costs of government cannot be made unless there is a recognition of the heavy contribution being made at all times by public government to the prosperity of private enterprise, and appreciation of the fact that the cost of present day government largely represents the cost of social obligations which private industry had laid down. We must bear in mind that a city or state government has no resources of its own with which it can carry the labor supply when it is not needed, in order that it may be kept available for private industry whenever it can be used at a profit. Many cities have cracked under this load. The placing of the cost of unemployment insurance and the cost of old age benefits as a burden upon industry itself represents an effort to shield local and general government, at least partially, from these burdens.

There has been in this administration no purpose and no effort to impair the rights of the state or the powers of any other governmental agency. The efforts which this administration has made to keep local institutions and governments solvent, to aid them in handling threatening relief problems, to absorb their unemployment in projects of their own choosing, ought to answer any doubt on that score. To have withheld federal aid would have been the shortest and most certain road to discrediting and impairing local units of government. There is no justification for any spirit of competition or antagonism between federal and local units of governments. They cannot be rivals, and they must be partners in carrying the total burden which falls upon all government. If state and city governments did not already exist, any wise central government would have to create them, just as the states would have to create a union if that had not been done for us by our forefathers.

This resumption by the Federal Government of its constitutional, but long neglected, responsibility for the general welfare is of course reflected in an added responsibility upon the President, the Congress and the Federal Judiciary. Executive policies and legislative programs now enter more closely into the lives of the people. They have a more decisive influence on the future of our social order. A widening horizon of federal legislation calls for a longer view of public affairs and recalls the old truth that "where there is no vision, the people perish." Federal legislators will need not only wisdom and learning but that sympathy and understanding which Woodrow Wilson used to call "comprehension" of what is going on in the household of the average man.

It is there, in those humble homes and there alone, that there is the virility to even keep the race of men alive. It is in these homes that future majorities that will control our Republic are being cradled. Any wise man of great property, would make sure that they are cradled in comfort and not in a destitution which leaves bitterness in its wake. When 13,000,000 families and single individuals, the least fortunate third of our population, and, mind you, the third with the highest birth rate, must subsist on an average annual income of \$471.00, it is obvious that the most sig-

nificant and bitter federal issues of the future will turn on the use to be made of the general welfare clause of the Constitution. Now, after a century and a half of slumber, at the request of this administration it has been made vital by the vision of Mr. Justice Cardozo and the other Justices for whom he spoke in the unemployment compensation and old age benefit cases.

The future of democracy is involved in the way in which private wealth and enterprise discharge their social obligations to workers, consumers and investors, all of whom have been exploited in the past. We must and will keep our economic system under the control of the people who live by and under it. The program of a democratic government was put in one sentence by the President in his second inaugural address: "We must find practical controls over blind economic forces and blindly selfish men."