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SUMMARY OF REMARKS OF

THE HONORABLE FRANCIS BIDDLE

Attorney General of the United States

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With the end of the first year of the war the United States is entering a second phase of the gigantic struggle. We have built a magnificent Army, enormously increased the Navy, organized the greatest industrial war machine in the world. Recently we have taken the offensive.

The first great task is behind us. But ahead of us are even vaster objectives, greater difficulties. I shall refer only to some of those that concern the home front, and necessarily only in general terms. As the war tightens, raw materials are absorbed and manpower shrinks. Now every citizen knows what total war means behind the fighting lines. It means careful control over essentials - gas, oil, food, transportation, housing. Prices must be controlled, goods rationed, sacrifices required.

This necessary program affects all of us, 130,000,000 of us. We don't like controls; we are not used to them. The cornerstone of our life has been individual strength. We have become great on this faith - a free play for individual imagination, ingenuity, courage. And as we fight today for this way of living we must learn at the same time to abandon much of it to achieve our ends.

Also we have always believed in preventing concentration of power. The executive must be subject to the legislative, and the legislature to the courts. The core of our system is the division of powers between the central government and the States. Each sovereign is supreme in its own field. That is the Federal system, central to our whole scheme of national life.

Waging war is the responsibility of the Federal authority. But modern war touches every phase of living. And under that boundless definition war today becomes as much a concern of the States as of the nation.

The people in their states - farmers, factory workers, miners, men and women - all in that profounder sense, are in the fighting forces of American democracy. State and local Governments are an integrated part of the war effort. And as we enter that second phase of which I have spoken, the realization of that immense fact must grow upon us.

I have spoken of our central belief in separation of powers. These powers touch and cross at a thousand points. Differences are essential. The tug and pull of ideas underlie our whole democratic process. Conflicts of course develop, and are settled through our free democratic institutions. Our history is basically the story of these settlements; and with one great exception they have been peacefully settled.

In war these conflicts are more sharply outlined. We know the need of swift and effective action. The scope of executive function inevitably tends to increase, often too fast; and the legislative in war time must guard its prerogatives against abuse. So too Federal Government cuts across state lines, and at times state sovereignty seems jeopardized. I do not think that such interference is unavoidable. Action on a national basis is of course needed in many fields; but when it is taken, it should be taken with the approval of the states where it affects their interests, and with due regard for their rights. Our fundamental peacetime concept of a dual system of government and state sovereignty should not change because of war.

Furthermore, as a matter of practical administration, the strength of 130,000,000 people cannot be fully mobilized for the war program, except through the utilization, at full capacity, of State and local machinery. It is only by the full utilization of the States' effort that a huge nation

like ours, with its individual initiative, enthusiasm and devotion can be wholly enlisted in desired channels and saved from confusion and duplication of effort.

The prosecution of war, as I have said, is inevitably a national responsibility; hence a duty of the Federal government. But in war, as in peace, there are innumerable matters in which State action is indispensable. The program of suggested State war legislation is a recognition by the Federal government of that very responsibility of the States.

To accomplish this blending of the State and Federal Governments is not as difficult as we may have been led to think. Our experience with the States has been most fruitful and I cannot praise too highly the spirited cooperation which has been shown. This cooperation began almost two and a half years ago, at the conference in the Department of Justice, when twelve Governors and twenty-six Attorneys General met to discuss with representatives of the Federal Government, to devise ways and means of evolving a close cooperation on matters of national defense - registration of aliens, policing plants, sabotage and sedition laws, protection of civil liberties. The conference resulted in a Drafting Committee, which, working under the Committee on National Defense of the Council of State Governments, in cooperation with the Special War Policies Unit of the Department of Justice, has acted as a clearing house for State legislation, gearing such legislation to the national effort; considering, in the process, any suggestions we may wish to make on behalf of the national government.

I take this occasion to express my thanks and my gratitude to the members of the two committees - to Mr. Turner, of the House of Represen-

tatives of Pennsylvania; to Governor D'Conor of Maryland; to Senator Brown of South Carolina; and to Frank Bane, the effective and patient Executive Director of the Council, all of whom are now serving on the Defense Committee; and to the members of the Drafting Committee, among whom at this time are Deputy Attorney General Adams, of Pennsylvania; Colonel Beckwith, Judge Advocate General of New York; Senator Biddinger of Indiana; Professor Chamberlain of Columbia University; Mr. Clifford, Commissioner on Uniform State Laws of Rhode Island; Mr. Ellenbogen of the Council of State Governments; Attorney General Herbert of Ohio; Mr. Long of Tennessee, Commissioner of Uniform State Laws; Mr. Ostertag, Chairman, New York Commission on Interstate Cooperation; Attorney General Staples of Virginia; Attorney General Walsh of Maryland; Mr. Wilkes, Commissioner on Uniform State Laws from the District of Columbia; and Mr. Gallagher, Assistant Director of the Council, who as secretary of the Committee, has done a difficult job with unusual understanding and efficiency. May I too compliment Mr. L. M. C. Smith of our War Policies Unit, who has worked in close harmony with the Committee.

Before this clearing machinery was undertaken, too often in the past those representing the Federal agencies, unaware of a convenient access to the proper State authority, had acted without knowledge, or clumsily, or through inadvertence without due consideration for legitimate State interests. They acted, and then spent weeks ironing out the irritations and confusions that ensued. Similarly, those who acted for the States, lacking a convenient and continuing access to the Federal people, sometimes took positions or criticized - all over matters that might have been solved by an hour's conference around a table.

The Drafting Committee of State officials which was established in 1940 began by drawing up and presenting five bills, which many States enacted into law. Then in 1941 and early 1942, additional war bills were prepared and enacted. This year, with 44 war legislatures meeting in regular session, a program of 27 war proposals for State legislation is embraced in the three reports of the Council. To achieve these 27 war proposals, some 61 proposals have been processed through the Department of Justice, which receives them from both Federal and State sources. They are then presented to the Drafting Committee of the Council. Of course, when the Committee is through with them, the job is still only half done. They must then go to the States for action.

And there are common problems of administration that are being solved through joint Federal-State cooperation, on a continually enlarging field. The checking of Selective Service to the States; the handling of the 35 M.P.H. speed-limit problem; the problem of weights and measurements of trucks, so promptly and so largely solved by the Governors of the States on an emergency basis - all are telling illustrations.

So too was the memorandum on Fiscal Policies for State and Local Governments issued less than a week after Pearl Harbor, and prepared by the Council's Tax Committee, in consultation with Federal officials. Recently there has been created the Joint Federal-State-Local Committee on Fiscal Policies and Practices, the Director of the Budget and the Secretary of the Treasury having been designated by the President as the Federal representatives. As the President said at the time, "Harmony in fiscal policies and practices is of great importance for the stability of our wartime economy and for the post-war readjustment."

These things have been accomplished by man to man cooperation. That is now the formula, and it has proved itself. The results have been excellent. The spirit of cooperation has never weakened. The work has been continuous, detailed, realistic. The problems of State and Federal legislation and control during the war have been met and largely solved in this particular field. This, gentlemen, is no mean achievement. Democrats, Republicans, North and South, State and Federal, liberal and conservative - we have got about a table and have discussed our differences, and have stayed friends. Is not this an example of the democratic process at its best?

I think so, and I think it is so for several reasons. We have examined facts, and when facts are known misunderstandings disappear. We have talked particular problems, not philosophic theories. That approach is realistic. And the members of the committees, meeting constantly, have approached their problems as human beings, as fellow Americans called together in the crisis, touching elbows, now and then relaxing together in the play of humor and friendliness that disarms and unites. There was none of the mechanism of office procedure, of formal exchange of letters and opinions, none of the resentment that comes so often from a distance when you don't hear the tones of a man's voice and see his eyes smile. And above all the States, which after all made up the Committee with their own representatives, were generous, understanding, and eager to help solve our Federal problems.

Is this not natural? Whether a man comes from Pennsylvania or Virginia, he is no less an American. And I beg you to believe that we who work for Uncle Sam - we "bureaucrats" - cherish no less the States where

we were born, and where we went to school and to work, and to which some day we will return.

I am prepared, if desirable, to take the lead in broadening the scope of this Federal-State machinery, so that it will embrace general relationships. I believe it should cover both administrative and legislative problems, whether of Federal or State origin. It might cover the checking of proposed Federal laws and regulations affecting the States, before they are suggested to Congress or promulgated. Federal agencies must be well enough informed so that they will make the proper approaches. Finally, the way must be kept open for the States to make known to the Federal Government their wants, their problems and grievances.