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ADDRESS

BACK TO THE AMERICAN WAY

Prepared

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by

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at

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## BACK TO THE AMERICAN WAY

This meeting with the nationally famous Commonwealth Club of California is the high spot of my trip across the continent. I have driven for the purpose of getting a more intimate view of the towns and various countrysides which make up the great nation whose cases before the Supreme Court are my responsibility. I have often said that everyone in official life should be compelled to spend every third week at home -- wherever that is -- so as to get the tonic of life as it really is, to relieve the political high blood pressure that always affects Washington, and which at about this season is apt to make its victims a little hysterical.

I am a living example that the errors of the fathers are visited upon the sons even unto the second generation. But for the mistake of returning East on the part of my grandfather, I might actually be, as I have come to feel myself, at home here in California. He came here seeking gold in '51. Where our family had settled on the headwaters of the Allegheny River, the news arrived slowly and he did not make it in time to be a '49er. He came by the Isthmus of Panama and by packet up the Pacific, and I always understood from him that the transportation of that day did admit of some improvement. He told me with an indignation that never died of being compelled to pay a native a whole dollar, as he footed it across the isthmus, for the privilege of sleeping one night on a bed of poles elevated some feet so as to be above reach of snakes and vermin. I think my hatred of all monopoly

originated in that story. But California itself, San Francisco and the Sacramento Valley, were set in my young imagination as a land of romance. He returned to marry -- in the East -- and that made me a stranger to California -- but it is not a strange land to me.

As I sense the real problems and worries of our steady-going American people, they are not political -- that is, you can not vote them out. You can change the names and faces in the newspapers about official life by an election. But the old problems remain after election to vex the new administration.

And the real problems and worries of America are not local. A shortage of buying power in cities means a low market for the farmer and fruit-grower. A shortage of buying power on the farms means unemployment in the implement, automobile and other factories which sell to farmers. A failure of crops in one locality means migration to another. Refusal or inability of one state to meet its social or economic problems means that the problems may move on to another State. No one knows this better than you of California. Any idea that a breakdown of our social system is not your affair, if it is a couple of hundred miles away, must be gone by now. In our inter-related and inter-dependent life there is no such thing as a local problem any more. If it rises to the importance of a problem it rises above merely local concern.

This administration had a whole basket of these problems dumped on its lap at once. And I am not unrealistic enough to claim that we have yet reached a satisfactory or permanent solution of some of them. But we are again approaching a national campaign in which there will be sharp division and controversy over the methods and the objectives of this administration.

As I go about the country I find that many of those who aspire to be leaders of an opposition to the administration are talking about things that not only fail to satisfy but fail even to interest the mass of average Americans.

Editors, lawyers, columnists, and many business men engage in a war of what has been called "ideologies". That is, they try to make some idea fit over every proposal of government and enclose it like a tent. Proposals are labeled and disposed of by epithets. This proposal is called "Socialistic", that one is "Fascistic". Another is called "American" and a fourth is "Marxian". Some are called "Communitic", others just "alien" or "totalitarian", or "conservative", or "radical", or "reactionary". This war of ideologies is making most of the noise of politics.

I came from people too busy making a living, to work life's annoyances up into a philosophy. I believe that

the mass of Americans rightly feel that no good will come to them from any side in a war of abstract "ideologies".

The way of life of the American is practical, hard-headed and concrete. It is not made of what Justice Holmes once called "pernicious abstraction." Its distinguishing ideology is that it has no "ideology" except to get results.

The most dramatic examples I have ever seen of the victory of practical results over conflicting ideologies are your breath-taking bridges which are now the symbol of San Francisco to the world. Each was built according to a different "ideology".

The Oakland bridge was built by an agency of the State of California with funds borrowed from a federal government agency -- borrowed, by the way, under a Republican administration on the same theory of self-liquidating projects as that which President Roosevelt is now proposing. After the bridge had proved its worth, the Federal Government sold its interest to private investors through a private banking house.

That, I suppose, ideologists would say, was a bridge with Socialist antecedents and capitalistic consequences.

The Golden Gate bridge, so I understand, was financed by a local bridge district through a bond issue supported by tax liens. That, of course, according to the ideologists, would be a strictly Socialized bridge.

A third bridge far down the Bay was built by private enterprise and is a less useful but a strictly respectable capitalist bridge.

But I will wager that neither Communist nor Capitalist, nor private enterpriser or parlor Socialist, nor liberal or conservative, Democrat or Republican ever lets his political preferences decide whether he will travel by a wholly private bridge, by a half-private bridge, or by the wholly public bridge. At those misguided moments when he wants to leave San Francisco, each mother's son of them takes the shortest route and forgets his theories! And no banker ever refused to come here on a railroad just because when private capital lagged before a task too big, the Government stepped in and financed the railroads with land grants.

That, I submit, is the true American way of life -- that habit of thinking things and not words, that emphasis on results -- concrete results for our people. Our people do not want barren theories from their democracy. Maury Maverick has expressed very quaintly, but clearly, what they really want when he says: "We Americans want to talk, pray, think as we please -- and eat regular."

We grow from a little string of settlements to a great nation because the practical philosophy of our people was that government should interfere in business almost as freely as business interfered in government -- and that "The legitimate object of government" was as Abraham Lincoln put it: "to do for a community of people whatever they need to have done, but cannot do at all, or cannot do so well, for themselves, in their separate and individual capacities."

This is the underlying attitude of the American people toward our problems as I sense it. No ideology is going to stand in the way of the instinct to "eat regular". Americans prefer private capital to run our business, to build our bridges, and to employ our workmen. But when private capital can not, or will not, on reasonable terms, do these things, then the people turn to their government for big bridges, for T.V.A.'s, for big dams, and they will turn to it to relieve unemployment and provide for dependent old age and to meet other problems along the whole social and economic front where private effort fails or falters.

A large part of the strength of the Roosevelt administration is that it has followed this very practical and traditional attitude of the masses of our people. It has not been an administration of sterile ideologies. It has been one of action, of experiment, of determination that our people

by some means or another "eat regular". And it is hard to understand why this simple and self-preservationist attitude of the great mass of the people should arouse such opposition among those who not only "eat regular" themselves but who represent so much of educational, cultural and social, as well as economic, advantage.

I think it was Henry Adams who lamented that he was educated in one century and had to live in another. Something like this happens to all of us. It is especially true of those who are able in early years of life to acquire a formalized learning on which to coast the rest of their lives. The times out-run their intellectual preparation. So the depression, with its score of new problems, and its other score of old problems greatly accentuated, caught much of the political and financial leadership of the country wholly unaware. They found themselves living in a world for which they had learned no formulae, and they were frightened about every move of government for which they knew no precedent and were afraid of every experiment which was not included in their last century ideology. They comprise the bulk of the opposition to the administration.

But the masses of the people who do not so formalize their ideas do not suffer this lag between their ideas and their lives. Their theories are the product of



their experiences -- they do not try to shape experience to fit previously learned theories. Their ideas are always up to date with their experience. They are willing to breakfast on one ideology, lunch on another and dine on a third. I repeat that the strength of the Roosevelt administration with the masses of the people is based on its sympathy and understanding of this elemental American practical trait. A weakness of the opposition has been in offering people ideology when they want dinner -- and stale ideology at that.

One of the things that government has had to do was to get time -- to buy time -- time to let us all bring our thinking up to date with our problems. It has used stop-gaps and temporary measures, it has tried experiments, and it has met new conditions with new remedies. The administration is a living example of the philosophy in which I am a believer, which was best stated by Mr. Justice Holmes when he said: "I have little faith in panaceas and almost none in sudden ruin."

No one who knows how slow are the processes of political evolution, or who appreciates that government is no exact science, will claim that the measures of the administration to deal with unemployment, with lagging industry, with dependent old age, or with a score of other problems are panaceas, or are in acceptable permanent form today.

Not only had our problems accumulated until they were acute in form, but their very existence had long been unnoticed. Our people had been preoccupied with the

marvelous inventions which have revolutionized our lives and with the sciences which have exposed new frontiers to our enterprise.

We had not been socially minded, nor had we watched the growing tendency to unemployment, the denial of jobs to older men, nor the effects of increasing concentration of wealth in few hands.

Ventures of our democracy upon solution of the difficulties that beset us have, therefore, of necessity been experimental and tentative.

In fact, we have not even known, until lately, how far the Supreme Court would permit the American democracy to try to solve its problems. During the whole of the first administration of President Roosevelt nearly every effort was struck down before we had a chance to appraise its worth or effectiveness. It has taken the most of the second administration to find out that the law imposed upon the first administration by the Court was not even good constitutional law.

For nearly half a century scholars of the law knew that a slow destruction of the powers of the government was in progress, that we no longer had the strong and virile government that the great opinions of Marshall foreshadowed. Farsighted men knew that sooner or later in some form that trend must be reversed. They hoped it might not destroy in the reversal either the Court itself or the democratic nature of our institution. One of the most important services which the Roosevelt administration has rendered to the future is to meet and solve this problem, without destroying the Court,

without impairing its usefulness and without upsetting our form of government. To understand what has happened let us turn to history.

Our Constitution was framed by aggressive young men, to give us a government with powers enough to combat an economic depression. The convention met in a period of great economic crisis. Ships were rotting in the harbor, men were out of work in the cities, debtors were unable to meet debts, states were laying discriminatory restrictions on the trade of each other. The desperation of that day lingers in our phrase "Not worth a continental" which was their expression of contempt for their government's obligations. That time of our founding has well been described as "The critical period of American history."

Driven by this desperation, the country sought a central government equal to economic emergency. They did a master job of creating it. John Marshall, who well knew the need and the purpose, started off the Supreme Court interpretations which gave us a virile and solid national government.

Then the slave question began to appear. Slave interests saw that institution endangered by the sentiment of the nation but cherished by the sentiment of their own states. Able lawyers and judges under that influence began the work of protecting slavery by cramping constructions of the only power that threatened it -- that of the Federal Government. They overplayed their hands and their most extreme decisions were reversed on the battle fields of the Civil War. But many of their incidental decisions cutting down

Federal power remain as precedents for later judges to follow.

The will to follow was not wanting. As the great railroad and industrial and financial corporations rose to power, they saw, as the slave power had seen, that if they could keep the central government weak they could handle most of the local governments, play some against others, and make government regulation generally ineffective. So we had another powerful interest, represented in our courts by most able minds, bent on keeping the central government weak.

By the first Roosevelt administration there were precedents to furnish the background for the Supreme Court to hold that this government, founded to deal with economic emergency, had almost no such power at all. These precedents were used, often over the protests of such far-sighted men as Chief Justice Hughes, Mr. Justice Stone and others to strike down nearly every economic measure of the New Deal. N. R. A., the Petroleum Code, the agricultural program, the Railroad Retirement Act, the Bituminous Coal Act, were some of those struck down.

I do not know how good these laws would have been found. We were never permitted to know. There were strong indications of recovery and no doubt these, or some of these laws, were of help. The point is that powerful interests, by the use of an abstract ideology not found in the Constitution at all, had reduced the structure of Federal Government to a very ornamental but pretty

helpless shadow, while the real running of the country could be done by men whose power did not come from being elected at all.

The second administration has been devoted to breaking up that philosophy of weakness and paralysis. The task of carrying us back to the strength and virility of the original founders of the government has been the task on which my whole service in government has been spent. And I say to you that we have restored the powers of the Federal Government to where it may once again govern the powerful and protect the weak. This is the legitimate end of all government.

I know we have succeeded. The slashing attack on the Supreme Court by the President of the American Bar Association this week testifies to our success. That association, after spending some years preaching that New Dealers should not attack the Court even if they disagreed with its decisions, now listens to a blast from its president that makes the worst we ever said of the Court seem temperate. And he does not spare such men as the Chief Justice, Mr. Justice Stone, or Mr. Justice Roberts, all of whom have at times taken the Court leadership in rediscovering the Constitution and in helping to undo a half century or more of misinterpretation. But the people will recognize the attack as a tribute and feel assured that the Court is again imbued with the spirit of the people of the United States instead of the ideology of the Liberty League.

Then I know we have succeeded because of the acknowledgment of our adversaries. Mr. Arthur Krock in the New York Times said, after the decision sustaining the new Agricultural Adjustment Act, that the New Deal had wholly won its long fight to reinvigorate the Commerce Clause of the Constitution. He might have said the same of the General Welfare Clause, the taxing power, and he might have noticed a return toward the original concept of the Due Process Clause.

We are really living under the Constitution again.

There are people who think that President Roosevelt, whose first term was destroyed by the judges, and whose second term has been stalled on many policies while the judges have been correcting the judges, should now have one term under the Constitution.

And this now successful battle to reestablish the powers of government has been accomplished without impairment of the democratic process. There again the common sense of the American people discounts the nonsense about a theoretical "dictatorship" which some editors have so steadily peddled.

The American people know that they are almost alone among the peoples of the world who look forward next year to an election to choose their leader. They know the result will be accepted in good sportsmanship by all parties. They know their election will not be a mere "yes" or "no" vote on a single name, with soldiers to see that they vote "yes" or else! They know that any man will be free to rake criticism, however extreme, of the President, the Congress, the Supreme Court, or any official or policy, and will not be sent to a concentration camp for doing

it. They know that their newspapers will write bitter and unfair attacks on those who are running the government and that same government will carry those newspapers to subscribers -- at less than cost. Nowhere in the world today is the democratic process so free - so virile and so safe. And they know that to have kept it so, when democracies elsewhere in the world fell before the same forces that have battered our country, is no mean accomplishment.

What will we use our democratic freedom to do?

In the field of policy, while I do not have time to consider detailed programs, the great need is to re-examine the work which has of necessity been done in haste and in emergency. In these calmer days measures which have failed should be rejected or replaced; those which reveal shortcomings should be amended; those with hope and promise should be strengthened and their administration improved. Evils not yet touched must be remedied by measures yet untried.

The task ahead is one that calls for the same practical common sense that is the most American thing about America. It needs the open minded testing of policy not by some "ideology" but by its effect on the welfare and the daily lives of the masses of the American people. The status quo is at many points indefensible. We have a long road to go to the standard stability, security, peace and justice which we Americans demand.

And in the field of leadership what use are we likely to make of one of the few significant free elections the world can anticipate?

We know that only a strong President will mean a strong democracy.

There may have been times in our history when we did not need a strong President to keep our democracy strong -- when any middle-of-the-roader, or no one at all, could safely occupy the White House -- and the people sensed no need of leadership. There have been times when the people did not resent the manipulation of the machinery of two political parties to bring out two candidates of a kind that has been called a "Tweedledum" and a "Tweedledumber", who both stood for the same things. There have been times when the country could stand for a "middle-of-the-road" leader -- and a "middle-of-the-roader" which usually means one who holds up traffic going in both directions. But these are not and can not be such times!

There are times when every clear head knows that the mysterious personal electricity of leadership is needed, and desperately needed, to cohere the otherwise scattered forces of good-will and intelligence -- to bring them together, to hold them together -- so they become an effective and concentrated force in using the reinvigorated powers of government in the solution of the country's problems.

Lincoln had that power -- to hold his people's courage to the great moral issues of their time -- to hold them together not only to start, but to finish, a crusade after the first fine flush of excitement was past and the burden became really heavy, -- and there were those who wanted to quit to make money -- and there were those who wanted to quit because they were simply tired.

That same magnificent power to give men the steady courage to throw themselves against problems bigger than ever men have faced -- that



same power to inspire the trust of millions who trust nothing else, and no one else, in our political and business life -- rests in the White House today in Franklin Roosevelt.

He is the greatest natural resource we have.

I am not yet saying that he must accept a third term which he may not want.

What I am saying is this:

First, irrespective of a third term for President Roosevelt there must be a third term for Roosevelt's ideas.

The achievements of his administration have become so much a part of our national life that any attempt to rip them out, rather than carry them through, would bring disorder, and chaos to all classes in the country.

Second, if anyone else is to be President, it must be someone who will be President in the Roosevelt tradition.

For unless I mistake the temper of the American people, they do not propose to quit.

Nor do they propose to turn back when their feet are on the road that leads to America's limitless future.