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Congressional Country Club, Washington, D.C.  
Reception and Bar Association Dinner Given in  
Honor of Mr. and Mrs. Jackson  
Wednesday Evening, October 17, 1934, 7:00 p.m.

Ladies and Gentlemen of the Federal Bar Associations--

This kindly reception by fellow lawyers in the Federal Service is the more appreciated because so entirely unearned. Such generosity toward the awkwardness of the beginner and charity toward the blunders of the more advanced is a redeeming inward characteristic of our profession, which the layman judges chiefly by its more visible signs of quarrelsomeness and antagonism. None has experienced during professional life greater generosity from fellow members of the bar and none has greater need for the continued grant of their charity than I.

This initiation, I suppose, now qualifies me as a full fledged and regularly recognized "bureaucrat." From now on, progress will not be a change of character but just a process of mellowing - like being aged in wood.

Last June, I read the "Declaration of Policy" by the Republican National Committee and it complained that the people were "sufferers from the mistakes of misguided bureaucrats, who ignore history." I thought it hit newly arrived democrats, and was as such

offended by it as would be possible from such a source.

But as I look about Washington and this banquet board and see such an overwhelming majority who were here before March 4, 1933, it makes the denunciation of the Republican Committee seem like the act of an unnatural mother turning upon her offspring.

Regardless of politics, one can never become a confirmed and seasoned "bureaucrat" until he begins to take himself too seriously. Man is a laughing animal, real "bureaucrats" never relax to that extent. On this occasion, we may gain by amusing ourselves at the expense of each other and of our profession, just to prove to ourselves that we are not justly damned by the epithet bureaucrats.

We are too transient to take too much consequence to ourselves. Omar, the tent maker must have been one of us. Maybe you M.K.A. counselors had him here on the Tent Maker's Code. He must have been a Washington officeholder when he wrote:

"We are no other than a moving row  
Of magic shadow shapes that come and go  
Round the sun-illuminated lantern held  
In midnight by the master of the show."

I have before observed that a former officeholder in Washington is of no more importance than yesterday's newspaper. And we must not forget that tomorrow today will be yesterday.

Apart from the relatively few and ever shifting corps of drum beaters who move in and out with the currents of politics and whose antics make the merry-go-round so merry, there is a permanent army of occupation, to which many lawyers belong and upon which the real burden of government work rests. Regardless of popular impression, I have found them hard working, competent and sincere. But I suppose the popular impression was more correctly reflected by the wag who assigns telephone numbers in this city. Ours is the highly suggestive number 50-50! I at once made inquiry to see if there was anything personal about it and was relieved to learn that the number was assigned under the previous administration.

I have found some of the most scholarly and capable of lawyers in the government service in unnoticed positions at relatively small pay. Many are rather sensitive men who find here a refuge from the harshness

and callousness of competition in private practice. Though lawyers can not directly solicit business, or openly advertise as traders do, we must recognize that there is intense and relentless competition in the legal profession. Merely being a good lawyer does not assure one of a law practice. Strife for business follows different methods than in commerce, but law practices are built by competitive advantages, such as any trade. Government service is a look-out station from which one sees great numbers of lawyers pass by and learns that the lawyers with many clients and large fees are often not those who best know or best present their cases. From this jostle of competition many extremely able lawyers find shelter in departmental service. Of course the lazy and incompetent also find shelter, but not in large proportion. My own conclusion is that the government rather exceeds private enterprise, as I have known it, in the proportion of earnest and capable lawyers, sincerely trying to do a good job, meeting day by day far better paid private specialists and excelling them in average of work. Government

work moves slowly, terribly slowly, but many a trifler with the Federal machine has found that it moves with surprising efficiency and success.

Why, then, are government lawyers and officials generally regarded as "bureaucrats?" Why do the finer and better things I find in my fellow servants make so little popular impression?

One reason probably is because most people know us only through correspondence and we write (the State Department excepted) such barbaric letters.

The official letter salutes one who has done us no wrong as "Sir." The salutation does not respect his personality enough to name him, but has an indignant brevity, like one angered at the need to write at all. And it ends with the demand that any reply refer to a set of symbols, meaningless to the bewildered citizen but magic to the bureau file clerk. No doubt the country is full of citizens who think bureau symbols bear tags with mysterious symbols instead of being known by names.

The official letter is the perfect example of one robot addressing another. It portrays a writer with the warmth and personality of an Egyptian mummy. If the public classifies us as mummies, we have written our own tickets. I never received one that did not seem like a rebuke and never sign one without wishing to add a longhand apology for its tone.

As lawyers, we bring to the government service our philosophy of legalism, as each other group brings its philosophy. The law is the science of orderly relations. The government uses our legalism in vast quantities. We often refine our legalism a little too much for acceptance by the average of mankind. The public has turned to the administrative tribunal to get rid of our excessive legalisms.

Each professional group sees in the other a tendency to become "theoretical" at the expense of reality. Many of my business friends are fearful of the influence of professors in government because they think the professors are theorists and dreamers. My idea of a

first-class dreamer is a man who thinks he can put two and two together and make ten. Ist, that is exactly what these practical business people were doing. Many of us bought a little of it and learned that the despised school teacher is right, after all. Two and two made only four, even when the best financiers put them together. And these  $2 + 2 = 10$  boys think it would repeal the laws of mathematics if they could fire the professors who teach them.

There is much said, too, that we lawyers get far away from facts; that, to solve problems, we use formulas that are not real and apply maxims that are not true. I think we often do. We delight in our legal fictions and we drag them out to solve public questions.

For example, lawyers often assert that there is a presumption that all men know the law. Of course, there is a very sound and practical rule that ignorance of law will not excuse its violation. But, again and again, we go farther and solemnly assert that all men are deemed to know the law. Of course, it does not apply to judges, for they require tedious

arguments and long briefs to tell them what the law is and they end by disagreeing. And it can not apply to lawyers, for we always charge a fee for looking up the law and one side or the other is always wrong.

The only man who is presumed to know is the one who does not pretend to know, who pays to be advised and half of the time finds the advice wrong.

I don't mind using these fictions on proper occasion, if we don't forget they are fiction. But we get to believing them. A learned committee of the American Bar Association recently charged the Roosevelt administration with murdering this dream child. It cited the quantity of new laws, rulings, orders and decisions since March 4, 1933 and learnedly said, "The presumption of knowledge of the law becomes, to term it mildly, more than violent." (Report Committee on Administrative Law) So it was not violent to assume that every man knew all the law in the Hoover, Coolidge, Harding days? Who, except lawyers, could, with straight faces, claim that such a "presumption" was ever, at any time in our history, anything but a convenient fiction?

Then we have our fiction about corporate entities - that

each corporation is a distinct being, of independent will and existence and with a set of rights all its own. It is a good thing to believe when it's true. But, when one lawyer sits in his office, dictates five sets of corporate minutes, votes all the stock of each as proxy for the same owners, shifts property from one to the other and then argues that five separate taxable beings were there doing business with each other, it doesn't add up right to me. You might as well say a man has five wives just because five mirrors show five reflections of the one. We lawyers ride a maxim to death. Corporate entity is one of the fictions that lawyers use over and over again

"Till their own lies at length deceive 'em,  
And oft repeating, they believe 'em."

We have introduced too much legalism and legal fiction into

a great many of our administrative processes. No branch of service suffers more from an excess of legalism than our own income tax administration. When lawyers get into administration, they tend to create a mass of legal technicalities.

Those of us who came here as a part of the new administration are fortunate in finding a reception attitude toward changes. / John Stuart Mill said:

"The disease which affects bureaucratic governments, and which they usually die of, is routine. They perish by the immutability of their maxims; and, still more by the universal law that whatever becomes a routine loses its vital principle, and having no longer a mind acting within it, goes on revolving mechanically, tho the work it is intended to do remains undone."

A change of administration leads to a reconsideration of old policies, reexamination of old precedents, reanimation of what had been routine. Then it settles down to routine again. While it is unsettled and in transition is the time individual opinions and efforts are most influential. Since my own philosophy calls for free criticism of the existing order always, and a good bit of experimentation in an effort to improve conditions, the atmosphere of present day Washington is congenial.

Lawyers embrace all extremes of political opinion. We range from steel-patters to radical, with an assortment of conservatives and liberals in between. Like our clients, we range from the rugged to weak and from the upright to the shady. But we all have a common background of study and tradition. We have the same patterns of thought. Whatever department we serve in, however conflicting our interest, lawyers are never strangers. We have a basis of understanding each other, as those of one blood, so well stated by Kiplings

"The stranger within my gate,  
He may be true or kind,  
But he does not talk my talk -  
I can not feel his mind.  
I see the face and the eyes and the mouth,  
But not the soul behind.

"The men of my own stock,  
They may do ill or well,  
But they tell the lies I am wonted to,  
They are used to the lies I tell;  
And we do not need interpreters  
When we go to buy or sell.

"Then men of my own stock,  
Bitter, had they may be,  
But, at least, they hear the things I hear,  
And see the things I see;  
And whatever I think of them and their likes  
They think of the likes of me."