NINE GROUPS INSTEAD OF THE 48 STATES

A Proposal for Rebuilding the Structure of Government In Order to Deal With Issues on a National Scale

By DELBERT CLARK

WASHINGTON.

THERE is a growing sentiment—it is still too inchoate to be termed a movement—among certain members of Congress with advanced social views and a willingness to break with tradition, in favor of drastic change in our form of government to facilitate nation-wide reforms frequently blocked by the very nature of our confederation. Since, obviously, there is political dynamite in any proposal to abolish States in so far as they provide a check upon the Federal Government, no one has yet dared to broach publicly the thesis that the abolition would be in the public interest and is, in fact, a distinct possibility in the somewhat distant future. Yet there are those who feel that the change should be made.

The reasons advanced for such a revolutionary step are on their face sound enough. A study of our recent legislative history, beginning with the imposition of a Federal income tax in the Wilson administration, reveals clearly that virtually every great national reform movement, economic or social, has brought up short against constitutional inhibitions against Federal regulation of intrastate matters.

A Federal income tax could not be imposed until the long, tedious process of amending the Constitution had been carried through. A national prohibition law could not be obtained without amendment of the Constitution. Equal suffrage for women had to go the same route; there is pending a constitutional amendment to permit the abolition, on a national scale, of child labor. None of these measures, good or bad, could be adopted without altering our basic law, and, what is of almost equal importance, none of them could be nullified without going through the same process in reverse.

But even these are relatively minor difficulties. It may well be a good thing that important changes are confronted with so formidable a hurdle as a two-thirds vote of both houses of Congress and a three-fourths vote of the States. The really alarming feature, these men assert, is the fact that in times of genuine emergency, when traditional State sovereignty must be forgotten for the common welfare, emergency acts of the Federal Government can be effectively nullified by the fact that there exist State lines which cannot be crossed by that great national policeman.

The time has come, they say, when we should realize that the functions of the Federal Government have become much more than those of a peace officer, when the progressive welding of forty-eight States into one nation calls for recognition, through revision of what has become a cumbersome instrument of government.

This talk has arisen largely under the New Deal, which has brought to the fore urgent national problems that can be met only on a national scale; proposed remedies are often virtually checkmated by the fact of State sovereignty. The industrial control features of the NIional Industrial Recovery Act have been repeatedly declared unconstitutional in the inferior Federal courts; the controverted Section 7a, governing labor relations, has only recently been held unconstitutional except in interstate commerce, and the term "interstate" so construed as virtually to nullify the operations of the section under any circumstances.

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ATTACKS on the constitutionality of the power development program of the Federal Government, on its regulation of national resources such as lumber and oil, on its efforts at slum clearance, have multiplied to such an extent that New Deal administrators go about these days with their fingers habitually crossed.

And it is not always the Federal foot that the shoe pinches. Only a few weeks ago a sovereign State—New York—was told by the Supreme Court of the United States that it must not regulate the price of milk within its borders if that milk was produced in another State, since that would constitute an interference with interstate commerce.

While many of the more advanced school do not necessarily quarrel with these decisions on legal grounds, they are tremendously irked by the system which makes them possible. It takes a very great judge indeed, they admit, to fly in the face of tradition and establish an important precedent. Even those who would shy away from any suggestion of fundamental change in our instrument of government believe some action is necessary, or if not action then change of method, if all reform legislation of a national character is not to be hampered by literal-minded court opinions.

Among those who believe the courts should accept social and economic change as a controlling factor in approving or nullifying legislation, and who are profoundly dissatisfied with the (to them) artificial barriers provided by State lines, is Senator Wagner of New York.

Senator Wagner, himself a lawyer and former justice of a high State tribunal, and sponsor in his Senatorial career of much social reform legislation, believes that adherence to the letter of a document adopted nearly 150 years ago by thirteen seaboard States, with few of our present problems, tends to make of that document a dead thing, rather than the living organism it was intended to be. Such interpretation, he believes, is contrary to the best legal thought of our whole history, and he foresees what might amount to a blockade of "public welfare" legislation unless State frontiers cease to be barriers in the path of social advancement.

There are, he pointed out recently, two major considerations before the Supreme Court when it is called upon to determine the constitutionality of a given law. The first is: "Does the legislation violate due process of law or infringe liberty of contract?" This, he added, "involves determination of whether the force of government has overstepped the boundary that separates it from freedom of the individual under our constitutional system." The second consideration is: "Has the Federal Government acted within the limits of its delegated authority under the commerce clause, or has it overstepped the boundary that separates national action from State action?"

Neither of these boundaries, said Senator Wagner, should be fixed or inflexible, because "changing social and economic conditions transmute personal questions into social questions and State issues into national issues." As an example of what once was considered unconstitutional in that it infringed the rights of the individual, the Senator recalled a decision in 1904, when the

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Courtesy National Park Service.

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Supreme Court declared unconstitutional a New York law prohibiting employment for more than ten hours a day in bakeries. The ground for the court's opinion was that the law constituted a "meddlesome interference" with individual liberty! Yet in 1917 Congress could decree an eight-hour day for all railway employes, and it occurred to no one that this infringed upon the liberties of the individual.

Senator Wagner's feeling is perhaps intensified by the fact that he is titular author of the National Industrial Recovery Act, an act which, whatever its purpose later became, was originally intended primarily as a measure of social and business reform. And it is this act which is subject to a more concerted attack than perhaps any other New Deal law. The Senator's own Labor Disputes Bill, now pending, may well face similar attack if it becomes law.

"The question of whether something affects interstate commerce and is therefore subject to national regulation," said the Senator, summing up his argument, "depends upon shifting and complex economic and social facts quite as much as the question of whether a matter is affected with a public interest to the extent necessary to justify State interference with 'freedom of contract.'"

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HOWEVER, Senator Wagner is not yet ready to join the ranks of those who would change our governmental system to facilitate national reform. Going back over the history and development of the Supreme Court, he sees with rising hope a slow but steady progression toward a broader social attitude on the part of that final tribunal. It is his hope and belief that the court itself will solve the problem which he recognizes as so urgent.

Others are not so optimistic. Courts are notoriously slow at best, they point out, and much harmful delay can result through legal process before a case ever reaches the Supreme bench. Any one of the inferior Federal judges could, it is asserted, easily tie up matters for a long time through mistaken judgment or too literal interpretation of the Constitution.

NINE GROUPS IN THE PLACE OF OUR 48 STATES

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The Revisionists, as they are being called for lack of a better term, believe the only genuine remedy is whatever constitutional change may be necessary to get rid of the troublesome commerce clause. This clause, they contend, is nothing less than a minor survival of the idea that States might levy tariffs. The levying of tariffs between States was specifically forbidden in the Constitution to which they consented, but the distinction between interstate and intrastate commerce was allowed to remain. This distinction now is little more than a quibble, the Revisionists contend, and should be obliterated.

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BUT how bring about this greater cohesion, this enhancement of the Federal Government's powers to cross State lines for the general good? The most common—albeit the most startling proposal—is to abolish so-called States' rights entirely, preserving State lines only for sentimental reasons, and reapportion the United States into eight or ten great departments, to be locally self-governed but without the power to hamstring the national government in its legislative acts.

Such a plan would envisage a national House of Representatives of the same membership and on the same basis as at present. Each member would be chosen from a Congressional district as now. The Senate, on the other hand, would be made up of an equal number of members from each department, to be elected at large.

On this basis the membership of the Senate might be the same as now, or it might be slightly larger or smaller. For example, if there were eight departments there could be twelve Senators at Large from each department. Or if there were ten departments, there could be 100 Senators, with ten from each department. Or with nine departments there could be ninety Senators. The Governor of each department would be chosen at large by popular vote.

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THE matter of local autonomy, the proponents of this scheme say, could be worked out as a detail in the larger plan. It could, perhaps, apply to police and fire protection within the department, and to public schools, sanitation and the like. But taxation, general social and economic regulation, in fact, anything for which there would be no valid reason for local differentiation, would be in the province of the Federal Government.

There would be a uniform system of marriage and divorce, a uniform system of social insurance and labor regulation, uniform national banking and uniform traffic regulations. And since the departmental governors, while elective, would be responsible to the President just as county Sheriffs are now responsible to the Governor of a State, sufficient uniformity could be had in primary education and other matters intimately affecting the national weal.

To provide for strictly local expenses, a pro rata share of the national revenue would be turned over to the departments. Elimination of party duplicating systems, it is held, would make possible vast economies.

To those who suggest that such a centralization of functions would make for a tremendous bureaucracy and unutterable confusion, its proponents blandly reply that things could not be much worse confounded than at present, and add that obviously such a system would have to be worked out in minute detail long in advance of execution. As for bureaucracy, they point to the already lengthening arm of the Federal Government, and hint that it might be less wasteful if it were extended a bit further.

To the argument that elimination of this particular set of checks and balances, making it possible to enact all sorts of vital legislation by a simple act of Congress, would invite the danger of large numbers of ill-considered laws being foisted on the citizenry, reply is made that, on the other hand, bad laws would be equally easy to get rid of.

There is no purpose to abolish the Constitution or deprive the Supreme Court of its self-assumed power to pass on legislation. There would still be that system of checks—the whole Federal process remaining the same, except that State governments as such would cease to exist.

Strange as it may seem, a mutuality of interest among the States follows roughly sectional lines. There are problem children, whose cases the revisionists would weigh before tossing a State into the appropriate basket. One proposed division would be approximately as follows:

(1) Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut—all New England.

(2) New York, New Jersey, Pennsylvania, Delaware and West Virginia.

(3) Maryland, Virginia, North Carolina, South Carolina, Kentucky and Tennessee.

(4) Georgia, Florida, Alabama, Mississippi, Louisiana and Arkansas.

(5) Texas, Arizona, New Mexico, Oklahoma and Missouri.

(6) Michigan, Ohio, Illinois and Indiana.

(7) Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska and Kansas.

(8) Montana, Idaho, Wyoming, Nevada, Utah and Colorado.

(9) Washington, Oregon and California.

Obviously many quarrels would arise before this grouping could be carried to a successful conclusion. For example, there is West Virginia, orphan child of the war between the States. Virginia might want to reclaim this lost province, but, on the other hand, its dominant industry would appear to place it with Pennsylvania.

Tennessee and Kentucky also present problems, particularly Kentucky. Are they North, East or South? Both would vehemently deny any affiliation, spiritual or otherwise, with the North, yet Northern Kentucky might well be affiliated with Ohio. And there is strong reason to suspect that neither would choose to amalgamate with the States along the lower Mississippi. The proponent of this particular line-up contends that their principal interest lies with the States to the east.

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THE problem of designations for the proposed departments would be considerable. Certainly, to avoid strife, any thought of designations suggesting present State names would have to be discarded.

The first group is simple enough—the Department of New England. But thereafter the difficulty starts. How devise a name to describe that great commercial group bounded by New York on the north and West Virginia on the south? "Department of Commerce" obviously would never do. Urbana has been suggested, or simply the Department of the Middle Atlantic.

Sloping southwest to the region of chronic Statehood, the third department could be called the Department of the Irreconcilables, or merely the Department of the South Atlantic.

Group 4 might well be named the Department of the Gulf, the Department of the Mississippi, or, to please Louisiana, the Côte d'Azur.

Group 5 suggests the Department of the Southwest, or, more poetically, of the Frontier.

Group 6 would undoubtedly like to get away from "Middle West," and might be known as the Department of the Inland Seas, or, simply, of the Great Lakes.

Group 7 suggests the Department of the Prairies, or perhaps the Department of Experimentation.

Yesterday's Plans -

THE NEW YORK TIMES MAGAZINE, Cont'd

Group 8 and Group 9 are relatively easy: the Department of the Rockies and the Department Transmontane, or, if your prefer, the Department of the Pacific.

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NO one seems to have worked out anything resembling a definite plan for so altering the Federal Constitution. The very nature and origin of our form of government are such that unforeseen questions arise. Could it be brought about by a simple constitutional amendment, and if so, would an amendment of so fundamental a nature require the affirmative vote of more than three-fourths of the States to validate it?

Aside from the strictly legal and mechanical problems involved, clearly the greatest difficulty in the path of such a profound reorganization of our political system is sheer pride of Statehood. While generally stronger in the East than in the West, this sentiment is a powerful force. There has appeared of late a remarkable resurgence of State consciousness, a self-assertiveness on the part of States some of which in the old pre-depression days hardly knew they had boundaries.

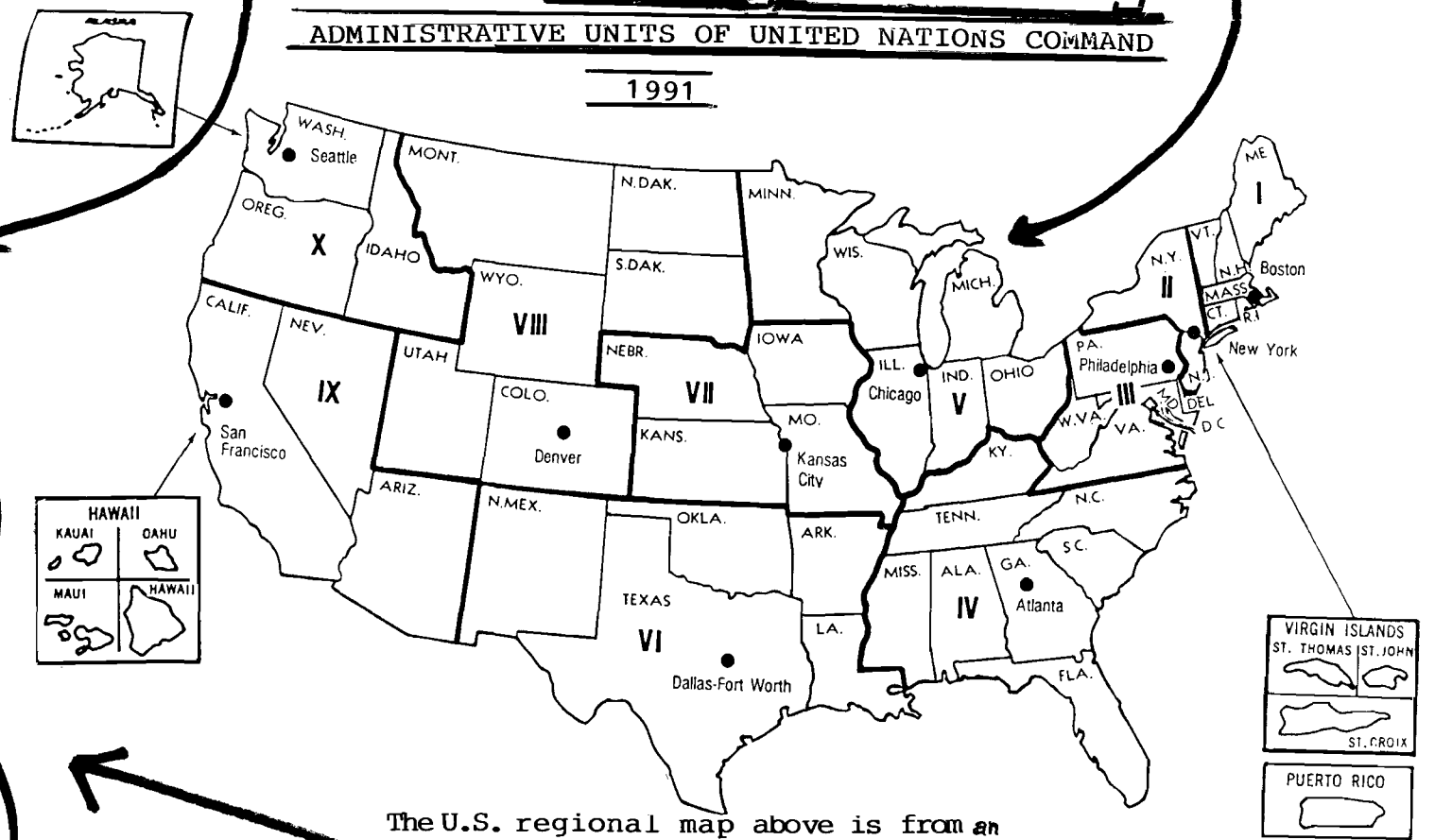
Whether the issue will ever be raised is a moot question. The revisionists may never be heard from publicly—especially if the Federal courts soon experience a miraculous transformation and begin with unanimity interpreting law in the light of social change.

1935

Today's Reality

ADMINISTRATIVE UNITS OF UNITED NATIONS COMMAND

1991



The U.S. regional map above is from an official government publication.

In the 1930's when people rejected the idea of abolishing the states, the method by which the effort was to be continued is revealed in the very last two paragraphs in this article. Judges were selected who did "begin with unanimity to interpret law in the light of the changes" desired by the designers of the new world order. Geographical, physical, economic, and social changes were then engineered to accommodate and promote the transition with the Congress supplying continual legislation to advance the effort.

BY KEEPING THE PEOPLE IN UTTER IGNORANCE, WHAT WAS ONCE A THEORY IN THE THIRTIES, THUS BECAME AN ACCOMPLISHED FACT. DUAL GOVERNMENTS HAVE BEEN IN OPERATION SINCE THE ABOVE UNITED NATIONS TEN REGIONS WERE INSTALLED. CONSTITUTIONAL GOVERNMENT HANGS ON A THIN THREAD. AS SOON AS OUR GUNS GET TAKEN AWAY, OUR CONSTITUTION AND INDIVIDUAL LAND OWNERSHIP WILL CEASE, WHICH IS A STATED GOAL OF THE UNITED NATIONS. YOUR STATE LEGISLATURE COULD STOP THIS AGAIN AS IN F.D.R.'S DAY.