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Address Delivered by Hon. R. H. Jackson at Dinner Tendered Hon. Francis Biddle

[The following address was delivered by Hon. Robert H. Jackson, Attorney General of the United States, at the dinner given to honor Solicitor General Francis Biddle on February 28th.]

I think it is some indication of the really revolutionary character of the New Deal that the Jacksons welcome the Biddles to Washington and the Biddles welcome the Jacksons to Philadelphia. I was willing to go a long way toward effecting this reconciliation and came here asking only a fair and open field, and supposing that Francis would not take advantage of my small-town background and imagination. Then the Biddles began to arrive. There were Alice and Georgine, and Ned, Eric, Charlie and Nick; and I began to realize that Francis had packed the meeting on the Jacksons. I realized furthermore that although the Biddles might work separate sides of the street, they were using splendid teamwork. I see now that Francis is a true Democrat. From now on my slogan is going to be that I am the first Jackson to be invited to a Biddle family reunion. Francis perhaps hasn't told you the entire story about how he got into Washington. That is another instance of teamwork among the Biddles. George really entered Francis in the Department of Justice. He painted Francis in one of the pictures in the department. Many of you have seen and recognized him in the surroundings. It is a working family and in recognition of Francis' position in that family he was brought down to champion the cause of the underfed and the undernourished.

I trust that you really appreciate the importance of the office to which Francis has been lastly appointed. The office of Solicitor General is the only office that I personally ever really coveted, and it has very peculiar significance in the legal profession. When I was finally confirmed, after some discussion, I felt very happy indeed. One day I received a letter on the stationery of a bank, and I saw quickly that it had some significance. They had made some appraisal, from a banker's point of view, of this office of Solicitor General; and when I read what they said, I realized the importance of that position in the banking profession. It said: "My Dear Mr. Solicitor General: Your position entitles you to borrow \$300 or less without endorsement."

I always had some difficulty whenever I went among the laymen in making plain just what the position really was, because they were confused about this Solicitor General business; but never was it more clearly brought out than in a card which I received, shortly before Francis Biddle took over my office, from a girl who said she was in a class in the upper high school in Harper, Kans., and that the class had been directed to make a study of the Department of Justice, and she said, "Will you please send me all available free material on soliciting in the Department of Justice?" I had about recovered from the humiliation of that incident when Judge Morris of Washington had a visit from a little niece who wrote home and said she had met the "Celestial General". I gave up these titles reluctantly and somewhat despairingly to Francis. However, the other day over at Mr. Justice Black's home little Josephine, who is some seven or eight years old, peeked in, and her mother said, "Josephine, you are not to come in here. Didn't I tell you you are not to come in here?" She said, "Well, I want to look at the 'Eternal General'."

But there is something besides good fellowship about this occasion. After all, there is something very significant and, I venture to say, very magnificent about Francis Biddle's career in public life. Here is a man who gave up the security and the assurance of a place on the bench to go into a position where he will be thrown into the contest and struggle and all the uncertainties that attend public life. Here is a man who has before left the security, relatively speaking, of private practice, who has left the comforts of private life to take on tough jobs in the public service. And the jobs that Francis Biddle has taken on were tough jobs. The task of reorganizing and of starting on its way the Labor Relations Board was one of the most difficult of tasks, a task which men who preferred comfort and an easy way of life would have avoided, a task in which there could be little of personal advantage to him. His task with the investigation of the T. V. A. involved hours and hours of complicated studies of things that I don't think were very interesting to Francis Biddle, or very challenging to him intellectually, but he did the job. Then came his appointment to the bench, and now he is returning to the turmoil as Solicitor General.

Public life in Washington entails living in artificial surroundings—misunderstood a great deal of the time, if not worse, having to explain to your family whether the things that appear in the papers are really true, meeting your friends who wonder whether you are sane. All of those things Francis Biddle has undertaken in the public service, and public service is your service and my service. It is a significant thing, and a magnificent thing, that men are willing to do that, because there is little hope for a republic if men who have experience and informed viewpoint, and have something at stake, merely complain about politics and leave them to other men to handle.

I am glad to welcome Francis Biddle to the public service because he

represents the type of man on whom the future public service of the United States depends. Government problems are not so simple as the problems that one meets in private practice in Philadelphia, or its comparable City of Jamestown, New York. One enters into the public service and finds in Washington the impact of forces that he never dreamed existed when he was pursuing relatively simpler private interests. There he finds contesting classes and groups and interests of which he was only vaguely conscious, and he finds them coming to impact in litigations and in public affairs in the capital of the country. He finds that where private enterprise leaves off Government often has to begin, where private enterprise says, "At this point we are through, we can no longer employ the man", the Government has to begin; where private enterprise says, "This is too big a project; we can't complete it," the Government has to take over; where private enterprise finds itself exhausted, as in the banking structure in many points, the Government has to concern itself. So that in the service of the public one encounters a whole range of problems that are entirely unknown to him in private practice, and with which his friends who continue in private practice do not suspect he is working; forces that have to be reconciled, conflicts that have to be settled, of which each person pursuing his own affairs is unconscious.

The Solicitor General of the United States has a good deal of responsibility for the development of public law in the United States, because day after day in a great variety of cases, for good or ill—and I have heard it suggested sometimes that it was for ill—the Solicitor General advances before the court the points of view in the public interest that offset the pressure of private interests for the direction of the law. Francis has a great responsibility, and it is a satisfaction to know that it is the hands of a man of experience and of integrity and of imagination.

Senator Pepper and Dean Lewis and Dean Goodrich have been engaged for some years in rewriting the law. We have been doing a little of that in Washington ourselves. There is considerable anxiety on the part of some people as to just what we have done about it. I am not going to undertake to discuss the course of constitutional interpretation in an after-dinner speech. There has been considerable and, in some fields, decisive change in the direction of constitutional interpretation. My own point of view, with which many people differ, is that it has been in the direction of a fuller application of the Constitution, and one more in accordance with the meaning of that document as it went forth from this city than we have had in a generation.

When this Constitution was adopted in this city, the country was in the midst of the great depression which followed the Revolution, and the fundamental purpose of the framers of the Constitution was set up a government equal to dealing with the problems of an organized society. Under the hand of John Marshall it received a broad interpretation to accomplish those purposes. Then came the days of the slave power. Constantly there was fear of National development because it was foreseen that that was the direction of danger to the slave power. Following that came the growth of great enterprises with its danger again being National regulation. The result has been nearly a century of restrictive interpretation. That has been changed in the last three or four years. It will take time, of course, to determine the full effect of that change upon the structure of the country, but this is a day of changing society. Events really make their own terms with our theories, and it seems to me that the duty of the lawyers in government is not to attempt to stop changes but is to guide those changes into orderly and peaceful channels. The duty of the bar in a period of great transition is to see that that transition is made without injustice and without a sacrifice of fundamental rights, and to hold the balance between stability and progress and between liberty and authority.

It seems to me that the Department of Justice, to which Francis Biddle has come, has a great function in connection with this, a connection not only with the administration of the law, but with the development of the law. There is great need for men who see life as a whole and see it steadily, who have a proper valuation of the old things and who still have an appreciation of the necessity of some new ones. I may venture to say that there is a great satisfaction to me personally to have the friendship, the help, the association of the man who shares the ideals of the Department of Justice, which, it seems to me, are important if that department is to serve this country as it ought to do. I believe in a Department of Justice under the law, a Department of Justice which will administer the laws of the country as they are written. I think I do not need to say that I also believe in a constant, steady reform of the law, because I believe it must be reformed from year to year, from generation to generation, to keep the pace; but having been written, it must be enforced and it must be observed, and the law enforcement officers of the

Government must be the first to pay obedience to the commands of the law.

These are somewhat dark days, and if there are forces loose in the world that have driven a large part of the world totally mad, it is not surprising if we are perhaps ten or fifteen percent mad ourselves. It seems to me sometimes that there are forces loose in this land that indicate that we are not entirely immune from the disorder and upheaval that has upset the world abroad. The Department of Justice has a great duty to perform in connection with maintaining in this country our traditional liberties without which a democratic government cannot function. There must be in this country no suppression of news or of speech, however little we like the things that we hear. I believe in freedom of men, however much opposed to the Government they may be. I believe in their freedom to express their views, not because I agree with them, but because if one man loses his freedom to criticize the Government it is not long until all will. As I look about the room, I have a suspicion that about March 15th many of you will have prized the privilege of "cussing" the Government; however, do not forget this: if the privilege which you have of expressing your view as you make out your income tax returns is lost to any other citizen, it will not long be preserved to you. In view of what is going on in the world I think we must adhere with the strictest fidelity to the principle that men should not be accused of crime without presentment to the traditional grand juries of the country, that there is nothing more destructive of justice than a system of justice which is so zealous that it bypasses the traditional safeguards erected to protect private reputations and private names.

Then, too, there is great pressure upon the Department of Justice to go entirely outside of the administration of Federal law. I don't know what the future holds by way of centralization of power in the United States. I don't attempt to foresee the future; it is quite enough to solve the troubles of the day—and not all ways solve them. We have constant pressure from communities which fail to solve their own problems to come in from Washington and solve them, constant pressure where local government is lax to come in and substitute Federal authority, or where local authority is strict to come in and protect civil rights that ought to be protected by local officers and local enterprise. It isn't physically possible for this country to look to Washington for the administration of justice in its several communities, and we must not allow a sentiment to grow up which will shirk local responsibilities in hope that somewhere or other from Washington will come a wisdom that will save local responsibility and substitute for local indifference.

I think we have preserved in this country something of great value. The Chinese Ambassador the other day explained the very discouraging hours in China by saying China was trading space for time. It is worth thinking over. In America we have spent large sums of money in this depression; we have used many stopgap and many experiments; we are not a solution of our problems, but what we have done has been to buy time for a democratic solution of our problems and preserve men while the machinery by which a free people can solve its problems has been working. Facing us in the immediate future is the necessity of reconsidering and re-examining these experiments, these stopgap measures, these temporary expedients, and of formulating a long-range policy to deal with problems which every honest man knows are not yet solved. The important thing is that today we have saved our democratic machinery for a peaceful solution and we are among the few people in the world today who are looking forward in a few months to the opportunity to go to the polls and decide whether we want any more of it or not. You are about the only people in the world who have the privilege left to them. You know that you will speak as you please, and you will not see any concentration camp in consequence of it. You have only to buy Philadelphia papers to know the press is free. You know that the voting booth there will be no soldiers to direct you or assist you in voting. You know that there will be more than one name on the ballot, you had any doubt about that, you know tonight after Mr. Patterson's remarks that there will be. You know that no matter what happens on election day in this country you will abide by the result, and that is the essence of democratic government.

And so it seems to me that we have cause for congratulation tonight, that we have cause to feel that in a time almost universal upheaval our system has justified itself, and that there in this doctrine of government by consent of the governed something not only idealistically beautiful but something that is workable. For my part it seems to me that its continuance depends upon the willingness of men to give up their comforts and their personal satisfactions and their personal opportunity for riches in order to serve this Government, and that is why I am glad to come here tonight in tribute to Francis Biddle, who exemplifies the finest tradition in the public service of the United States.