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Mr. McCLELLAN. An agreement was reached between representatives of the Treasury Department and the taxpayers' representative, a certified public accountant, with respect to the issues involved. I realize that the Treasury could overrule the man in the field. But in this instance, everything appears to be in order. Congress has asserted its authority to enact this legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to *D. file*

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961

The Senate resumed the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

Mrs. NEUBERGER. Mr. President, referring to the fast-becoming-famous case of Baker against Carr, in 1962, it is well to review some of the opinions of the Justices. Justice Clark's concurring opinion reads:

Although I find the Tennessee apportionment statute offends the equal protection clause, I would not consider intervention by this Court into so delicate a field if there were any other relief available to the people of Tennessee.

This is the very point that has just been made by the distinguished Senator from Illinois [Mr. DOUGLAS] in his discussion with me, as to how reapportionment finally came about in Oregon.

As the Senator pointed out, the need created the initiative, by which the people can find recourse if the legislature fails to act.

Justice Clark bases his concurring opinion on the fact that there was no other relief to the people of Tennessee.

His opinion reads:

But the majority of the people of Tennessee have no "practical opportunities for exerting their political weight at the polls" to correct the existing "invidious discrimination." Tennessee has no initiative and referendum. I have searched diligently for other "practical opportunities" present under the law. I find none other than through the Federal courts. The majority of the voters have been caught up in a legislative straitjacket. Tennessee has an "informed, civically militant electorate" and "an aroused popular conscience," but it does not sear "the conscience of the people's representatives." This is because the legislative policy has riveted the present seats in the assembly to their respective constituencies, and by the votes of their incumbents a reapportionment of any kind is prevented. The people have been rebuffed at the hands of the assembly; they have tried the constitutional convention route, but since the call must originate in the assembly it, too, has been fruitless. They have tried Tennessee courts with the same result, and Governors have fought the tide only to flounder. It is said that there is recourse in Congress and perhaps that may be, but from a practical standpoint this is without substance. To date Congress has never undertaken such a task in any State. We therefore must conclude that the people of Tennessee are stymied and without judicial intervention will be saddled with the present discrimination in the affairs of their State government.

I quote next from one of the most penetrating and fair essays available on the issue of federalist relations. This has to do with the new pluralism and the relative decline of the States. It is an article written by Mr. William T. Carleton, professor of political science and head professor of social sciences at the University of Florida. It reads:

In 1952, the theme of Dwight Eisenhower's presidential campaign, at least in domestic politics, was the reawakening of the States, the restoration of their traditional place in the Federal system, a return to the values and practices of decentralized federalism. Even scholars took another look at the Federal system, and some became moderately optimistic about the prospects of revitalizing the States.

Among those who shared this optimism was the late Leonard D. White, one of our most distinguished scholars in the field of public administration. In a series of lectures at Louisiana State University, published in book form in early 1953 under the title "The States and the Nation," Professor White set forth the grounds for believing that the Federal Government would relinquish some of its tax sources to the States, among others the gasoline tax, and that the States themselves would also explore new sources of tax revenue.

Professor White believed that the States would probably revitalize themselves in other ways. First, they would relinquish some Federal grants-in-aid and assume independently some of the services they now render jointly with the Federal Government. Second, the States would experiment more widely with the interstate compact. Third, they would make a much fuller use of their own powers in two general ways—they would enlarge their traditional services and keep these abreast of the great advances being made in criminology, penology, mental health and education; and they would resume their old role as laboratories of experimentation by taking on new functions such as adult education and training, government aid to superior students, health insurance, possibly even disability insurance.

As I read again from the printed page, I am thinking about how ideal it is and how wonderful it would be if Professor White's theory and projection had prevailed.

As I read it, a smile crosses my face. I think of how the opposite has happened, and I wonder why.

Continuing to read:

This emphasis in 1952-53 on the bright future of the States was, of course, a reaction from the enormous growth of Federal power during the 1930's and 1940's. As late as the turn of the century, the Federal Government had affected the national economy only through its simple excise taxes, its protective tariff, its uniform currency, its marketing of Federal bonds, the limited functions of the national banking system, and an inconclusive regulation of interstate carriers. By 1950, however, the activities of the Federal Government had come to touch vitally every aspect of American life. The old and original powers of the Federal Government had been prodigiously expanded by new demands in foreign affairs and national defense. And the New Deal and the Fair Deal, building on the earlier New Nationalism and New Freedom, had charged the Federal Government with vast new functions so as to assure a smooth functioning of the American economy. By 1950, American constitutional theory and practice had come to accept this and American opinion overwhelmingly to expect it.

In 1960, it looks as if the anticipation of a revived federalism in its old forms were unfounded. Aside from tidelands oil, there has been no significant return of functions or tax sources to the States. Since 1953, it is true, there have been demands for an enlargement of old State functions and for the initiation of new State functions, but most of the States fail to respond to the demands. At the same time, the Federal Government has been taking on and expanding functions hitherto regarded as largely State or private matters.

We all know of the wonderful Interstate Highway System which has now spread its ribbons across our country. We know the welfare, housing, slum clearance, urban renewal, individual and public health, hospital, and education programs that have been undertaken. Yet very few of those who oppose the Federal Government and preach States rights would change any of those programs.

Continuing to read:

The Federal Government has been concerning itself more and more with these activities, either directly or indirectly through grants-in-aid. Older grants-in-aid are expanding, new grants-in-aid are being adopted, and Federal money appropriations for grants-in-aid are increasing enormously. In 1901, they amounted to less than \$3 million. In 1931, they amounted to about \$220 million. In 1941, they rose to \$615 million. By 1951, they had expanded to \$2,280 million. Today, they are running close to \$7 billion, counting the so-called highway trust fund.

In effect, the centralization-decentralization issue has now shifted from the American economy to the American society. A new rationale to justify a new expansion of Federal power is developing. More and more, it is being said that our society is national, that as a society we are becoming more interrelated and interdependent, that we are a more mobile people than ever before, that health and education in one State affect health and education in all the States and in the Nation.

As an experienced educator, I must pause here and recall that I taught in the schools in Oregon during the war years and the postwar years, when there was a big shipbuilding industry. There was a great movement of families. Children came to work in the shipyards and in the defense industries. Those children were immediately put into our school system. They did not easily assimilate.

For the first time, Oregonians became proud and aware of their wonderful school system. They had had a certain feeling of inferiority about Oregon being a State of small population, until children came to Oregon either from immense urban areas in the big cities of the East, where classrooms were crowded, or from other sections of our country, where there had not been equal opportunity for good education and a good foundation, and where one side of the population received more emphasis in education than another.

It became necessary in every class in our school system to set up ungraded rolls to bring those children up to standard. That meant taking teachers and supplies away from our own students, who had grown up through the system. That is when I became a real convert to

the need for Federal aid to education and equal opportunity for children everywhere, because the children were no less able to learn than Oregon children. They merely had been denied the opportunity. More and more we saw the role of the Federal Government in things that used to be left to the States.

I continue to read:

At the turn of the century it would have taken a bold man to declare that since our economy was national, the Government most concerned with that economy must be the National Government and not the State. Today this is a commonplace. Now it is being said that because our society is national, the Government most concerned with that society must be the National Government and not the State. Today this is an advanced attitude, but tomorrow it may be a commonplace.

I can think of another example. When hearings were being held on water pollution and air pollution, especially the latter, some representatives of American chemical companies who came before the Senate committee did not want a Federal program for the control of air pollution.

We asked them what they suggested. They said, "Why, it should be left up to the individual States." Then someone asked, "Since when does the movement of air confine itself to State borders?"

If Portland should spend a great deal of money controlling air pollution in its area, and our neighboring State on the other side of the narrow Columbia River did not do so, would we have all of their pollution?

I never did get a satisfactory answer from them. But, of course, the problem is a Federal problem, as is danger of water pollution if water crosses State lines.

Continuing to read:

From many sides are coming demands for enlarged and new Government services. Here are a few straws in the wind. In a recent series of articles on urban renewal, the Christian Science Monitor estimated that 1 out of every 4 city dwellers in the United States live in a slum. A short time ago the New York State Department of Labor, commenting on the rising costs of health services, reported that today \$2 out of every \$3 spent for medical and hospital services in the United States are still borne by the individual, that only \$1 in every \$3 is covered by some kind of insurance.

That situation might change if we were to update it, according to the insurance companies. I am sure it would change.

Continuing to read:

The National Education Association is insisting that our public schools need an additional \$8 billion each year if American education is to be what it should be quantitatively and qualitatively, and it strongly implies that all estimates of Federal aid up to this time have been trifling in comparison with existing need. From all sides come reports of skyrocketing costs for college and professional training.

There is the much-publicized article of Benjamin Fine, who estimates that about 200,000 of our most gifted high school graduates each year cannot go on for college or technical or professional training for lack of financial help. And the Nation is reacting to all this differently from what it would formerly. Yesterday people would have said: "But advanced education is for

the individual to provide for himself." Today people increasingly say: "What a waste of national brain power."

Along that line, I remember talking to Mr. Arthur Goldberg, now Associate Justice of the Supreme Court, when he was Secretary of Labor in President Kennedy's Cabinet. One day we were discussing the problem of unemployment. I have never forgotten something he said—"More and more we are going to find the ranks of the unemployed in the ranks of the uneducated."

I continue to read:

These new demands are coming out of new conditions. What are these conditions?

I do not think I have to go on and on with Professor Carelton's comments on that point, which have been stated many times. It concerns our mobile population, combining of family farms, growing urban areas, and demands of the people for better health services, expecting to have each baby born in a hospital. In some parts of our country at one time that was never assumed.

I come back to the main theme without all this background. It is:

Will the States do their part in meeting the Nation's growing expectations? Have the optimistic predictions about the future of the States been borne out by subsequent developments? The evidence seems to be that they have not, that the States will not sufficiently revitalize themselves, that the trend to Federal centralization will continue.

True, all States are making some progress; and a few States have taken constructive, even heroic, measures to tap water supplies, find new tax sources, provide regional planning, and reapportion their legislative seats. But what was the record of most of the legislatures meeting during 1959? It was largely a record of economy, retrenchment, and the slashing of budgets submitted by the executives.

I know it has happened in Oregon.

I continue to read:

The truth is that most of the States are barely able to keep the old services abreast of increasing costs, increasing population, and the shifts of population to the cities.

Few of the things envisaged by Professor White have taken place. Have the States relinquished any Federal grants-in-aid? Not at all. Not a single grant-in-aid has been relinquished. Here is the typical story. First, a grant-in-aid is made so as to get a necessary or desirable Government service started and to soften opposition to it in the States. Then it becomes a going concern, vested interests are created, the controversial becomes customary, and the opposition vanishes. Therefore, grants-in-aid do not diminish; instead, they multiply.

We see that happen in the Senate daily. I remember that, in respect to title 7 in the recently passed civil rights bill, which suggested that not only grants, but installations of Government activities in certain States would be removed if there was not integration, a great plea was made not to allow this to happen.

Once in a while I, as a Member of the Senate, receive a plea from a constituent of mine, not necessarily a supporter of mine, to have the Government do something when there is a windstorm or flood. All the rest of the time he berates everything else I am doing and what many of my colleagues are doing. But when there is an emergency a State

cannot meet, he wants action, and we work together at that time.

I resume reading:

What of the interstate compact? It still remains largely a potentiality rather than an actuality, although there is an encouraging tendency by the States to experiment with it more widely. The truth seems to be that the interstate compact works most successfully in the noncontroversial, that is, the relatively unimportant, areas of activity such as the regional educational councils, the return of parolees, and so forth. In the controversial areas—such as electric power, tapping water supplies, preventing water pollution, conserving soil and other natural resources—it has been less successful, although longer and wider experience may bring greater achievement. At the present time what is most impressive, considering the many possibilities for the use of interstate compacts, is this: how few are attempted; of the few attempted, how many founder in the process of negotiation and ratification; of the very few that materialize, how prolonged and difficult the process of negotiation and ratification. Proposed interstate compacts must be watched closely, for they sometimes contain built-in devices for local vetoes, disguises for obstruction. It is instructive that one of the reasons for calling the Constitutional Convention of 1787, to form a stronger General Government, was the failure of the Potomac River States to conclude an interstate compact. In the light of the total situation and the many opportunities for employing this device, the use of the interstate compact is still negligible.

Are the States making an adequately fuller use of their own powers? They are not, emphatically not. This is so, chiefly because of the realities of group politics in the States. It is true that the groups that press for the expansion of government services to meet new conditions can be found in all States, but it is only in the industrial States that they can exert much influence. Generally speaking, they are more numerous and better organized on the National than on the State level. On the State level they frequently run into structural barriers erected by 19th century horse-and-buggy constitutions. Some of these are so long and involved as to be in effect codes of law rather than constitutions. They place prohibitions on the taxing power, the borrowing power, the spending power and rigid limitations on the powers of the cities. Above all they provide for flagrant malapportionment of the legislatures.

Malapportionment of State legislatures is by now an old and a familiar story: how the rural areas are overrepresented and the urban areas underrepresented; how as little as 30 or 25 or 20 percent or even less of a State's population frequently makes a majority in the legislature; how one vote in a rural area often equals 100 or 200 or even 300 votes in an urban area.

What is not so well known is the extent of this malapportionment, how general it is, how flagrant, how today some of our States are as undemocratic as Great Britain was before the reform bill of 1832.

The consequences of all this are even less well known. Overrepresentation of the rural areas means not so much the rule of the rural folk as it does the rule of the rural politicians, who largely reflect the interests and values of the county rings, the large landowners, the small-scale and local-minded businessmen of the county-seat towns, and certain corporate businesses (themselves located in the cities) which would rather deal with a legislative oligarchy than a broadly representative and democratic legislature.

Earlier in my remarks, I cited the case of my friend, a seatmate in the Oregon

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Legislature, who had 2,000-plus constituents. What was the effect of his attitude toward some progressive legislation? He was prevailed upon by the rich landowners who controlled the big wheat ranches to do everything possible to keep taxes down. At that time our State was more dependent upon the property tax than it is now. Now it is dependent on the income tax. That was the only purpose in life of some representatives from the wheat country and cattle country—keep property taxes down. How are property taxes kept down? In those areas it was done by keeping schools small and inadequate. When I was going to normal school, training to be a teacher, a horror which members of my graduating class had was to be stuck in one of the schools in that county. No provision was made for a place in which the teacher could live. She had to live at the home of a school board member or a rancher. She had a long distance to travel to get to school. She was never provided with janitor service. I am not talking about the 1800's. I am talking about when I started to teach. That was not too long ago. It was pitiful to see the conditions under which teachers had to teach.

Those youngsters were never privileged to go to college because they did not have the necessary background or training.

Lo and behold, one of the members of the legislature who came from this area finally saw that his children, attractive and intelligent, and exposed to the schools in the State capital when he brought them there during the session, were not getting the education that he had long espoused in the little red schoolhouse. He sent his wife and four children into the nearby city of The Dalles, where they spent the winter, so that the children could go to school and have educational opportunities. He is now converted to the need for a reexamination of the "rotten borough" legislature.

Reading further:

It is the legislatures dominated by rural politicians that favor the unrealistic proposals to amend the U.S. Constitution so as to limit the Federal income tax, particularly in the higher income brackets. It is these legislatures which spawn the so-called right-to-work laws and other legislation designed to hamper the legitimate aspirations of organized labor. It is these legislatures which have a peculiarly tender regard for the small loan companies. (Recently, a bill sponsored by no one except the small loan companies was passed by the Legislature of Florida; the "aye" votes in the house represented constituencies totaling 600,000 persons, while the "no" votes, which failed to stop the bill, represented constituencies totaling over 2 million people.)

Domination of the legislatures by rotten-borough rural politicians is especially dangerous in the one-party States, where these politicians become still more inbred and form a ruling clique unchecked by even a rival party clique. Nor does this situation prevail only in the South. About one-half of all the States can be called one-party States, at least so far as State matters, especially the legislatures, are concerned.

These conditions are all roadblocks on the way to making the changes that would have to be made before the States could embark on that fuller use of their powers that was predicted by Professor White. Let us list some of these necessary changes: constitutional revision; genuine reapportionment;

the exploration of new sources of taxation; the establishment of adequate civil service and merit systems in the States so that they could compete with private enterprise and the Federal Government for administrative personnel; emancipation of the cities from neglect and exploitation.

Thus the formidable task in most of the States is a twofold one. First, the structural barriers must be removed. Then the constructive battle must be fought to expand old services and introduce new ones.

The chances are that it will be another case of "too little and too late" since in the meantime the Federal Government will be moving in with new or expanded services which are given either directly, or indirectly through additional grants-in-aid. In fact, we may be nearer than many of us suspect to another great spurt in Federal expansion. If the present Congress were not checked by Presidential veto, we would be in the midst of it right now. After January 1961, a Mr. Veto may no longer be in the White House.

This work goes on at some length to quote from other eminent political scientists, to bring out the picture of our antiquated State legislatures.

Serious students of State government tend to believe that reform of most State legislatures is overdue.

In all the writings which deal with this subject, going back over the past 20 years, writers from various viewpoints and from various sections of the country seem to agree on the same answer.

A fascinating article along this line is "Inflation in Your Ballot Box," by Mr. John Creecy, in which he takes a different viewpoint from the one that I had grown up with and worked with. The style is at variance from the tomes from which I have been quoting. I hope Senators will like the change of pace, as I do. He writes in Harpers for 1953:

As a city dweller, I'm becoming rather piqued at my rural neighbors' stolid conviction that I'm not fit to be trusted with a full vote in matters of State government.

I'm from Michigan where Joe Smith, who traps muskrats in the Keweenaw Peninsula, has nine times as much representation in the State senate, and three times as much in the house, as his brother Jim, who moved to Detroit a couple of years ago and got a job in an auto plant.

Before you squander any sympathy on me or Jim, allow me to point out that if you live in a big city you're probably in pretty much the same fix. In most States our country cousins have the legislature sewed up tighter than Joe Smith's winter underwear and seem to regard this as a natural and socially desirable condition. In many cases the framework of representative democracy with which the States began has been subtly wrenched and prodded out of shape, the better to protect the special interests of the rural people. City dwellers pay an increasingly major share of the taxes, but the benefits they receive therefrom seem gaged by a sort of State law of diminishing returns.

URBAN "IMMORALITY"

Perhaps the most candid expositor of the rural viewpoint in Michigan is State Senator Alpheus F. Decker, of Deckerville (population 719, including numerous Deckers). He has argued that "it would be a crime to the State of Michigan to give Detroit full representation on a population basis."

In seeking to prevent this misdeed he has zealously circulated, among citizens pondering reapportionment, reprints of an article by Roger W. Babson uttering the complaint that "Large cities are the main sources of poverty, gangsters, and immorality" and that

"most big city voters are ignorant about government and are controlled largely by unscrupulous ward heelers."

On the other hand, the author concludes, "rural people have much better character and more time to think and read than do large city people. * * * the votes of people in small cities and rural communities should count more than the vote of the ordinary city man."

This statement, with its apparent implication that full franchise might be permissible for the extraordinary city man, appears rather on the daring side when contrasted with usual apportionment practice as followed by our rustic lawgivers.

LEGISLATIVE REAPPORTIONMENT

Most legislatures are supposed to be reapportioned every few years on a population basis. Actually this seldom gets done, despite great and continuing shifts from rural to urban areas.

Of the 26 States whose constitutions require reapportionment after each decennial census, only 8 have complied since 1950. Sixteen have not complied since 1940; 10 not since 1930. Seven States have not been reapportioned in half a century.

Even where the constitution are obeyed the city people are often deprived of an even break by sly clauses foresightedly inserted by the country slickers. Sometimes—as is California, New York, and Pennsylvania—it is an arbitrary limit on the amount of representation any one city or county can have. Sometimes—as in Michigan—it is the granting of a seat to any county or group of counties which can muster half the regular population ratio.

Such gimmicks add up to a form of ballot box inflation, which cuts the value of a vote as effectively as monetary inflation cuts the value of a dollar.

And if, as a desperate measure, the issue is carried to the voters as it was in Michigan last fall, it becomes clear that the embattled farmers still have a trick or two up their sleeves to pull on the city voters.

THIS HAPPENED IN MICHIGAN

It also becomes disillusioningly clear that full representation for city dwellers is the last thing that some city dwellers want, and that when the chips are down the farmers are able to find powerful allies in the camp of the enemy.

Wherever plans for balanced legislatures have been proposed in many States besides mine, the newspapers showered them with abuse and took the side of the rural-dominated legislatures. But in many of those cases, after an educational program, they always came around.

There are enough urban citizens in Michigan, not closely connected with top-level business management, to have adopted the plan which would have given us full representation. If the fact that we failed to support it is not to be written down as a triumph of the rural strategy of confusion, it would seem we are entitled to be credited with a high minded, philosophical renunciation of our selfish interests—an acceptance of the arguments that we are not rightfully entitled to equal representation.

Aren't we? What is there to these arguments?

It was claimed that city voters are often influenced by labor leaders, and it is true.

It was claimed that city voters are often less well informed and less thoughtful about the candidates and election issues than are rural voters. This could be disputed on the ground the city voter generally has more candidates to select from, and less opportunity to know them.

But, assuming the claim to be valid—what of it? Is the extent of our franchise to be

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governed by the degree to which we can be expected to vote wisely? Is a citizen's vote to be cut in half or less because he is likely to vote Democratic, or Republican, or Vegetarian? Or because he belongs to the United Auto Workers or the Detroit Board of Commerce? And if so, who is to be the arbiter of these qualifications?

It was claimed that area and socio-economic factors, rather than population, should be the base at least one house of the legislature, in order to provide the checks and balances which are essential to good government.

If the legislature were merely a business or industrial council this might make a good deal of sense. But it is of course far more than that. It deals with interests that transcend area and economic classification.

If interests, rather than numbers of people, are to be fairly represented, some definite formula would have to be found for doing so. But how would you go about it? Everybody has legislative interests and many of them have no connection with the way in which he makes his living.

It is true that the city taxpayer in States such as Michigan, if given representational equality, could outvote the country taxpayer. And it may be true that rural interests would suffer. But I still can't see why this entitles the rural minority to a majority vote.

Obviously a fine solution for the problems of any minority is for it to acquire a majority voice in the Government. It is a solution that has been employed effectively in many lands, in many centuries; but I do not believe it is one to be thoughtfully endorsed by many people in this century, in this land where men are created free and equal.

Changing the rules to remove anturban bias will probably turn out to be a good deal harder. Such a proposal would, of course, have to be tailored to the individual State. One generalization can be made. The proposal should be as simple as possible.

As rural people move to the cities, they find they are no different than they were when they lived in the rural areas, and that they are just as intelligent, they can figure out just as well how to vote, and they jolly well want their votes to count.

With respect to the decay of State governments, which has been referred to in some of the other articles from which I have quoted, my husband wrote in Harper's magazine that State government in America has fallen upon such sorry days that a substantial body of public opinion regards any natural resources interests of the State as practically gone forever. Opponents of the Eisenhower administration used the opprobrious term "giveaway" on the assumption that State governments lack both the will and the capacity to hold the people's heritage in escrow for the next generation.

We in the West remember, somewhat to our sorrow, that we had to look to the great populous areas of the East, especially to Pennsylvania and its Governor Pinchot, to save our forests, which now are the backbone of the great national forest system, from the local politicians and legislators who could not see the broad national viewpoint, and who moved into those forests and cut indiscriminately until it was almost too late to save some of the virgin timber.

There is now a constant fight in our State to preserve our other natural resources, until today, in 1964, the value

of the national forests has been established; and now it is the recreational and scenic beauties of our State which we have to save from our own citizens.

The obvious alarm among campers, sportsmen, fishermen, and botanists over the transfer of some of these Federal lands to our own State, supposedly so righteous, so close to the people, can mean only one thing. The people who revel in the outdoors fear destruction by sawmills, and livestock operators of their last tree and blade of grass. They believe that the State government should replace the Federal Government as the custodian of our woodland reserves.

Several Senators have joined me in introducing in the Senate bills for the creation of national seashore parks. Why should we have to come our colleagues to set aside these beauty areas of our own States, in desperation to save them from the encroachment of unrestrained civilization?

One would think the asset—the tourist-attracting qualities—of the Oregon dunes would of itself induce the Governor and the legislature to set stakes around the dunes, to prevent their demolition. But there is something about unwillingness to confront the local gasoline station operator and the local signboard painter that makes us have to turn to the Federal Government, so that these scenic spots can be preserved for all the people.

I always like to think, when I am fighting for such preservation in my own State, that some taxi driver in Brooklyn, N.Y., whose taxi will help pay for the natural resource being preserved, takes great pride in it, and that even though he may never see it, his children may some day have an opportunity to enjoy some of America as it was a century ago.

Mr. President, in my summation and conclusion, I believe I could quote from no better authority than Anthony Lewis, when writing in the Harvard Law Review:

V. THE COURT SHOULD ACT

Unequal districts have been part of the American political scene, as Mr. Justice Frankfurter observed in *Colegrove*, for generations. Why, then, should the Federal courts undertake at this time to deal with the problem? The preliminary observation may be made that no legitimate interests or expectations have become settled as a result of past judicial inaction. But there are affirmative reasons for intervention now by the Federal courts.

First, the provisions of a Constitution drawn with purposeful vagueness have always been interpreted and enforced by the Supreme Court in accordance with the changing needs of government and society. Interests which at one time received no judicial protection have been given that protection when their importance emerged. It was almost 60 years, for example, before the Supreme Court found any protection for free speech in the 14th amendment.

The effects of malapportionment are much graver today than they were a century ago. In a day when the Federal Government subsisted primarily on tariff revenues, unequal representation could be regarded as an insignificant evil; government itself has a less significant impact on society. But when the Federal and State Governments spend a third of the national income, when they are relied upon to regulate every aspect of a complex industrial civilization, the consequences of unequal representation are corre-

spondingly more severe. The rapid growth of our population and change in its character make even more urgent the need for regular, equitable adjustment of representation.

Second, in weighing the appropriateness of judicial intervention, courts consider not only the gravity of the evil assailed but the unlikelihood of its correction by other means.

As I earlier quoted from Mr. Justice Clark:

This is the teaching of the Supreme Court's tentative efforts to outline a modern philosophy of judicial review. These efforts at articulation began with the suggestion by Mr. Justice Stone, in his footnote to *Carolene Products*, that courts should be "more exacting" in their view of restrictions on political liberties. Just before he went on the Court, Robert H. Jackson commented:

"[W]hen the channels of opinion and of peaceful persuasion are corrupted or clogged, these political correctives can no longer be relied on, and the democratic system is threatened at its most vital point. In that event the Court, by intervening, restores the processes of democratic government; it does not disrupt them. * * *

"[A] court which is governed by a sense of self-restraint does not thereby become paralyzed. It simply conserves its strength to strike more telling blows in the cause of a working democracy."

Particular formulations have been the subject of dispute, but there would seem to be general agreement in the Supreme Court today that what Mr. Justice Frankfurter has called "the indispensable conditions of a free society" deserve special judicial protection. Perhaps the most useful conception suggested so far is that the courts should be free to step in when the political process provides no inner check, as in the case of legislation affecting interests which have no voice in the legislature.

The Supreme Court has applied these principles especially in the area of free speech. If speech by a dissident minority is of sufficient importance to the political health of society to deserve special judicial protection, surely there is greater warrant for intervention by the courts when "the streams of legislation * * * become poisoned at the source." Of what use is the right of a minority—or a majority, as is often the case in malapportioned districts—to apply persuasion if the very machinery of government prevents political change?

Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1006) to amend the act of June 12, 1960, for the correction of inequities in the construction of fishing vessels, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3060) to amend and extend the National Defense Education Act of 1958 and to extend Public Laws 815 and 874, 81st Congress (federally affected areas), with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2500. An act to equalize the treatment of Reserves and Regulars in the payment of per diem;