I had lunch this week with Governor Landon at his house in Topeka and talked with him for several hours.

Landon is not the smartest man in the world, but I think possibly he has more qualities which might appeal to the rank and file of the voters than any of the other Republican possibilities except Borah. Borah today would come nearer carrying a good many of the agricultural states than any other Republican candidate, but I think it is inconceivable that the party leaders would ever permit Borah to be nominated, and I am not sure that the eastern voters would stand for Borah's unorthodox money ideas.

Landon is essentially a high-charactered, sincere, competent, small town business man. He strikes me as having an enormous large bump of common sense without having any profound knowledge of a good many of the complicated questions bothering the world today.

He believes in individual and private initiative and the profit motive, but he agrees to the principles underlying a good deal of the New Deal philosophy. He thinks the administration of the New Deal is horrible.

He thinks, for instance, that the federal social security law is sound in principle, but that the law itself is extremely badly drawn and impossible of successful administration. He is not in favor of discarding that legislation, but rather in favor of amending it to make it actuarially sound and possible of administration. He thinks the taxing laws should definitely be used for social ends. For instance, I think he believes that graduated corporation taxes are perhaps socially desirable as a means of breaking down some of the largest corporations and unsocial pools of wealth which are perhaps monopolistic and stopping free play of competition.

He is a great believer in an economical, simple, federal administration. He thinks that the government at Washington has grown absurdly large and complex, not only under the New Deal, but also under the preceding Republican administrations.

So much for Landon.
Franklin D. Roosevelt and John N. Garner have led the American people out of panic and collapse onto the safe highway of courage and recovery. They have guided us through an internal crisis of disaster comparable to the dark days when the unity of the nation hung upon the patient wisdom and bold foresight of Washington and Lincoln. They have taken up the task of safeguarding our institutions where that task was laid down by Wilson. They have conceived the necessary adjustments of economic realities to the Jeffersonian ideal of political democracy. They have pursued these ends with the fearless determination of Jackson.

On March 4, 1933, as never before, this was a nation bereft of confidence, bewildered by failure, bankrupt of morale. The great majority of our citizens lived in poverty or insecurity absurdly, and tragically, out of relation to our natural resources and our means of production. Twelve years of virtual surrender by Government to the blind control of a dominant few had made our economic organization obsolete for distributing to the people as a whole the wealth they produce as a whole. In this fiercest test of moral leadership that ever faced America the present Administration has won an unchallengeable moral victory. It has stirred hope and constructive intelligence in a people who had lost hope. It has awakened faith that by intelligence our traditional system of individual enterprise can be reorganized to operate anew.

The Democratic Administration has saved that traditional
system of individual enterprise and free competition. It has sought to vindicate it for its service to the common man and to enable it to operate for the children's children of today's free men and women by buttressing it against collapse in panic in another twelve years.

Through the Banking Acts, the Securities Act, the Securities and Exchange Act and the activities of the Reconstruction Finance Corporation, the Administration has given individual enterprise a truly sound financial system in which to operate by ensuring the stability of the banking system, whose credit creates our currency, and the integrity of the securities market whose trustworthiness makes it possible for capital to function.

By the revaluation of our currency in fair relation to our own debt structure and to the prevailing standard of international trade, the Administration has made possible a continuation and resumption of domestic and foreign trade and has supported the purchasing power of the nation against the vicissitudes of foreign disturbances and domestic maladjustments.

By the operations of the Farm Credit Administration, the Home Owners' Loan Corporation, the Reconstruction Finance Corporation and the Federal Reserve System, the Administration has refunded and reduced the fixed charges against the annual national income of vast aggregates of debt which endangered social order and the economic fabric.

By the enactment of the N. R. A. at a critical juncture of the depression, the Administration broke the psychology of deflation, ostracized child labor and at the demand of industry itself con-
ducted searching tests to ascertain the practical advantages and limitations of self-government in industry for capital, labor and the consuming public.

By its agricultural legislation, the Administration for the first time consciously helped to restore the lost balance of production and income between agricultural and industrial producers which is essential to the functioning of the national economic exchange.

By its tax legislation policy and its utility legislation, the Administration has made a beginning of deliberate encouragement to moderate-sized, independent industry upon which the maintenance of our economic traditions of free enterprise and the continuance of our political democracy depend.

By its labor legislation the Administration has made a beginning of legal guarantee of an adequate bargaining status for our ______,000,000 workers upon whose adequate sharing in the product of the nation the stability of our economic traditions of free enterprise and the continuance of our political democracy likewise and to no less degree depend.

By its Social Security legislation the Administration has made a beginning of ensuring employment stability for the worker during his years of reasonable efficiency, and a self-respecting pension when those years of efficiency are past.

By its continuing program of public works and the resolute conservation of natural resources, the Administration has aimed at constructive solutions of the problems of technological unemployment and made a beginning of linking together the conservation
and development of the nation's fundamental material resources and its human resources. For a standing army of unemployed is inconsistent with the purposes for which our country was founded.

By its housing, resettlement and rural electrification projects, the Administration has aimed at the adoption of more healthy and intelligent ways of life and has definitely committed itself to the principle that higher standards of life for the great body of our men and women will not only be conducive to a higher social contentment but are indispensable to the fullest employment of our productive capital.

By its Public Utility Holding Company Act, its Tennessee Valley project, its Electric Home and Farm Authority program, its Rural Electrification program, the Administration has utilized constitutional powers of the nation to realize for the benefit of the country as a whole the possibilities of the Age of Electric Power already upon us.

By the repeal of the Eighteenth Amendment and the Volstead Acts, the Administration revived and restored our traditional faith in personal liberty. It recognized that it is the function of law to safeguard personal, political and economic liberty, but that neither enterprise nor temperance can be achieved by governmental regimentation.

Such policies have not only brought immediate relief; they have started the recuperative process of recovery; they promise the stability of an economy of individual enterprise designed to serve the enterprising many rather than the grasping few.
A common national purpose born of common suffering must not be lost as soon as national prosperity shows signs of returning. A return to the blind and selfish policies of the past would spell not recovery but relapse. There are grave and urgent economic problems confronting the nation, which cannot be shirked or avoided. The promise of American life has not yet been realized. If we would preserve our heritage of political freedom, men must again become economically free.
(1) Necessitous men are not free men. Freedom comes from a sense of security. Work for every able-bodied individual who wants to work has been an essential part of our American heritage. Its realization has made us a free, self-reliant nation. With the passing of the frontier of free land and the development of a mechanized civilization that precious heritage can be maintained only if Government cooperates with private enterprise to create conditions which, barring temporary and inevitable vicissitudes, will ensure the opportunity of livelihood to all who are willing and able to work. Until the average man has attained a standard of life far beyond that which he now enjoys, we cannot afford to require the employed portion of our people to support the unemployed in idleness or require the employed portion permanently to divide their work with the unemployed. Our aim must be not a lower but a higher standard of life for the average man. Our task is to find useful employment for all of our people by increasing the interchange of goods and services among them. Only thus can we utilize permanently the progressive advances in technology and not have the machine become our undoing. Work, not unemployment, creates wealth; without opportunity for free and normal work there can be no real political freedom.
(2) The pressure of unemployment and the terrible warning of the recent droughts and floods demand a well-formulated policy of action which will ensure the carrying out of works necessary to the conservation and prudent utilization of our natural resources when labor is idle and capital not productively employed. Such works are vitally essential to safeguard America's capital resources and to assure the future prosperity and contentment of our people both in the cities and on the farm. Such works the nation cannot afford to neglect.
(3) The fiscal and financial policies of the Government must be directed towards increasing not simply the Government's income but also the national income from which the Government's income is derived. The national wealth and the national income can be increased only by the wise employment of our human resources and the prudent utilization of our natural resources. So long as a nation which is not burdened with foreign indebtedness does not consume more than it produces, its national solvency and strength cannot be questioned. As recovery proceeds, the Government's expenditures must be carefully scrutinized to determine their effect upon employment and the national income. As the national income is restored, the reduction in relief expenditures and the increase in the tax revenues should make possible the balancing of the budget at the earliest moment consistent with the widest practical employment of our human resources and national capital. Balancing the budget through increased tax revenues or decreased expenditures, as the national income is restored, is an indispensable element in the eventual and complete success of a program of permanent recovery requiring Government intervention entailing deficit financing when an economic recession is imminent and entailing debt-curtailment when inflation or excessive speculation threatens the stability of the national economy.
(4) Private enterprise is at the basis of our American system not because of the opportunity it affords a few to make fabulous or unearned fortunes, but because of the encouragement and freedom of action it gives to men to shape their own lives and to plan their own destinies. We have believed in private enterprise not because it assures inherited wealth but because it has made men free to venture; because it has not forced the workingman's son to pursue the job of his father or the banker's son to pursue his father's calling, but because it has left men free to choose among many jobs and many callings. Considering the limitations of men, the social and economic interests of all of us are best served not by the minute orders of an all-directing state, governed by non-existent supermen, but through the multitudinous activities, experiments and strivings of all those whom Lincoln called the common people.
(5) Our American conception of the relation of Government to business and labor has always been to create conditions which would permit business to function and labor to find employment. The time has long since gone by when the best interests of all classes required that the Government should leave all business to its own devices. The whole post-war period has proved that private enterprise in the modern world is a far more complicated and fragile mechanism than in the early days of small-scale industry when the laws of supply and demand worked fairly automatically. It is doubtless difficult to devise controls which will be intelligently flexible. But we have no choice but to continue to apply ourselves to the task consciously and intelligently. The more far-sighted business men, especially the younger generation, are agreed with all students of modern economics that left wholly to itself private enterprise will destroy itself — as it came perilously near doing in the dark days preceding the present administration.
(6) The new economic freedom must be a freedom not of theoretical absolutes but of concrete realities. Wholesome competition is the life of trade in a system of individual enterprise. To destroy effective competition is to destroy capitalism. The trend toward concentration is a very real threat against our traditional competitive system. If that trend is not reversed there is a danger of a private socialism in this country as alien to traditional Americanism as state socialism. The backbone of that trend is the creed of greed—that no aggregation of property can be so large as to be beyond the control of concentrated and centralized managers, and that competition is an out-moded, discredited, useless feature of economic life. There is no practical way to regulate the economic oligarchy of autocratic, self-constituted and self-perpetuating groups. With all their resources of interlocking directors, interlocking bankers and interlocking lawyers, with all their power to hire thousands of employees and service workers throughout the country, with all their power to give or withhold millions of dollars worth of business, with all their power to contribute to the campaign funds of the acquiescent or to subsidize the enemies of the obdurate, they are as dangerous a menace to political as they are to economic freedom. It is necessary to destroy the roots of economic fascism in this country, if we wish to remove the dangers of political fascism, which engulfed freedom in other lands.
(7) The "merging out" of effective competition has brought neither economic freedom nor economic leadership to the modern world. As it has closed one by one the doors of independent enterprise, it has destroyed the only way men can work for themselves. In the words of the President, the process of concentration of power "has made most American citizens, once traditional owners of their own business, helplessly dependent for their daily bread upon the favor of a very few". Competitive freedom has undoubtedly been hampered by the inequitable distribution of wealth. But far more menacing to that freedom has been not mere inequality in individual fortunes but the undue concentration of economic power over other people's fortunes, other people's businesses and other people's lives. The breaking down of that socially and economically unwarranted power over other people's property and destiny will best promote our traditional system of private property. Neither the ownership nor control of property can be permitted to be the perquisites of a privileged few; in a truly democratic community the average citizen must have a stake worth preserving in the economic system.
(8) As fair competition is essential to the life of trade so equality of bargaining power is essential to the dignity and security of labor. We cannot expect real industrial peace and sympathetic efforts on the part of labor to meet the problems of industry until we can expect and ask for cooperative responsibility of labor; and we cannot expect cooperative responsibility on the part of labor without a frank recognition of a democratically chosen leadership. Without such cooperative responsibility on the part of labor, industry will be unable to protect itself from the unfair undercutting of labor costs by a recalcitrant minority of employers. No one can today justify child labor, chiseling workers' wages, stretching workers' hours as necessary methods of competition. We must safeguard and improve the standard of living of the average man and protect him against the vicissitudes of irregular employment. America must again become the land of opportunity, and those who give full measure of service must be enabled to obtain opportunities to render such service and obtain adequate recompense for their labor and their enterprise.
(9) America, if she does not waste her resources, has and may enjoy indefinitely advantages of relative economic self-sufficiency possessed by few other powers. Yet we do not and cannot live without the friendship and trade of other countries. A large percentage of our cotton and other crops have always gone abroad and we cannot wholly abandon these markets without radical disturbance of our domestic economy. If we sell abroad, we must buy abroad. True, we may grant foreign credits or make foreign investments to enable other countries to pay for our exports, but unless we maintain a healthy interchange of trade we will again find our loans uncollectible and our investments worthless. We must seek wholesome and reciprocal channels of trade with foreign nations which will not expose our domestic markets to ruinous and unfair competition. The trade agreements authorized by Congress and which already have been and are being carefully negotiated by our State Department give promise of providing for the most intelligent handling of the tariff problem and for the wholesome extension of our foreign trade for the benefit, not of any special interests, but for the nation as a whole.
(10) The United States has during the past four years been at peace and has maintained friendly relations with all foreign powers. America cannot be unmindful of the wars which have broken out abroad and of the war clouds that hang ruinously over other lands. Much as America deprecates the strife and threatened strife abroad and the failure of some foreign countries to abjure war as an instrument of national policy, it is not America's function to interfere in the quarrels of other nations. America, while prepared to defend its own interest in case of unwarranted aggression, must faithfully observe not merely the forms but the actualities of neutrality. It must not permit private trading or international banking to endanger public peace. It must guard against being drawn unawares into other people's wars against the wishes and interests and conscience of the American people. America's task is not to fight abroad but to set an example at home of the kind of constitutional government a peace-loving, liberty-loving people can have if they will, - a democratic government without dictators, a government which recognizes the dignity and worth of the humblest of humanity and which values above material things freedom of thought and of speech and the pursuit of happiness for all men regardless of race or religion.
(11) To the realization of such a program, the Democratic Party dedicates itself and pledges its candidates. Modern government involves not merely the enactment of wise and honest laws but effective, skilled and unbiased administration. To perfect such administration the Democratic Party pledges itself to the progressive improvement and extension of the permanent civil service to the greatest degree compatible with maintenance of free government. The purposes of a modern democracy must not be thwarted or discredited by ineffective and unimaginative administration.
The Democratic Party pledges itself anew to the principles of constitutional government under our Federal system. The Fathers of the Constitution wisely contemplated that the States should have essential governmental powers in all matters of local concern and that the Federal Government should have the necessary authority over all commerce among the States, with wise guarantees against arbitrary use of such power by either the Federal Government or the States. In the words of the great Mr. Justice Holmes, who fought the war caused by the Dred Scott decision, "It is not lightly to be assumed that, in matters requiring national action, 'a power which must belong to and somewhere reside in every civilized government' is not to be found." The Tenth Amendment was expressly intended to leave to the States the sovereign power of legislation in all matters not delegated to the Federal Government. It is inconceivable that there is a No Man's Land where no government — not all the powers of the States and the Nation combined — can safeguard either liberty or property or protect the weak against exploitation and legitimate business against unfair competition. A tortured construction of the Constitution must not be permitted to make Constitutional government unworkable and bring it into disrepute.

To apply the platform of Lincoln of 1860 after the Dred Scott case, to "the new dogma" — that the Constitution is said to deny to both the Federal and State Governments power to deal with vital social and economic problems within their traditional spheres of action — "is a dangerous political heresy, at variance with the explicit provisions of that instrument itself, with contemporaneous exposition and with legislative and judicial precedents, is revolutionary in its tendency and subversive of the peace and harmony of the country".
Dear Mr. L.

Please let the President

But the substance of

The war caused the need

To send it back to us,

and that we are

all grateful for his

intercession.

It was a joy to

see you last fall again.

Remember, volun-

cements are ahead and conservative

renewal is right. Be

s

[1936]

Frankfurter

Law School of Harvard University,
Cambridge, Mass.
My dear Mr. President:

Recently you requested me to obtain information from our Minister at Bucharest regarding a report which had reached you to the effect that the Rumanian Government was contemplating steps which might have a far-reaching effect upon the Jewish population. Mr. Harrison was instructed to report upon this matter and I submit herewith a copy of his reply for your consideration.

Faithfully yours,

Enclosure:
From Bucharest,
Telegram No. 56,
December 28, 1935, 9 p.m.

The President,
The White House.
Department of State

ENVELOPMENT

Letter drafted...January 7, 1938

Addressed To

The President

The White House
Secretary of State,

Washington.

54, December 28, 9 p.m.

Department's telegram No. 27, December 20, noon.

The present Rumanian Government has taken no measure
nor in my considered opinion does it contemplate any
action of the nature referred to in the Department's
telegram. Such action could not be taken legally
except by modification of the Constitution. Latter
could be effected only by prorogation Parliament and
convoking special Assembly.

In all probability basis of reports reaching
Department was an acute uneasiness engendered in Rumanian
Jewish circles by fear that present National Liberal
Government would be succeeded by Rightist coalition of
National Christians and Rumanian front. The former are
openly anti-Semitic with clear Nazi leanings, the latter
strongly nationalistic.

This fear was brought to a head on December 8 when
Jewish lawyers were prevented by force from participating
in Bucharest Bar Association elections. An anti-Semitic
slate was elected. Street disturbances followed similar
to but less extensive than those of last April (despatch
No. 255
No. 255 of April 19). As in April also the Government failed
to take prompt action to enforce public order and was
severely criticized in Parliament principally by national
peasants.

Prior to 1919 a bare two hundred of Rumania's two
hundred fifty thousand old Kingdom Jews enjoyed political
rights. Only five had been admitted to the bar. Today
in Bucharest the number of lawyers is four to five hundred,
i.e., twenty to twenty-five percent of total. The current
uneasiness includes apprehension that by threats of violence
and discriminatory application of rules governing membership
in and admission to bar Jewish lawyers will be prevented
from freely exercising their profession.

During past fortnight tension has eased. Rightist
collegation leaders have failed to agree among themselves and
have gained no new adherents among other Rightist parliamentary
front. I know no competent observer who now believes that
they will be invited to form new government. There is however
still some apprehension that further disturbances will occur
after the holidays.

HARRISON
My dear Mr. President:

In my letter of January 7, 1936, I transmitted a copy of a telegram from our Minister at Bucharest relating to a report which had reached you that the Rumanian Government was contemplating steps which might have a far-reaching affect upon the Jewish population in Rumania. Our Minister has now telegraphed reporting an attempt on the life of the Grand Rabbi of Rumania. A copy of the Minister’s telegram is submitted herewith for your information.

Faithfully yours,

Enclosure:
From Bucharest,
Telegram No. 3,
January 11, 6 p. m.

The President,
The White House.
January 16, 1936

Note from Felix Frankfurter with the return of report of Minister of Bucharest regarding steps contemplated by Rumanian Gov. which might have far-reaching effect upon Jewish population.

SEE--War File--(S) Drawer 1--1936
17 January 1936

Dear Mr. President:

(1) Herewith a draft of message, for your destructive and constructive blue pencil, in submitting new agricultural legislation to Congress. A number of factors seem to me important, however poorly I may have applied them. They involve impressions to be left in the mind of the general public as well as cautions to be exercised as a matter of legal strategy. To me it seems necessary (1) to launch the new legislation as a carefully considered mature effort and not as rabbit pulled out of a hat; (2) to build on the authority which the Supreme Court itself has furnished in the Hoosac Mills opinions; (3) to do so without any concession to the rightness of the majority opinion and yet (4) without making the message a vehicle of legal controversy with the majority; but instead (5) again quietly to educate the public mind to the significance of the two opinions; and finally (6) not to make any commitments which might conceivably be embarrassing to the Government when this legislation will have to be defended before the Supreme Court.

(2) I have been mulling over in my mind ever since Sunday, the Bonus situation. The conviction becomes stronger and stronger that on the balance there would be clear loss in doing anything except to stand pat on your last year's veto, doing it as gently as possible, and also, promptly after the veto is over-ridden, to work out with the Legion leaders a cordial and vigorous cooperative method for carrying out the legislation.
Law School of Harvard University.
Cambridge, Mass.

Through two of my editorial friends here, I have had the feeling among the men in the composing rooms sounded. My friends report that, now that the men are convinced that the Bonus in some form will go through Congress, their feelings have greatly changed. They don't expect you to sign the bill, they understand your position, and will feel, once the fight is over, that there was an honest difference of conviction which grew not at all out of any unfriendliness on your part to them or their needs. And they will admire a fighter who has stuck by his guns in a friendly way. On the other hand, any retreat now will only stimulate new demands and continue to keep alive the issue which, so far as you are concerned, you can now bury.

I have talked also with important representative samples of your well-wishers who are not Legionnaires, and I think the effect upon them and their like throughout the country, of a disregard of the reasons that moved you last year, would be very unhappy. I think it is perfectly clear that whatever ill-feeling your message last year aroused cannot be wiped out by a reversal now, while, on the contrary, the great gain that came and comes from the kind of quiet determination and genially dogged adherence to purpose which the Jimmy Walker business manifested, and again the Bonus, will have enormous power in touching and winning the admiration and support of masses of American men and women.

Always faithfully yours,

Hon. Franklin D. Roosevelt.
The attached clamps with the papers went over last night.

[Signature]
January 30, 1936

Dear Mr. President,

Herewith are materials bearing upon practices in pursuit of unconscionable lawyers fees which directly affect the national Treasury and the Federal administration of justice. They concern (1) outrageous contingent fees in claims against the Government, and (2) illegitimate claims for lawyers fees in the Federal courts.

(1) I need not recall to you the enormous role played by opportunities for indecently opulent contingent fees in drives against the Treasury. Very early in your Administration you saw the need for putting an end to these abuses. And you will recall that it was Lew Douglas who, in his soft-spoken voice, agreed with the principle but objected to its application. Few things are more needed in the interests of the Treasury, and not less to improve the morality of the bar. Of course there will be outcries from the beneficiaries. But I can hardly imagine a more popular response than would be received by publishing the amounts of some of the fees. And what a tribe of gentry it would take care of!

Senator Norris' bill introduced in the Second Session of the 73rd Congress (S. 2805) is the result of careful draftsmanship with every provision soundly based on precedents in Federal and state legislation.

I enclose a copy of this bill with a memorandum in its support as well as notes on specific provisions.

(2) Judge Coxe's recent decision regarding fees in the Paramount reorganization is only one of a series of recent instances of disallowance of big lawyers fees by Federal Courts in various parts of the country. I enclose a list of recent cases on fees. Surely the Senate Judiciary Committee
ought to direct public attention to these abuses, as part of an educational effort for effective and enduring correction of these attempts to misuse other people's money.

Always with warm regards,

Faithfully yours,

Hon. Franklin D. Roosevelt
1. Just claims against the Government should of course be paid. But
when the Government is seeking to tap every possible legitimate
source of revenue, to close the gaps in the present law through which
taxpayers have escaped their obligations, and to levy deficiency
assessments on those taxpayers have evaded their obligations, and to levy deficiency
assessments on those payments, the necessary steps to curb tax lawyers in their
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involuntary cases run into the millions as they notoriously have litigation
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involuntary cases run into the millions as they knowingly have litigation.

2. The amount involved (apart from the vast items under the Pro-
ceeding-Tax) may be gleaned from the following figures which give the total
of refunds, credits, and abatements for the years 1913 through 1922.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1927</td>
<td>$341,151,000</td>
</tr>
<tr>
<td>1928</td>
<td>$341,151,000</td>
</tr>
<tr>
<td>1929</td>
<td>$341,151,000</td>
</tr>
<tr>
<td>1930</td>
<td>$341,151,000</td>
</tr>
<tr>
<td>1931</td>
<td>$341,151,000</td>
</tr>
<tr>
<td>1932</td>
<td>$341,151,000</td>
</tr>
</tbody>
</table>

It is bound to be foiled, and every device and ingenuity will be exploited to
forfeit these vast sums from the Treasury. The temptation has, as is well known,
even milted odds within the Government service to discover possible claims
against the Treasury.

3. These amounts represent sums which were paid by taxpayers after
the advice of counsel, thought they were entitled. A conservative
estimate would attribute at least half of the sums so recovered, e.g., one hun-
dred and sixty million dollars even in the depression year of 1933, to the pre-
former.
motion of law suits by attorneys interested in the large fees involved in such
claims. It is of course impossible to compile statistics on attorneys' fees in
claims against the Government—such secrets are deeply buried—but it is common
knowledge that contingent fees in tax cases often run to 50% and that fabulous
sums have been recovered.

4. The bill which this memorandum accompanies is an amendment of S. 2805
introduced by Senator Norris at the Second Session of the 73rd Congress. It
seeks to protect the Treasury against raids stimulated by the inducement of
large contingent fees and fee-splitting by making claims against the Government
only reasonably profitable to lawyers and so removing the major incentive to
their presentation, as well as prohibiting fee-splitting for services in con-
nection with claims against the Government. The bill establishes as a standard
for such fees $5,000 or 20% of the claim, whichever is the smaller, but in all
cases the tribunal is authorized to approve a higher fee for the attorney's
services, if the tribunal is of the opinion that a higher fee is reasonable.

5. The constitutionality of such a protection of the Government's fi-
nances is not open to question. Broad powers of Congress over the enforcement
of claims against the Government have been recognized from the beginning of our
government. The Supreme Court has sanctioned laws "placing limitations upon the
fees properly chargeable for services" by which "Congress has sought both to
prevent the stirring up of unjust claims against the Government and to reduce
the temptation to adopt improper methods of prosecution which contracts for
large fees, contingent upon success, have sometimes been supposed to encourage.
The constitutionality of such legislation, although resembling in its nature
the exercise of the police power, has long been settled." Calhoun v. Massie,
253 U.S. 170, 174; and see the latest case Margolin v. United States, 269 U.S.
93, 102.
Notes on Specific Provisions.

(a) The requirement of filing fee agreements adapts and enlarges upon the present law as to pension claims. 1 The device of enforcing this requirement by a refusal to recognize agents or attorneys who have not complied is suggested by several provisions now in force refusing absolutely to recognize agents or attorneys in certain cases 2, the power to enact such a provision follows readily from its legitimacy as a means of insuring the observance of Section 2. The validity of similar provisions with regard to pension claims and services to Indians has not been questioned. 2

(b) The limitation of fees to twenty per centum follows the percentage set in the Omnibus Claims Act of 1915. 4 The limitation to $5000 is included in recognition of the fact that as to large claims a fee of 20% would be exorbitant. Allowance of any fees above that amount should depend upon explicit permission of the tribunal. Allowance of a charge, even though the proceeding is unsuccessful, is essential; so long as the charge is slight there is no reason why it cannot be made without the assistance of the tribunal. But inasmuch as there is no means of controlling more substantial charges directly by statute it seems wise to require resort to the tribunal whenever any considerable charge is to be made. The use of the tribunal to regulate fees is well established by earlier statutes. 5

(c) The provision as to fee-splitting has been adapted from the statutes in New York 6 and Wisconsin 7 and the American Bar Association's canons of professional ethics. 8 It follows, primarily, the New York statute which has been in successful operation since 1876. 9 Although it is new to the laws of the United States, its constitutionality is incontestable.

(d) Section 5 is not essential, inasmuch as it is not likely that this Act could be regarded as inconsistent with existing special provisions. But it avoids possible controversy to be explicit.

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8. Canon 34.
(1) Supreme Court cases involving acts of Congress are far enough along in the lower courts to reach the Supreme Court during this term to be approximately the following order:
1. FWA - housing activities - land condemnation.
2. Caffey Act.
3. Securities Act of 1933 (the original Securities Act).
4. Resettlement Administration - Bound Brook suburban housing development - injunction by local taxpayers because project purports to be exempt from local taxes.
5. FWA - municipal power plant loans.

Of these, the Government may reasonably expect to win on the Securities Act, the FWA power loans, the holding companies and, so far as its constitutionality is concerned, the Wagner Labor Act.* On the contrary, the Government can feel very certain of losing the Caffey Act, the FWA housing condemnation cases and the Resettlement Bound Brook case.

(2) Since the TVA case, there is no longer any general political benefit to be derived from a succession of decisions declaring Administration activities unconstitutional. Any benefit from further decisions against constitutionality must derive from a specific and well-organized class feeling directly and specifically aggrieved.

Of the cases which are expected to be lost, only the Caffey Act case will raise a specific resentment, i.e., of the coal miners. A narrow interpretation of the Wagner Act may also raise resentment among other labor groups. But the loss of neither the FWA housing condemnation case nor the Resettlement Bound Brook case will raise any resentment of any conscious class directly affected.

On the other hand, since the public will again consider the Court fair to the Administration because of the TVA case, unnecessary defeats in these two cases will carry more political damage than heretofore. The bad lawyer criticism is an active and politically dangerous criticism which is being taken up even by the Administration's friends (See Scripps-Howard editorial as well as Brock attached). The Caffey Act has been constantly represented to the public as a doubtful constitutionality; its invalidation will draw no criticism that the Administration's lawyers are bad lawyers. But the same excuse of doubt honestly professed at the time of passage of the legislation does not apply to either the FWA housing condemnation case or the Resettlement Bound Brook case.

(3) Both the FWA condemnation case and the Resettlement Bound Brook case can be very easily mooted with specific justifications which will forestall criticism.

Neither of the housing projects involved in the FWA cases (Louisville or Detroit) is essential to the FWA housing program; both would be long delayed by subsequent technicalities of actual condemnation even if the Court upheld the right to condemn. On such ground of delay and otherwise, the abandonment of each of these projects could be fitted into the announced policy of the new housing program now being published as made to appear a constituent part of that program. Any action mooting these FWA cases must be taken immediately.

The Resettlement Bound Brook case could be mooted by passing a very simple and politically popular statute permitting local communities to tax federal proprietary ventures of this kind on some equitable basis. Such a statute would be an intelligent anticipatory recognition that the Supreme Court will certainly eventually rule (as is very implicit in the recent decision permitting state taxation of RFC holdings of bank stocks) that the Federal government is not exempt from state taxation in its proprietary as distinguished from its governmental functions.

(4) The public reaction toward the repeal of the Bankhead Act, the Tobacco Act and the Potato Act shows that the public approves rather than condemns a policy of withdrawing doubtful cases. The withdrawal of the FWA housing condemnation and Resettlement Bound Brook cases—both certain to be lost without any compensating value of public reaction against the Court—will give the Administration good legal and political prospects for the remainder of this Supreme Court term. And recent developments occurring since the decision was made to permit these two cases to go up to defeat—i.e., the TVA case, the Baltimore Bank Shares case, the announcement of the new housing program, and the repeal of the Bankhead, Tobacco and Potato Acts—provide a very real change in external conditions to justify reconsidering the earlier decision on the policy in respect of these two cases.

* There is some possibility that the Court may narrowly restrict the Wagner Act as a matter of statutory construction.
(1) Supreme Court cases involving acts of Congress are far enough along in the lower courts to reach the Supreme Court during this term in approximately the following order:

(1) FHA - housing activities - land condemnation.
(2) Gaffney Act.
(3) Securities Act of 1933 (the original Securities Act).
(4) Resettlement Administration - Round Brook suburban housing development - injunction by local taxpayers because project purports to be exempt from local taxes.
(5) FHA - municipal power plant loans.
(7) Holding Company Act - Baltimore case.

Of these, the Government may reasonably expect to win on the Securities Act, the FHA power loans, the holding companies and, so far as its constitutionality is concerned, the Wagner Labor Act. On the contrary, the Government can feel very certain of losing the Gaffney Act, the FHA housing condemnation cases and the Resettlement Round Brook case, and in all cases by unanimous decision.

(2) Since the TVA case, there is no longer any general political benefit to be derived from a succession of decisions declaring Administration activities unconstitutional. Any benefit from further decisions against constitutionality must derive from a specific and well organized class feeling directly and specifically aggrieved.

Of the cases which are expected to be lost, only the Gaffney Act case will raise a specific resentment, i.e., of the coal miners. A narrow interpretation of the Wagner Act may also raise resentment among other labor groups. But the loss of neither the FHA housing condemnation case nor the Resettlement Round Brook case will raise any resentment of any conscious class directly affected.

On the other hand, since the public will again consider the Court fair to the Administration because of the TVA case, unnecessary defeats in these two cases will carry more political damage than heretofore. The bad lawyer criticism is an active and politically dangerous criticism which is being taken up even by the Administration's friends (see Scripps-Howard editorial attached as well as Brog). The Gaffney Act has been constantly represented to the public as a doubtful constitutionality; its invalidation will draw no criticism that the Administration's lawyers are bad lawyers. But the same excuse of doubt honestly professed at the time of passage of the legislation does not apply to either the FHA housing condemnation case or the Resettlement Round Brook case.

(3) Both the FHA condemnation case and the Resettlement Round Brook case can be very safely mooted with specific justifications which will forestall criticism. The FHA housing case is completely academic. Neither of the housing projects involved (Louisville or Detroit) is essential to the FHA housing program. Secretary Ikies has no funds to build either. Both would be long delayed by subsequent technicalities of actual condemnation even if the Court upheld the right to condemn. On such ground of delay and otherwise, the abandonment of each of these projects could be fitted into the announced policy of the new housing program now being publicized and made to appear a constituent part of that program. Any action mooting these FHA cases must be taken immediately.

The Resettlement Round Brook case could be mooted by passing a very simple and politically popular statute permitting local communities to tax federal proprietary ventures of this kind on some equitable basis. Such a statute would be an intelligent anticipatory recognition that the Supreme Court will certainly eventually rule (as is very implicit in the recent decision permitting state taxation of RFC holdings of bank stocks) that the Federal government is not exempt from state taxation in its proprietary as distinguished from its governmental functions. The Resettlement Administration wants to pay such taxes even without a statute but Comptroller McCarroll will not permit the payment.

(4) The public reaction toward the repeal of the Bankhead Act, the Tobacco Act and the Potato Act shows that the public approves rather than condemns a policy of withdrawing doubtful cases. The withdrawal of the FHA housing condemnation and Resettlement Round Brook cases—both certain to be lost without any compensating value of public reaction against the Court—will give the Administration good legal and political prospects for the reminder of this Supreme Court term. And recent developments occurring since the decision was made to permit these two cases to go up to defeat, i.e., the TVA case, the Baltimore Bank Shares case, the announcement of the new housing program, and the repeal of the Bankhead, Tobacco and Potato Acts—provide a very real change in external conditions to justify reconsidering the earlier decision on the policy in respect of these two cases.

* There is some possibility that the Court may narrowly restrict the Wagner Act as a matter of statutory construction.
SLOPPY LAWMAKING

THE GOVERNMENT'S lawyers are prepared to "fight to the end" a ruling by Federal Judge Welsh applying the Veterans Preference Act to WPA. But there is no assurance that the case will be reversed in the higher courts.

This seems to be another chapter of an already too long story of sloppy lawmaking. The ruling is one of the most crushing blows so far dealt the Administration's work relief. If it sticks, every veteran applying for WPA work must be given a job. If a needy non-veteran holds the only available job he must be fired in favor of any veteran who may apply, regardless of whether the veteran classifies as needy or not. Thus, on the heels of a bonus act that taps the Treasury for two billion dollars, the Government is instructed to shove the civilian needy out of line to make way for a special group.

If the law says this—and we fear it does because of the manner in which it was drawn—we must agree with Dickens' Mr. Bumble that "the law is a ass." Neither Congress nor the President intended that the veterans should have preference in emergency relief jobs. That is shown by the fact that a year ago the Senate rejected an amendment offered by Sen. Metcalf of Rhode Island to give veterans, their wives and widows preference in the work relief program, and by the further fact that in vetoing the bonus in 1935 the President emphasized that work relief was for all the needy.

"Is it not better," he asked, "to treat every able-bodied American alike and to carry out the great relief program adopted by this Congress in a spirit of equality to all?"

But if the "law is a ass," who decorated it with long ears? The work relief act should have been made decision-proof. In that portion of it which relates to highway projects, veterans are not given preference, the judge found. Why was the rest of the act left open to such an interpretation?

This question raises several broader ones that are all too evident:

Why does the Roosevelt Administration, with all the brains at its call, let itself in for legal jams like this and so many others?

Why does Congress pass sloppy laws? We feel a bit like the taxman who asked Al Smith, "Governor, ain't there any lawyers in Congress any more?"

And may we not need a legal new deal inside the Administration—an alert, aggressive and sure-footed Attorney General with a staff expertly fighting for the millions of the Government's voiceless clients—to whom these major policy measures could be submitted before they are signed?
Dear Mr. E. Haer,

Please be good enough to pick up any letter with its enclosures, into the President's hands, at a convenient hour tomorrow.

Yours truly,

[Signature]
February 6, 1936

Dear Mr. President,

(1) My warmest thanks for giving your time and yourself so generously to Captain Cazalet and Francis Hackett. Cazalet was deeply grateful for "the great privilege" of a talk with you and wrote to me in terms of admiration quite uncharacteristic for an Englishman. There is one paragraph from Francis Hackett's letter that I must quote:

"And when are you going to give us another history", he asked me. I said, "I am going to do Charles V." He then delighted and astounded me by saying that DeLannoy (Delano), to whom Francis surrendered his sword at the Battle of Pavia, was his own great-great-great-grandfather. (Now DeLannoy was a real fellow. He worked coolly and intelligently for the right solution of the conflict between Spain and France. He was up against the tough Spaniards, and could not sway them, and then Francis went back on them. He really was a good European. He stood up to his problems until he died of the plague, I think, in 1528.) I saw a glint of something ancestral in this handsome and valiant man, sitting there in his swivel chair, and talking so lightly and so finely about anything and everything in the world."

And Hackett concludes with a regret for his loquacity that I have hardly ever heard him make in the twenty-odd years of our friendship:

"I am afraid I talked too much with F. D. R., but it wasn't an interview, but a private chat and a glowing, powerful impression."

Again my warm thanks for seeing Cazalet and Hackett. And anyone who cares about civilization must share Marion's gratification that we have a President who cares about folk as Lincoln did, but who also fires the imagination of sophisticated cultured people like Cazalet and Hackett.

(2) Last Saturday I went to New York to see Alice Duer Miller about editing those pamphlets that you and I talked about. I tried to make her see the importance of the contribution she can make, there were some difficulties in the way in view of her literary commitments, but I put it to her as strongly as I could and reinforced it with a letter on my return.
a letter expressing readiness to draw the pen from her scabbard. I wonder
if you could send her just two lines of appreciation. No. I hope
indeed we can have a talk about this project.

(3) I have a long letter from Wise. He is like a fire horse,
rarin' to go. He asked for my judgment as to his activities. And I hope
much I can have yours to advise him. He writes:

"I want your judgment and counsel on when to begin to speak. I
think I ought to deal with the 'Tories of 1936' in something like the
way, though a little more smoothly, in which I dealt with them at the
Ford Hall meeting. What a rotten thing to speak of Roosevelt as inciting
the class war, when his sin consisted in nothing more than
coming to the rescue, in the American way, of the masses made up of forty
millions who would have been overwhelmed by the economic disaster of
1929 had not Roosevelt intervened on their behalf as against the Shounes
and Raskobs and the DuPonts.

"I am going to put aside, as far as I can, all of September and
October in order to make such contribution as it is possible for me to
make towards Roosevelt's election."

(4) And now for two English comments: In a letter this morning,
one of the most distinguished English scholars writes me, "My warm congrat-
ulations on your President's speech on the tyrants." And Laski a day or so
ago wrote:

"I hope that F. D. R. has got two or three big speeches up his
sleeve for the spring. The Congressional address was superb, the kind
of thing that puts heart into a people. The vital thing is for him to
keep the initiative in his own hands. So long as he does that he makes
the issues of the campaign."

(5) Speaking of the issues of the campaign, and the line-up, why
were they not put with meticulous accuracy in Woodrow Wilson's letter of
January 31st, 1915, to Mrs. Toy. I am enclosing a copy of it, although you
probably have already seen it in Baker's fifth volume.

With warmest regards,

Faithfully yours,

Hon. Franklin D. Roosevelt
On Jackson Day, 1915, President Wilson made a speech which aroused a
great deal of criticism. In reply to a letter from one of his friends, Mrs.
Crawford H. Toy of Cambridge, President Wilson under date of January 31, 1915,
wrote in part as follows:

"Of course you did not like the Indianapolis speech (that palapable lapse
of taste, 'Woodrow, etc.' was only a silliness of the moment; was not int he notes;
was produced by the psychology of the stump, no doubt, and admits of no excuse);
I instinctively knew that you would not: any more than you would like a real fight,
or anything that wore the aspect of partisanship. But there is a real fight on.
The Republicans are every day employing the most unscrupulous methods of partisanship
and false evidence to destroy this administration and bring back the days of
private influence and selfish advantage. I would not, if I could, imitate their
tactics; but it is not time for mere manners. The barriers of taste may be overstepped
in stating the truth as to what is going on: it must be displayed naked. All
that I said was true, to my knowledge, though I did not shade it or trace the lines
of it artistically or with literary restraint. The struggle that is on, to bring
about reaction and regain privilege is desperate and absolutely without scruple. It
cannot be met by gentle speeches or by presidential utterances which smack of no bi-
as or party. A compact and fighting party must be led against them. I think you
cannot know to what length men like Root and Lodge are going, who I once thought had
consciences but now know have none. We must not suffer ourselves to forget or twist
the truth as they do, or use their insincere and contemptible methods of fighting;
but we must hit them and hit them straight in the face, and not mind if the blood
comes. It is a blunt business, and lacks a certain kind of refinement, but so does
all war; and this is a war to save the country from some of the worst influences
that ever debauched it. Please do not read the speeches in which I use a bludgeon.
I do not like to offend your taste; but I cannot fight rottenness with rosewater.
Lend me your indulgence. At any rate forgive me, if you can do nothing else."
THE WHITE HOUSE
WASHINGTON
Hyde Park, N. Y.
February 24, 1936.

MEMORANDUM FOR F. F.

Will you get in touch with David Niles and tell him that Wolf is a grand fellow but he is green at the game? Tell him Wolf should be used all we can use him and ask Niles to steer him straight.

F. D. R.
THE WHITE HOUSE
WASHINGTON

February 20, 1936.

MEMORANDUM FOR THE PRESIDENT

This information comes from Miles. Wolf, who is Franklin's tutor, has been appointed as Roosevelt Club organizer in Cambridge. He has summoned all kinds of people to Cambridge and has made more trouble than can probably be straightened out in six months. He is riding high-handed up there and consulting no one and everyone is furious.
Dear Mr. President,

Herewith a miscellany of week-end reading to while away part of the large supply of leisure you must find heavy on your hands! Seriously speaking, there are a number of items that have come to me recently, some of which I think have real importance. In any event, they seem to me to be deserving of your attention. For brevity of comment, I will give the enclosures exhibit letters marked, of course, in red.

(1) The writer of "A" is a most devoted friend of the Administration, who has unusual opportunities for gauging opinion in various parts of the country and tested judgment in interpreting it. What he says bears interestingly on the observations of Professor Laswell in "B"—regarding the ideas that are stirring among small business people, especially on the West Coast.

(2) You probably know Bishop William Scarlett of St. Louis. In any event, I hope you may find an early opportunity to see him. He is one of the finest characters I know or know anything about. I learned to know him during the War when he had the most important pulpit in Phoenix, and during the copper strike told the Lewis Douglasites of those days, in uncertain terms of their duties to God and man rather than to Mammon. His moral and intellectual attainments make him a person of wide-spread influence.

(3) Lincoln—E. A. Filene's letter, "D", speaks for itself. I shall only add what I am sure is unnecessary, that I know of no one who cares more disinterestedly for your reelection or feels more passionately
that the national interest requires it.

(4) "E" gives a private picture of Landon by Bill Mullins, the chief political reporter of the Boston Herald, who has just returned from a visit to Landon. Mullins has a very good nose for such things. The Herald readers of Mullins' articles on Landon would get quite a shock if they heard his accounts of his real impressions of Landon.

(5) Finally, "F" is the editorial in the Phillipian. It came to me through Lawrence Winship, the managing editor of the Boston Globe, with a characteristic salty comment that the Andover editor "will be no good on the Crimson". Winship tells me that the lad who wrote that editorial is Richard M. Weissman, the editor-in-chief of the Phillipian. By the way, I don't believe there are half a dozen newspaper men in the land as smart as Winship. And I suspect there are even fewer who are as whole-heartedly for your cause, and who think that one way to help you is not to take your time in seeing you, either on purpose or when he comes to Washington for the Gridiron Winners.

Always faithfully yours,

Hon. Franklin D. Roosevelt
This oversized item has been filed in sections

THE PHILLIPIAN
Member of Southern New England Federation of School Newspapers
Member of Columbia Scholastic Press Association
Member of Daily Princetonian Association of Preparatory School Newspapers

Editor-in-Chief
RICHARD M. WEISSMAN
Business Manager
WILLIAM R. KITCHEL

The Phillipian is published Wednesdays and Saturdays during the school year by the Phillipian board.
The Phillipian is distributed to subscribers at the Comstock and is for sale at the Phillipian Inn.
Advertising rates on application.
Terms: Subscription, $3.00 per year.
Entered as second class matter at the post office at Andover, MA, under the act of March 3, 1879.

Andover, Mass., February 12, 1936

Franklin D. Roosevelt

Andover Hill seems to be in the throes of the current anti-Roosevelt wave which is now at full tide in New England. If for no other reason than to attempt to retain a proper perspective, we are pro-Roosevelt. A poll of the Academy would unquestionably indicate an overwhelming sentiment against the President, so that there is certainly no originality in being on that side. From an analytical standpoint, however, the case for him is clear and sound.

President Roosevelt is the same man with the same character and the same ideals he had when he came into office in the spring of 1933. One of the arguments against him is that he has completely repudiated his platform. This criticism, unfortunately, is three years late. Why was it not made when he initiated his emergency measures? The answer is obvious. The drowning man does not need help when he gets ashore.

The Democratic platform was constructed in July, 1932. Almost a year elapsed before the first of his emergency measures was taken. Will any fair-minded critic undertake to maintain the stand that the action called for in 1933 should have been based on the conditions of the country in the spring of 1932? As for the charge of socialism, every progressive step, every humanitarian movement has had that tag put on it by its opponents. Students of political history note in this connection that the majority of Democrats in passing the Bonus Bill over the President's veto.

As we see it, the only real argument that the critics can hang on to is that they were not willing to accept the New Deal as an emergency policy, but that in normal times it is unconstitutional and un-American. That Roosevelt himself agrees with them is becoming clear with his recent announcement of the withdrawal of unused credits in the hands of the emergency organizations and the generally expected announcement in the very near future that the emergency is over and that these special bodies will be disbanding. Some of his critics are so prejudiced that they distort everything that happens. For example, being forced to admit that we are emerging from the depression, they say that the recovery is "in spite of" Roosevelt.

In view of the fact that they argue that Roosevelt's activities are destroying the country, how do they reconcile themselves to the admission that there is any recovery at all? This is another illustration of the difficulty of a man who is arguing on both sides of the question.

If the fair-minded observer will not take the situation that existed on March 4, 1933, with the country in the depths of despair, the banking system paralyzed, the business clock run down, millions of homes about to be lost, and life savings gone, and compare with that condition the situation as it exists today, he cannot help but be impressed. During that period, with a high courage that served as a beacon light, Roosevelt has led the American people through the obstacles of formalistic constitutionalism, the slow red tape of customary government, the vicious dangers of deflation, Coughlinism, Huey Longism, and Townsendism.

Through a strengthening of the banking system, a house cleaning of the security markets, and the initiation of a humanitarian social security program, Roosevelt has given the insecure new massed a bright vision of a better world. At the same time, corporation statements now appearing show that profits are attaining records.

Let not those of us who enjoy more of the material benefits of American life be so selfish as to begrudge the underprivileged greater security than a previous assurance afforded. After all, Roosevelt is not the President of only the upper classes. He is the President of the whole American people, and not only the history of the past but also current events amply demonstrate that the upper classes can well take care of themselves. In conclusion, let us as a class consider our own role in answering this question—"Who is the man who could have done a better job?"

Communication

To the Editor of The Phillipian:

As an interested observer of The Phillipian, I have seen it time and time again plead for communications from the student body on various controversial subjects. It has asked for criticism of its editorial policy, of its news articles, or of any other part of it; yet it has received no definite results. It has offered to initiate a political forum if students would contribute to it; but here again the latter have not responded. This apparent lack of interest may be attributed to at least two reasons. One of these causes is that the Andover students do not take any sizable interest in political or other national affairs. I have found this to be true, and I consider it a grave fault of us modern youths. Another possible reason is that they do not study The Phillipian well enough to criticize it. But I do not think this likely. Having personally heard grumblings about the paper, I know there is criticism to be found. I have found much dissent to the recent student government editorials as well as several dry news articles. But what happens to this criticism? Either the students are too cowardly or too lazy to describe it for The Phillipian. As it is, they act as a flock of sheep, lacking the courage to present their convictions.

In order to stir up some controversy, I am going to strongly attack the present administration. In a recent Phillipian one editorial prophesied eight years of Roosevelt as president. I do not believe the American people will submit to New Deal Socialism for four more years. I think that by next fall they will in majority acknowledge the failure of the present Government by voting Republican. I think that they will be too tired of alphabetical organizations and professors theories by then that they will...

(Continued on Page 4)

SPORT SHOTS

By FRED STOTT

The Royal Blue hockey sextet, which seemed destined to terminate Exeter's nine year reign of supremacy, certainly came through in grand style on Saturday. Not since the days of Franklin have we seen such a powerful high-scoring line as that first string line of Captain Curtis, Erenius, and Hansen. It accounted for seven points, including three goals and four assists.

When the majority of the members of the U.S. winter Olympic team sailed in January, there was a high hope of victory, but now the feeling is that we'll be lucky to come out on top in any event. For the hockey team made the rounds of most of the better so-called amateur teams of France and Great Britain, and succeeded in winning almost half as many as it lost. It opened up the Olympics with a lucky 1-0 victory over a pretty fair German combination whose star, oddly enough, was a Jew who was called from a self-imposed exile to lead the team. Against a mediocre Swiss six it played real hockey for a brief stretch and won handily 3-0. But on Saturday the Italians, one of the weakest groups, won a 2-1 battle. The U.S. stars can't seem to learn how to play against teams that don't play hard, bruises hockey.

In pre-Olympic meets the Norwegians clearly demonstrated their superiority over the Americans in speed skating. The Americans were thought to have a chance in the downhill and slalom events in skiing, but Ted Hunter hurt his leg badly and Dick Durance, after hanging up his skis two days previous to the race, did no better than eleventh in the downhill. There is a somewhat small chance of placing in the jumping, but the Norwegians

(Continued on Page 4)
Prom Rules

Students who go home will be allowed to leave school Friday when their classes are over. (Classes that ordinarily are held at four and five will be moved forward to two and three, all classes being finished at four.) Please note that only those who go home or to join parents will be allowed to leave school on Friday afternoon.

All other week-ends will begin on Saturday morning after Chapel. Boys who attend the Prom may not leave until after Chapel Saturday morning.

This week-end will count as one of the regular allowances.

No notice to the huge no-excuse list or probation may leave for this holiday. (Students living in Williams Hall are excepted.)

Please secure your excuses from Mr. Maynard in the Registrar's Office as early as possible during the week.

IN PULPIT SUNDAY

P. A. '37

Superiority over the Americans in speed skating. The Americans were thought to have a chance in the downhill and slalom events in skiing, but Ted Hunter hurt his leg badly and Dick Durrance, after hanging up his ankle two days previous to the race, did no better than elevenths in the downhill. There is a somewhat small chance of placing in the jumping, but the Norwegians are men who do not need help when he gets ashore.

The Democratic platform was constructed in July, 1932. Almost a year elapsed before the first of his emergency measures was taken. Will any fair-minded critic undertake to maintain the stand that the action called for in 1933 should have been based on the conditions of the country in the spring of 1932?

As for the charge of socialism, every progressive step, every humanitarian movement has had that tag put on it by its opponents. Students of political history point to the interesting fact that many of the "radical" proposals of the socialist party a generation ago were commonplace in both major parties before the depression, and that what is an extreme in one period is an accepted fact fifty years later. The Socialists were the only party which opposed our entrance in the World War. Only they proposed taking the problem of taxation in the huge taxes, the agreement is practically unanimous on that score.

Theodore Roosevelt's planks for "popular referendum" and "recall of judges" were considered violently socialistic by the conservatives of his day. Direct election of senators as well as Woman suffrage have not only been accepted but are now actually part of the Constitution—the fundamental law of the land. In the last analysis, why be frightened by the term socialism? We are all together too prone to be swayed by blanket terms, instead of examining the merits of the propositions themselves.

Those who condemn the spending which has taken place have yet to offer an alternative to starvation and revolution, other than providing relief. As for the administration of relief, why has the public not been more lenient? What has been perfect? Unemployment today, despite an increase in population, is not over 75 percent of the number of unemployed when Roosevelt took office. England has had a serious unemployment problem for over a decade. The absurdity in expecting President Roosevelt to solve it in three years is obvious.

If we were to have as great a debt per capita as England has today, our national debt would total over a hundred billion as compared with our actual debt of thirty or thirty-one billion. And against our debt of thirty-one billion we have some two billion dollars in the treasury devaluation fund and several billion in assets owned by the R. C. F. The debt which Hoover left with us was approximately twenty-one billion.

Even Roosevelt's most bitter opponents today urged him to take the drastic measures he has taken, on the ground that our country was faced with a war on depression—as great a conflict as any other war in the country's history. Now that the financial skills of these critics have been saved by the President's vigorous leadership during the crisis, may we forget that in the two years in which we were engaged in the World War we went into debt to the extent of twenty-eight or so billions in addition to the taxes collected during one of the greatest boom periods in our history. In the fiscal year 1919 alone, we spent nineteen and one-half billion dollars.

As for Roosevelt's being criticized only on spending money, it is an interesting commentary that the majority of Republicans in Congress endorse benefits of American life be so selfish as to beget the underprivileged greater security than a previous era assured them. After all, Roosevelt was the President of the whole American people, and not only the history of the past but also current events amply demonstrate that the upper classes can well take care of themselves. In conclusion, let us be honest with ourselves in answering this question: "Who is the man who could have done a better job?"

A Tribute From Dr. Fussell

The following is an excerpt from a speech to be delivered by Dr. Fussell at Yale on the occasion of Abraham Lincoln's Birthday. The Andover student body heard it in abbreviated form in morning chapel.

Abraham Lincoln is the despair of believers in heredity. His father was shiftless and indolent, "without a vestige of book-learning"; his mother could not sign her own name. His ancestry promised nothing. "No family in all Kentucky," we are told, "was more obscure." No preparatory school trained him for public service. In all his life he had less than a year of school. Compared with Edward Everett, who was valedictorian at Harvard at the age of seventeen, or Charles E. Loring, who was second in his class at West Point, Lincoln had a wretched education. Nothing in his origins, or in his early experience, or in his biography, indicated that he would become a leader.

Abraham Lincoln was forty-six years old before his mission became apparent. In 1854, he was milking his own cow and cutting hay in his own wood in an Illinois town of less than five thousand people; within eight years he was in the White House. Physically he was only one hundred and eighty pounds of water and phosphorus and lime and salt, but some miracle had blended these chemical elements with some mysterious factor to produce what we call genius.

This man of amazing contradictions and varying moods, of abysmal loneliness and boundless humor, of fanaticism and superstitious fear, who had been not far from suicide and madness, had acquired sympathy and patience and wisdom, the qualities necessary for meeting the crisis of civil war. He was to become, as few others have before or after him, the "instrument of events." It is difficult to explain Lincoln in terms of heredity and environment, but it is even more difficult to explain his soul.

What is inexplicable in Lincoln is what is inexplicable in life itself—the intangible element which to date no biologist has been able to put under the microscope or imprison in test-tube. Lincoln's honesty, his tact, his understanding of motives, his sagacity, his unselfishness—all these are known, and respected. But they are not enough. And it is this knowledge which brings a materialist or a mechanist sharply up against a power not ourselves—a power working in and through Lincoln, a power of which he seems to have been aware, a power which no biographer can ever describe in words, but which he cannot possibly ignore.
My dear Dr. Lowell,

I have your letter of the 20th.

In graciously asking me to attend Harvard's Tercentenary Celebration, President Con-nant of course invited me not as an alumnus but as the President of the United States. I [in the margin: will address my thought to you] am not sure [in the margin: that he did not expect me to do] otherwise than to be true to the requirements of the office which I shall represent on that occasion.

Sincerely yours,
Dear Mr. President,

When the other fellow's arrogance reaches such proportions as to become ludicrous, one's feelings become disengaged and the mind is left free to exercise a "ca'm judgment". And so I am as clear and as sure as I can possibly be that the following are the ingredients for the right answer to Lowell: great brevity, impeccable courtesy, complete disregard of the impertinent inquiries and implied rebuke.

Words yield to your touch, but I offer as a scratch pad the enclosed draft, for which I only claim that it is the product of real calm and very considerable care.

With warmest regards,

Faithfully yours,

Hon. Franklin D. Roosevelt
Enclosed file from President Conant and Jerome Greene in re invitation to Harvard in September.

THE WHITE HOUSE
WASHINGTON

February 22, 1936.

Harwood Fother
Lutey Fiske

MEMORANDUM FOR F. F.

On looking over the file there appears an interesting situation. On November 7, 1934, President Conant writes: "Dear Mr. Roosevelt (sic)... I am now extending to you on behalf of the University a formal invitation to be present." Am I invited in my official capacity or just as a graduate? I wonder ——?

On November 14, 1934, Jerome Greene says: "Dear Mr. President ...... I am writing to you in support of President Conant's official letter ... the preliminary arrangements for the great day would have to take very largely into account the welcoming of the President of the United States to his own College ......

The that plickens! It is developing into a Detective story like that one that you and A. A. Ballentine were the principle actors in.

F. D. R.
The President
The White House

Would much like to see if possible terms of original invitation could you therefore let me have Gonants letter to you and your acceptance in the meantime I should not have been terribly sorry if you had taught the gentleman a lesson in manners and written to him what you felt like replying however you shall have my calm judgment after I have had two days to cool off.

Felix Frankfurter

5o2pmd
Dear Felix:

Very confidentially, what do you think of this? I felt like replying — "If I am invited in my capacity as a Harvard graduate I shall, of course, speak as briefly as you suggest — two minutes if you say so — but if I am invited as President to speak for the Nation, I am unable to tell you at this time what my subject will be or whether it will take five minutes or an hour."

I suppose some people with insular minds really believe that I might make a purely political speech lasting one hour and a half. Give this your "ca'm judgment" and suggest a soft answer "suitable to the occasion."

As ever yours,

Professor Felix Frankfurter,
Law School of Harvard University,
Cambridge,
Massachusetts.

(Enclosure) Letter from President A. Lawrence Lowell in re the President's visit to Harvard in September.
March 2, 1936.

MEMORANDUM FOR F. F.

(b) I wish you and Lasswell would try to work up a list of these smaller, independent business men -- say fifteen or twenty -- whom I could invite to Washington. I know of no way of getting up such a list. Please let me have Professor Lasswell's letter back to read again.

(g) Thank you for letting me see the Bishop's letter. I hope to see him sometime this spring.

(d) I hope to have a talk with Lincoln Filese. I saw him the other day for a minute but only with a group. Please ask him if he can come down a little later on.

(e) I will try to see Burton again this spring if he will let me know when he is coming to Washington.

F. D. R.
Dear Mr. President,

1. First and foremost, let me congratulate you on your tax message. Wisdom and resourcefulness and determination are behind it, and I hope the legislation will embody the essentials of your outline. You will be glad to know that Oliver Sprague has come out warmly in this morning's Boston Herald in support of your tax program.

2. Speaking of the tax bill, I hear from lawyer friends of mine, not knowing of my interest in the subject, of the wind they had regarding the Administration's plan to curb lawyers' fees in claims against the Government and their confidence in being able to kill any such "outrageous attempts" to restrict the free pursuit of profit by the great leaders of the bar!

3. Many thanks for your memorandum of the 2nd:

   (1) In accordance with your wish, I return herewith Laswell's letter. I am communicating with him, and will do my utmost to get him to work up a list of these smaller, independent business men.

   (2) In this connection, don't forget Clarence Avildsen, who continues to be a warm supporter of yours and ought to be able to help. Also, he absorbs a great deal of knowledge that is valuable through his business associations. Perhaps you can see him before very long.

   (3) I am passing your message on to Lincoln Filene.

   (4) I think it is just as well if you don't see Buxton until after your re-election. The poor fellow has to do the bidding of his masters, and he is now fiercely, on paper, on the other side.

   (5) Instead of seeing Buxton, I wish you might, out of a clear sky, ask to see Lawrence Winship of the Boston Globe. He is true blue and a really wise New Englander.

Marion joins me in warmest regards.

Faithfully yours,

Hon. Franklin D. Roosevelt
Dear Professor Frankfurter:

I am sending you in this note the gist of some observations which I made on the developments taking place on the West Coast. I just returned from a semester spent as a visiting member of the department of political science at Berkeley.

You may remember my interest in the emergence of the middle income skill groups to effective expression in modern politics. As a rule the distemper of small business and professional people has spent itself on ephemeral partisan programs.

Now, however, a functional basis for "middle class" politics seems in the making.

An example is the association of independent druggists. In three years this organization has made itself felt at Sacramento in "anti-chain" legislation and in "fair trade practices" legislation. By boycott pressure has been brought on the sellers of nationally advertised goods.

The druggists work with an association of independent grocers, an association of independent hardware dealers, and certain other groups.

These separate organizations give tacit support to an association designed to promote INDEPENDENT and HOMEOWNED business which now has forty full time organizers working in the state of California.

These developments are paralleled in many other states (movements which I am following). Plainly they lay the basis, sooner or later, for a national
The University of Chicago
Department of Political Science

chamber of small business and professional interests.

It would be possible to develop a counter-weight to the U. S. Chamber of Commerce, whose control by big business groups is plain, by organizing another AMERICAN chamber of INDEPENDENT business. Such an organization could provoke the secession of many units in the existing Chamber of Commerce, especially in the West and South.

The present U. S. Chamber, you recall, was organized during the later days of the Taft administration with the active cooperation of members of the Taft cabinet.

May it not be that the time will soon ripen for another "consultation" of the smaller as well as the larger business interests of the country? And to prevent the use of the symbol "business" by the spokesmen of one single organization which assumes to speak in the name of all business?

A functional basis for skill group politics would no doubt foster the policies desired by the liberal elements in the Roosevelt administration.

I dispatch this brief memo to you because I am aware of your interest in a comprehensive view of social action.

Sincerely yours,

Harold D. Lasswell

[Signature]
March 4, 1936

Dear Mr. President,

My warm thanks for letting me see the file - herewith returned - on the Harvard Tercentenary invitation.

The controlling letter - that of November 7, 1934 - leaves no possible room for doubt that President Conant's invitation was addressed to the President of the United States. I don't mean to rely on the minor fact that the Conant letter went to

Honorable Franklin D. Roosevelt
President of the United States

in contrast to Dr. Lowell's form, "Mr. Franklin D. Roosevelt". What is crucial is that President Conant extended to you "on behalf of the University a formal invitation to be present", so that the "celebration of the 300th Anniversary of the founding of Harvard College may be honored by your presence, as the celebration of the 250th Anniversary was honored by that of President Cleveland".

It is the Cleveland visit that I had in mind in sending you the scratch pad draft reply. Grover Cleveland was not an alumnus. He came as President of the United States. The whole tenor of President Conant's letter, with its explicit reference to the Cleveland visit, unequivocally proves that the invitation went to you not as alumnus but as President. Naturally enough, Jerome Greene, as director of the Tercentenary celebration, placed that interpretation upon "President Conant's official letter". No other construction is tenable.

In sum, of course you were invited in "your official capacity" and not "just as a graduate". I'll bet you a St. Croix rum highball that even
the Supreme Court would so rule, the Supreme Court, that is, ex McReynolds.

And so I stand pat on the form for a reply which I ventured to submit to you a few days ago. I have been sleeping on it for a good many days now, and time only confirms the feeling of its appropriateness. Of course I don't mean the exact words, but that brief, courteous, conclusive kind of thing which, being what he is, (in the light of his letter I ought to tell you one of these days a story which will shock even you), Dr. Lowell will fully understand.

Always faithfully yours,

[Signature]

Hon. Franklin D. Roosevelt
Dear Mr. President,

You may be interested in the following telephonic conversation this morning:

Larry Winship - "Groves sent me word that McIntyre asked him whether I could come down and see the President on Friday. Is it imperative that I go?"

F. F. - "Why do you raise the question?"

L. W. - "Well because F. D. ought not to waste his time seeing me; instead he ought to see some of these Democratic sore-heads."

F. F. - "Don't you think the President of the United States ought to be allowed to waste his time in his own way?"

L. W. - "I guess that's right too, but why should he waste his time on me?"

F. F. - "I don't know why he should. But maybe by way of change he would like to talk with a sensible fellow who really doesn't want anything - doesn't even angle to see him."

L. W. - "Go to Hell."

Winship is really a shyish fellow and rather laconic - a poor boy who came to Harvard and never moved in the great world of the Arthur Ballantines until he really gets going. And so I hope you will find enough of a free stretch on Friday to see him alone and for some little time. He is a real newspaperman, not one of these modern columnists or "interpretative" fellows. The Globe, as you know, is essentially a newspaper, having no editorial policy. And Winship has radiating connections with news sources all over the United States.

Faithfully yours,

[Signature]

Hon. Franklin D. Roosevelt
Dear Mr. President,

(1) You will have seen items in connection with the conviction, of three important business and financial people who were engaged in the pepper pool and in furtherance of it failed to make certain disclosures in a prospectus inviting popular subscriptions. When next you hear yapping about how much more room is left to rugged individualism in England, you might not only recall that instance, but also quote the following from the most substantial financial periodical in England. The Economist for February 29th asks precisely for those safeguards which the Securities Act furnishes:

"Many will think that that the 'pepper pool's' operations, legal as they are, have immeasurably fortified the demand for a strengthening of the 1929 Companies Act, especially in relation to the liabilities of promoters, the positive requirements of a prospectus, the compulsory publication of subsidiaries' results, consolidated balance sheets, and the disclosure of all relevant current contracts to auditors."

(2) A friend of mine who sits on the Board of a financial concern with very large utility holdings reports, "in deepest confidence", the following comments made by their counsel, John Foster Dulles, on the utility situation:

1. The Baltimore suit he thought would be thrown out by the Supreme Court on jurisdictional grounds.

2. The Government's strategy in handling the utility cases had been remarkably astute. He referred to E. V. Cohen by name as chiefly responsible for the strategy, and called him "a very bright young man", but "a misguided idealist".

3. In selecting the Bond & Share case for a test case, the Government had selected the best possible case. And he doubted very much that Bond & Share could prove that the Act as applied to it was beyond Federal power. The Government had also shown great strategy in refusing to do battle in any of the other cases which the utilities had so temptingly offered them.

4. He thought the litigation, however, might be very prolonged, and might never reach the Supreme Court on the basis of the present Act. He indicated that the Government was already making overtures to the utilities to see whether the Act couldn't be amended so as to make it more
acceptable to the utilities and relieve the Government of some of the burdens placed upon it by the Act. The S. E. C., he said, in other fields had shown a distinct inclination to be more merciful to the victims of misguided legislative zeal than the proponents of these measures.

But in any event, the Act could not be carried out in its entirety for several years. The income of the utilities was increasing. He considered Utility stocks "cheap and a good buy."

If you don't look out, you will ruin these fellows into prosperity.

Ever faithfully yours,

Hon. Franklin D. Roosevelt
April 16, 1876

Cambridge, Mass.

Dear Mr. Rixey - Frankfurt

Last week I was in Chapel Hill, where I lectured at the University of North Carolina. Professor J. D. Davis took a very kind interest in me. I have since been in New York and Washington, arriving on the Federal and leaving for North Carolina late last night.
If I should of course, announce your letters to Sec. of the Navy, such would accelerate any thing with them to the President's orders.

Tell me if the President would have time to see me at next week. Wednesday, Nov. 24th.

Yours, Ever yours,

[Signature]
TELEGRAM
OFFICIAL BUSINESS—GOVERNMENT RATES

PROFESSOR FELIX FRANKFURTER
108 BRATTLE STREET
CAMBRIDGE
MASSACHUSETTS

IF YOU PLAN TO ATTEND FUNERAL TOMORROW COME AND SWIM
AT FIVE-THIRTY

M. A. LE HAND
PRIVATE SECRETARY

The White House
Washington

April 30, 1936.
TELEGRAM  
OFFICIAL BUSINESS—GOVERNMENT RATES

FROM The White House
Washington

April 18, 1936.

PROFESSOR FELIX FRANKFURTER
193 BRATTLE STREET
CAMBRIDGE
MASSACHUSETTS

PRESIDENT DELIGHTED TO HAVE YOU COME AND SWIM WITH HIM ON
WEDNESDAY, APRIL TWENTY-SECOND, AT FIVE-THIRTY STOP SORRY
HAS EVENING TAKEN

G. G. TULLY
Dear Anne:

Nature alone does not explain it - for nature is usually, at least in part, fractions and always gets weary. And so you need love and cherished nature to love. Each and also describied him. Only thus could you have achieved the kind of serenity and he -
waxen, and galvanizing humor, which I again witnessed and experienced in such generous measure. For I know, partly at least, what a drinking day is was — what tribulations and unexpected tribulations it brought. And yet, and yet — you shall hear more senatorial children off with cheerless hope of former persons.
I once told Emerson that I
will meet people of science in
an evolution - a way of avoiding
hard facts - but with Mr. Codman's
science is a moral energy, a
source and resource for
harvesting difficulties and tri-
cumplishment and need. That's
the feeling I had when I left you
very last week.
Beauchamp
Mr. Reuss -

The writer of the enclosed is a pet student of mine, born in his third year at the Law School here. Some day I hope you will permit me to send Richard Logan. He is a wonderful lad from Kentucky. Was it, I am confident, destined to go far.

Ecu. devotedly,

[Signature]
Dear Mr. President:

In raising for your consideration the suggestion I am about to make, I may well overlook a number of elements in an important situation. But I am confident that you will charge the suggestion to my great devotion to you and acquit me of intrusion into what is a very personal problem.

In brief, if you have not yet selected someone to take over some of the functions of the irreplaceable Louis, isn't Ray Stevens worth considering?

Of course, you know better than I all the circumstances of Ray's career, the qualities they reveal and their relevance to the manifold and personal functions for a member of the President's secretariat. But I don't think you have ever seen Ray as I have seen him — on his native heath of Landaff, N. H. — and had the revelation, on the spot from which they spring, of his Lincolnian shrewdness and simplicity, his genius for the common touch and his intuitive wisdom that seizes just the right way for putting straight all sorts of queer human quirks. What makes him so incredibly unique is that the same Yankee solitary who worked his milk farm all alone for years should have been equally at home in the palace of the last absolute monarch of the Orient.

Well I don't have to say more. But am I quite wrong in wondering whether there's anybody else who so epitomizes the kind of hard-headed, practical political experience that enables him to find his way around on the main road as well as on the most obscure detours, who has such a sure instinct for knowing the difference between sense and nonsense, who can recognize cranks and fools without letting them be aware of it, who can placate dignity without subordination and subordinate with dignity important pretenders.

I am looking ahead, of course. I am thinking of all the domestic and international snarls that you will have to disentangle during the next four years, all the gallant fights that you will be leading. And I am thinking of the priceless value of a self-effacing, dedicated, palpitating background that understands without being talked to, and never talks except with understanding.

That's my story and I stick to it — provided you think it's any good.

Devotedly yours,

Hon. Franklin D. Roosevelt
April 29, 1936.

Dear Felix:-

The enclosed has gone. Marion was right. Tell her, however, that I must be getting old because after two weeks of thinking things over I became so convinced. You will note that I have completely ignored the latter and more important half of A. L. L.'s epistle. Enough said!

As ever yours,

Professor Felix Frankfurter,
Law School of Harvard University,
Cambridge,
Massachusetts.

(Enclosure)
April 29, 1934.

Dear President Lowell:

Thank you for your letter of April fourteenth. You are right in thinking that I will want to say something of the significance of Harvard in relation to our national history.

Very sincerely yours,

Dr. A. Lawrence Lowell,
171 Marlborough Street,
Boston,
Massachusetts.
Law School of Harvard University.
Cambridge, Mass.

April 19, 1936

Dear Mr. President,

If I said what I really thought of Emeritus, Jim Farley wouldn't allow it to go through the mail.

I submit the following as possible ways of returning his ball:

(1) You may assume that I shall speak, within appropriate limits, of the significance of Harvard in the context of our national history.

(2) You will have to assume that I understand the proprieties of an occasion like Harvard's Tercentenary.

(3) You will have to assume that I understand the proprieties.

Not having anything of the careful dullness of a John W. Davis, Marion says she hopes you will lose your "temper completely".

Very faithfully yours,

Hon. Franklin D. Roosevelt

[Handwritten note]
To the President of the United States:

Washington, D.C.

Dear Mr. Roosevelt:

You are certainly right that you were invited to come to Harvard on the Alumni Day of the Tricentennial celebration as President of the United States. In that capacity I suppose you will want to say something about what Harvard has meant to the nation. In arranging the occasion there are about half a dozen other speakers, partly alumni, but mainly representatives of other institutions over the world, who will naturally speak. I am thinking of asking each of them to take about ten, or at most fifteen, minutes. Does not this strike you as appropriate?

Yours very sincerely,

A. Lawrence Lowell
Julia Rice
135 Brattle St.
Law School of Harvard University.
Cambridge, Mass.
18 May

Ms. Frankfurter

Dear Mr. Frankfurter,

I am happy to hear that you are well. I was surprised to hear that you are in New York.

Your brother is having tea with me this Sunday.

Sincerely,

Julia Rice
Dear Mr. President,

(1) Let me congratulate you warmly on your decisive squelching of the Fraser-Leske Bill. Not that I ever had any doubt as to the eventual fate of that piece of foolishness, but it is heartening that you managed to make the House itself have sense and courage to kill the mischief at its source.

(2) The enclosed pencilled scribble is from Larry Winship. "J. M." is James Morgan, one of the wisest old political owls in this part of the world. Needless to say, a mere professor like me knows nothing about such matters.

(3) Vermont produces not only Cal Coolidge and good cheese, but also an occasional federal judge after Jim Farley's heart.

(4) I had a grand talk the other day up here with Colonel Molly Dewson. I don't know who corrupted whom. But the fact of the matter is she and I agreed completely.

It was a joy to have seen you the other day, so serene and so obviously fit.

Faithfully yours,

Hon. Franklin D. Roosevelt
Mr. thinks they are making a serious mistake to string out the Democratic convention for five days — without a thing to do —
podrums for five days – during
which the conventions will disintegrate –
trip to aSat into crowd
PD’s speech — Short a
happy convention would be better
chance — many sessions
with deserted halls will have had effect in bad news dispatches —

Larry
May 11, 1936.

Prof. Felix Frankfurter,
Harvard University,
Cambridge, Mass.

Dear Professor:

If you know of a member of the bar who would make a good law clerk and anxious for such a position I wish you would give him the enclosed memorandum.

Vermont has been republican for eighty-two years without a skip or a miss. We have only fourteen members of the bar who are democrats. I won't give the appointment to a republican, and as none of the democrats here want the position, I'm going outside where the democrats are plentiful.

With much esteem, I am,

Yours sincerely,

[Signature]

(1 enc.)
Law School of Harvard University.
Cambridge, Mass.

Dear [Name],

Please note that 6th Street and 6th Street are to be referred to as 6th Street. Solace from his duties.

And may warm regards begin. It was pigeons three times again.
May 22, 1936

Dear Mr. President,

Very few things seem to me more promising in their implication for the future than the settlement between the Railway Executives and the Railroad Unions which your gentle but firm pressure upon both sides, your far-sightedness and your tact alone made possible. It is a heartening example of constructive intelligence applied to modern technological problems. But it also proves that without effective organization among the men, such collaborative solutions of the common problems of industry are not possible. That is why the Tory leaders of industry know not what they do in their obstinate resistance to the intelligence and character that unions in the long run foster, by training men in organized responsibility.

And let me tell you again what a great thing it is for the country for you to have solved the trying T. V. A. situation. I know what it meant in time and patience, in human understanding and incredible tact to save for the country continuity in the work of T. V. A.

You know how we all occasionally like to play at the children's game of what we would do if we were God. I would add four hours to your day.

Faithfully yours,

Hon. Franklin D. Roosevelt
Dear Mr. President:

First, let me tell you what an absolutely ripping speech you made at Arkansas. "Forward March" is precisely the right temper of command with which to impregnate the campaign atmosphere. I know I am just a professor, but I eat the proverbial hat if I am wrong in believing that over and beyond this and that detail of the campaign is the necessity of charging the emotions of the American people anew with hope and confidence, and with the conviction that you are the only dependable instrument for pushing forward their hopes and justifying their confidence. And so as I take off, I express the deep hope that the temper of the Arkansas speech is the one that you will maintain throughout the campaign.

Feeling as I do, I cannot withhold my strong disappointment in the preliminary draft of the platform that Tom has just brought, as it comes from Rifkind's hands. I shall try to have my say, at least over the 'phone, with Bob Wagner and Rifkind before I leave tomorrow but it may not be possible to reach them. Therefore I am compelled briefly to say to you what I am about to say. I understand that this is only a draft and that it certainly does not satisfy Wagner and Rifkind but is the result of pleasing everybody by omitting everything

+ Since dictating this The read old Dallas speech r dealt pleased!
opposed by anybody. Well, all-things-to-all men produces precisely this kind of a wishy-washy, uninspiring mush, worse than tame cat. This draft has no inspiration, no generalized philosophy, no call to arms, nothing to hearten anybody, nothing that anybody will remember the day after it is published in the newspapers. In substance it hardly differs from the Landon platform, and in tone it is even duller.

Of course, your acceptance speech will be the call to arms and will furnish the philosophy. Nevertheless the platform ought to serve as your auxiliary; the platform certainly should not be a handicap to you, at the lowest the handicap of a collection of dead words without impact, without lift and without courage. It ought not to leave any possible room for the suggestion that the official party utterance does not fully express your own outlook. For the life of me I don't see why the platform shouldn't express the kind of general outlook that you expressed in the Commonwealth Club speech, that are reflected in the major policies of the Administration, and will serve as the general direction for the next four years.

Rifkind himself is aware of the flatness, the lack of cohesion and organic eloquence of this draft. I am not remotely suggesting that the draft which I placed in your hands should serve as anything more than as a draft for improvement and stiffening. But I do hope that you will find
time to read that draft and compare the objectives in platform-making which underlay it with the present proposal.

I am asking Tom to put this letter in your hands. He will also give you in his own inadequate, un-Celtic way my affectionate greetings and my good wishes for everything, until I am gone -- and way beyond.

Devotedly yours,

The President
The White House
Washington, D.C.
13 July 36

22, Queen Anne's Gate,
Westminster, S.W.1.

Dear Missy,

Be good enough to hand this letter to
its intended recipient.

I don't know where
this will reach you —
I only hope not in the
cruel Washington heat.

Ever learned about it
in person? He must
be because we've been
having everlasting
downpour hardly a
Ray of sunshine.
Apart from seeing old friends (and reading some new ones) —
You know what artists
in hospitality the English
are — this is not a
happy country at
present.
Our best wishes to
your son's gay
holiday. Very cordially,
Peter Langholtz
11th July, 1936.

1. Unfortunately I could not hear your Philadelphia speech as conveyed by your own voice, but the vibrancy of your utterance triumphed over the cold type of the extracts which Wilmott Lewis conveyed and stirred feelings in me that have been aroused by not more than a dozen speeches in my lifetime. And now that I have read the full text, I find in the speech (with all the insulation of feelings that time produces) that enduring quality which makes a classic. You have given us something not only to win with, but to win for.

2. Apart from all else, you have taken the aggressive, and again proven that the only effective defensive is an offensive. Political life, as all other life, means affirmation and not negation, and the lead you have taken in Philadelphia has been the dominant political news from America since Philadelphia. Your persuasion of Herbert Lehman has of course had psychological effects much beyond the immediate New York
contest. You must have handled him just right. The new drought is a terrible plight, but Lewis’ cable indicates the bold and imaginative leadership with which you are meeting it.

3. In so-called upper class and even Tory circles here one moves in a wholly different mental climate from that which one finds on Park Avenue or Beacon Hill. In the first place there is an immense amount of warm feeling for you personally on this side, not less than for the gallantry with which you reversed the national morale in 1933. But in addition, there is a much calmer realisation that the general direction of your measures - never mind the details - is indispensable for the sake of capitalism itself, and that, in the language of Macaulay, in order to conserve we must reform. I have seen a number of your friends like Margot and Elizabeth Bibesco, who are passionately eager for the successful outcome of next November.

4. I have been importuned by some of those closest to Herbert Lehman to try to prevail upon Charlie
Poletti to stay with Herbert after this year. I know that Charlie told H.H.L. some time ago that in any event he would not stay in his present post after January. I have been thinking about the business a good deal and I wonder if the whole problem could not be most effectively solved by running Charlie as Lieut.-Governor - this, of course, on the assumption that for one reason or another Bob Jackson is not to be named. Charlie would make a powerful appeal not only to his own people but also to the young, and thus enormously further the whole cause in New York. I am also assuming that Bennett will want to continue as Attorney General; otherwise Charlie could be named for that post, for he is in addition to all else a very good lawyer. Charlie's youth rules him out as a serious rival to the ambitions of others as Herbert's successor in 1938. At least, this is the way politics strike a mere professor across the ocean.

5. There will be much to say about the British
situation when I return. For the present suffice it to remark that it is my impression, with some knowledge of the history of the England of Chatham and Burke and Fox, that not even the defeat of the mother-country by the thirteen colonies left such a sense of national humiliation as has followed in the wake of the Abyssinian affair. Great Britain is now feverishly aroused to make herself strong, for whatever contingency may be in store. There is, as you know, not a little sentiment in the City and other high quarters looking towards terms with Germany - which means giving her a free hand in the East - but as soon as these tendencies reach proportions they are severely checked by such Nazi performances as the recent conduct of Capt. Greiser before the Council of the League on the Danzig matter. By the way, has that delightful euphemism, "to cock a snook", reached you? It was the delightful way in which The Times described Capt. Greiser's thumbing his nose at the Council of the League.
I hope nothing will interfere for a real holiday for you before the strenuous months of the campaign begin. Marion joins me in affectionate greetings.

Ever yours,
July 29, 1836

My dear President,

I hope you have been really carefree loafing and renew refreshment after the long, hard piece of the last term, and for the long, hard days that are ahead.

I have just closed a few plantations, driven 600 slaves to the coast, and sold them, which is not a difficult task. Every one of them are fit for sale. In fact, I am sure that you cannot.

I am writing to assure you, loving you.

Always faithfully,

[Signature]
You know how very deeply I care for your championship of social insurance as part of your program and how basic I deem it for its greatest success. It is in the light of my great desire both for the realization of that program and for your success that I venture strongly to urge against premature commitment on the details of the program for social insurance. I speak as one who has had a good deal of responsibility in connection with such legislation over a long period and in the light of a rather close study during my recent visit in England of British experience with unemployment insurance. That experience makes clear the extreme intricacy involved in formulating wise, endurable legislation as well as the important bearing of details, not only upon effective administration, but upon the economic life of the country. The United States multiplies manifold the complexities and difficulties revealed by English experience. The diversity of conditions in our various regions and even in the various States and the factor of distance, despite all the modern appliances for communication, make administrative and political problems of insurance legislation in this country radically different from the situation that confronts English legislation and administration. The relative advantages and disadvantages of the Wisconsin plan as against the Ohio plan, and still more the relative advantages of a single, national scheme as against a scheme through the States but sponsored by the nation, or fostered by it, calls for long and careful exploration and thereafter a matured process of formulation. Moreover, our Federal system presents legal complications from which England is wholly free. You will recall that the Supreme Court invalidated TR's first Employers' Liability statute because it transcended the reserved powers of the States. That case, considering that only in-
terstate carriers were involved, should warn us of the great importance of the specific legal mold into which legislation is cast and of the constitutional obstacles in the way of an all-embracing national scheme.

I should think what is wanted at this time is the generous and ample elucidation of the general objectives of social insurance, without any reference to State or national action, and without committing yourself at this time to any decisive choice or form of legislation, which may gravely embarrass the attainment of your aims.

If you are to speak in Wisconsin on this subject, would it not be well, by way of illustration of a commendable effort, without again committing yourself to the details of legislation, to refer to the characteristic pioneer legislation of Wisconsin in dealing with unemployment legislation? You will remember Mr. Justice Holmes' observation in one of his opinions that our Federal system gives us the great advantage of making social experiments in the "insulated chambers of the individual States". That aspect, not of state rights but of state opportunities, might be emphasized with particular advantage in the State of Wisconsin.
Dear Andy,

Sorry I couldn't keep up her letter into the President's hand. I have discovered by
much eeping the End. The Doc.

Sincerely, Espero in hope. It was so much for

TUCK'S POST CARD

SHELDBN Theatre. In "the
Oxford, holding 2500 spectators and built

by Wren 1661 as the palace of Archbishop

Sheldon. Here is held the annual com-

memoration in June, commemorating benefactors

of the University, when honorary degrees are

conferred, usually with a running commentary

from undergraduates in the galleries.

1936

Do Luty
I was however pleased to hear again your warm, full-throated voice, with its peculiar expression of the eternal and therefore ever-fresh tenderness of wisdom and humanity. It was gripping to hear the thunderous applause when you broke into speech — altogether you said the right things, in your own invariable right way. It would please opinion here amuck.

And they need the heckled chaps.

In no. Before, I be lieve in English.
History they feel loss - and fear to hard practical fear of Germany dominates everything. They are working feverishly to feel strong, and not the least important aspect of the English situation is that their Baldwin has lost his confidence.

But of all that, when we meet I have - of course, seen all sort of people in accord and Government are standing on August 6 (at Britannic) and will be in London about 15 29.

Only today came the speech of John Jefferson speech - went I liked extremely. Sent you the amplifier from across the ocean.
hearing, L. & R. Calhoun's "whiskey rebellion" as one of the most
important speech in American history.
You found as tho you had a
brief refreshing Crewe - as it
foretold for the locator ahead, for
the future Empires would be
over - and the negation of
London would be relegated
to the obscurity for which its
"bowed-up" destined it.
The enclosed were send you
for your information the Editor's
Comment of The Southern Caution.
Inaccurate, print in affectless
patriot. Ever faithfully yours.
FINANCE AND COMMERCE

A "City Notes" column is made up as follows;... (p. 19)

The Times Friday, July 31, 1896

THE TIMES FRIDAY, JULY 31, 1896

PRAIRIE TO DUST

For many years American men of science have been declaring that the golden prairie is of the future—of the dust. (p. 19)

Government Enforcement

A batch of changes in the... (p. 19)

This oversized item has been filmed in sections
be saved in a more or less marketable condition.

In parts of the north-central states the
shockers are worse than usual, because they can
merely wash the top soil into the dried river
channels. Especially in the Dakotas the situa-
tion is desperate. These States
have had the worst of the drought and
they are least prepared to withstand it. Every
torrent has done the same thing as the
"wheat drops." It is "a crisis," as the New York
papers put it, or no more than a man's
hat at best; at worst, the mallee is being trans-
ported to other States where there is still grass
and shade; of follow
drums to rolling slowly across country; and,
every few miles, an abandoned farmstead with
yards of dust piling against the doors. Some
photographs illustrating the havoc were sent to our
Correspondent in New York along with the statistics.

In the combined effect the figures
are appalling. Over a hundred million
bushels of wheat have been burned up.

The United States will not have
exhausted this year, and already the mallee of
the north-western States have been buying from
Canada.

The desert is receiving aid from Federal relief. Five
million families have suffered heavy losses of
crops and stock. Many thousands of men
have been taken from the farms and put on
projects in the towns.

The loss to the nation as a whole is a
dismal day. The total is estimated at $60,000,000.

As far as the cost of the great
great of relief, Mr. Roosevelt gave the best
answer concerning the other day:

"more important than costs are being discussed
at the moment." A great stretch of land has been
swept as though by the plagues of Egypt;
and the prairies now being faced with a life
situation.

It is easy for outsiders to say that
the whole thing was just bad. The
prairie was plowed and the
hedges were cut down, forests fell and
no seedlings set to replace
them, pastures over-grazed and
over-tapped, and the soil
would certainly turn into
dust and bring the danger of drought in

The balance of Nature is under
the worst conditions. In a newly opened country
with the land untamed and settlers not bound by any common agricultural
tradition, it was all too easy to break through Nature's defenses. The diffi-
cult task comes when, if the defenses are to be rebuilt, the
whole policy of exploitation must be reversed.

I tell you frankly," Mr. Roosevelt has
said, "that it is a new and untried path.

Yet the Administration is guided by two
thousand years of experience in the present situation. The
best way to save the State of the Union; but the Eastern States are doing well
out the deep green, except where the
color is white for harvest and where the hay has
been gathered into the yards. The land has
been saved because of the system of rotation crops
and because the woods and streams have been
preserved. Already therefore it is planned, when
the Middle West recovers, to
have large scale crops and fellow land among the
farms which were formerly used for wheat alone.

In the Southern States, the crops are
mainly for the irrigation systems leading
from the dikes that have been built in recent
years. The Boulder Dam, for example, holds
back two years' normal flow of the Colorado
River. The Norris Dam across the Clinch (a

M. K. RAMBOURICH, who is
Mr. Elliott's lieutenant, becomes Minister of the
build of the best, though not

This is now a service to our

M. TRIP B. FOURTH

becoming almost a sin

as devised in 1920.

years ago; so different from the time

was loaded with our

suit in answer:

House of Cor

by the Progressive

in the House of Representa-

the question should be

Architectural

New Act

Tires

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NAZ 2256 RADIO VIA RCA = SS BRITANNIC N CHATHAM 15

PRESIDENT ROOSEVELT=
HYDEPARKNY=
CHAUTAQUA SUPERB=
FRANKFURTER.
TELEGRAM

The White House
Washington

15 WU JM 40 1036am

The President:

Your Green Pastures and Power Congress speeches grab double-header. The former powerful in its beauty, the latter most skillful in giving large directions and avoiding shoals and reefs. Both of them the best kind of national education.

Felix Frankfurter.
TELEGRAM

The White House

Washington

Cambridge, Mass., Sept. 19, 1936

THE PRESIDENT.

Hope much you did not catch cold. It was really a great triumph you furnished a striking example of the civilized gentleman and also of the importance of wise sauciness Charlie Burlingham Marion and some of the rest of us celebrated your performance with enthusiasm last night.

Felix Frankfurter.
TELEGRAM

The White House
Washington


Miss Marguerite LeHand,
The White House.

It came off beautifully. You should have heard and seen it. He turned a difficult situation into a triumph. He was at his very best.

Felix Frankfurter.
September 23, 1930.

Dear Felix—

Did you really and truly like it — more important still, did Marion really and truly like it? Your expression of the "importance of wise senescence" is perhaps better than mine. I told the boys afterwards that I had stuck my chin out and said "hit me" — and nobody dared!

I was awfully sorry not to see you both — I gave a wave to Charlie Burlington.

As ever yours,

Felix Frankfurter, Esq.,
Law School of Harvard University,
Cambridge,
Massachusetts.
Dear Francis [Frankfurter],

I was you beyond enough to seek the enclosed into the President's Room —

Here we do whisk three a dozen hands, and several eyes and ears.

With warmest regards,

[Signature]
172 Brattle St.
Sept. 27, 1936

Dear Mr. President,

Yes, I did really and truly like the speech you made at the radio.
I paddled out in the rain to hear it, when I might have heard...
As I said, because I wanted to be seen applauding. But the applause was so general and prolonged that my hostility was unnoticed. Rather a tear for me.

Best wishes for a good trip. Sincerely,

[Signature]
Law School of Harvard University.  
127 Cambridge, Mass.  
West  
Frankfurter  
[July 4, 1926]

Dear [Name],

Be good enough to put the enclosed into the President's hands, as also the letter which was written and delivered with it from here; he should not bother to take twice to acknowledge what I wrote 3 or 4 weeks ago.

Best wishes.  
Yours sincerely,

[Signature]
October 7th

192 Brattle Street
Cambridge, Mass.

Dear [Name],

This is merely to wish you "good speed" on your forthcoming Western trip, and to express the hope that you will have a pleasant return with all of your books and Hemisphere in your bag.

If you care to look at a map, perhaps you'll find this one agreeable. What a pleasure I have...
Glorious Hours for me, dear
and dear friend of the Lord...
Dearly beloved Lord Jesus...
Enough headaches and irritations on the first coming trip.

But as I said,

let it be with you all that good and propitious—

before blossoming rose into sails of America!

Eve affectionate yds
Copy of FF's letter to C.C. Burlingham
in re-J.P. Morgan.

SEE--Burlingham-Gen-corres-Drawer 2--1937
Dear [Name],

And now I have re-read and read again your [manuscript/review, etc.], and it warmed and 

awakened its glow and 

this I felt when I read it on the high seas, 

homeward bound, last 

summer. Ever since 

these reinforced your 

view and underlined 

your philosophy. 

Thank you. Sincerely,
I am with the authors' request for reissuing. The Government Printing Office has done itself proud in turning out the thing of beauty - I am sending you the book that now belongs to history, its most precious and finest art. With the greatest love.

What I want for you from the best place and the greatest love, is the fulness of your strength, physical
and spiritual - and see the
rest will be added unto
you, and through you to the
convent.

Sincerely yours,

[Signature]
January 18, 1937.

Dear Felix:

The enclosed letters are, of course, typical—but is it not true that many of the youngsters get tired and lose enthusiasm when the novelty of the job wears off? What should be overlastingly inculcated into these boys is that a thing like TVA is a twenty year goal (at least) and that in the process of succeeding months there will be of necessity many temporary discouragements, such as the present injunction and the strange problem of Dr. Arthur Morgan. The injunction must wait on courts and the Morgan-Lilienthal head-on collision will probably be solved in the next few months by the adoption of the national power policy which I am in the midst of here in Washington, and which is going to make definite progress whether I get the legislation or not.

If I were writing to this youngster I would tell him that if he is looking for (a) a new thrill; (b) a higher salary; (c) an immediate assured and permanent future, he had better leave—but that on the other hand, if he is willing to go through with a great ideal, remain on Government pay and hope that the Government will some day set up adequate pensions, etc., he had better stick.
The other day Ed Medwedy came in to see me to tell me of an offer of three times his present salary; that he is sixty-two years old and that he ought to think of his declining years. I told him he was right in doing the thinking but to weigh against that thought the fact that he is an important part of a great human movement, doing a splendid job and almost impossible to replace. I said "Ed, I want you to stay." He said "Right Boss, you have given the word and I will stay."

Very confidentially, I may give you an awful shock in about two weeks. Even if you do not agree, suspend final judgment and I will tell you the story.

As ever yours,

Professor Felix Frankfurter,
Law School of Harvard University,
Cambridge,
Massachusetts.
Dear [Name],

Please be good enough to have this in the clear.
I send you my best wishes in the free of place and good things to you.

Very sincerely,

[Signature]
Law School of Harvard University,
Cambridge, Mass.
January 9, 1937

Dear Mr. President:

The Lord, I hope, will forgive me for breaking the confidence imposed by a trusting young man in letting another than myself see the enclosures. And your eyes were the very last for whom they were intended. But occasionally a single wisp of cloud shows the shifting of the wind into a bad quarter.

Bill Nichols, the writer of these letters, is not a lawyer, but he has crossed my path up here. He is the nicest kind of a Harvard man—he has ability, character, public seal, and the common touch. He entered the government as did so many youngsters—he graduated from Harvard in 1926—under the inspiration of your leadership. From all accounts, he has served the government with a fidelity and usefulness for which private enterprise usually pays many times what his salary is.

TVA has, of course, its own peculiar problems. But Nichols faces what, I am sure, agitates scores of able men in other branches of the government. I know that the realization of your purposes predominantly depends on your own leadership, but I am sure you will agree that your ability to achieve your purpose depends in no small measure on a successful contest between you and private interests for the command of brains. Now, I see too many able young men every year and keep in too close contact with many of them after they leave here, not to be justifiably confident of the ability of the Government to attract the best brains. You can have them, provided certain conditions of security and plan in serving the country are satisfied in the breasts of youth. Napoleon's wisdom of the ribbon on the coat and the baton in the
knapsack still wins great battles. And the young Assistant Secretary of the
Navy who directed naval operations overseas need not be reminded that, al-
though imaginative captains of thirty may never be seen at G. H. Q., they
are the ones who too often have to take the objectives which grand strategy
needs.

You will forgive me for saying things of which no one has had more
experience than you. But you also know how passionately I care about the
still greater triumphs for your second Administration. Not even you can do
it all yourself. And I am greatly troubled about brains leaving you. In-
deed, the strange paradox is that the more recovery you bring the more good
men you are in danger of losing. Every good man you lose unsettles ten other
good men, and debilitates their enthusiasm. The great civil service of Eng-
land gets down to about a thousand really commanding brains. The same is
true of the kind of government to which you are summoning the nation. Like
Gideon, you may wisely say to the Lord, as you fight his battles, "By the
three hundred that lapped I shall save thee."

I am not suggesting anything or recommending anything. This let-
ter has no specific purpose. It conveys a general concern which I venture
to believe has more concrete applications and is more immediately practical
than any specific thing I might put to you.

With warmest regards,

Always faithfully yours,

Hon. Franklin D. Roosevelt
December 28, 1936

Dear Mr. Frankfurter -

I hope I am not making a nuisance of myself, sending you "pieces" for editorial review. But recently, while our directors have been in their tents, I have had several occasions to pinch-hit on fairly important talks. I have taken it pretty seriously, both because of the TVA and because it offers a good form of personal training and experience. The Springfield, Illinois, talk that I sent you some time ago was one. More recently, a 36-hour notice came through to substitute for Dr. Arthur Morgan at a talk he was supposed to give before a lot of high school debaters in Purdue, Indiana. It meant sitting up all night on the Pullman and trying to write something without any references at hand, but anyhow I am sending you a copy of the result. I am doing so because I genuinely want some frank, and if necessary, brutal criticism, as that is the only way to make the next one better. You will note that I attempted no discussion of TVA; that was because I had no opportunity to check with the directors, so I thought it best to avoid any statement that might involve them.

More than advice on speech-making, however, I need advice on Things-in-General. I am attaching copy of a letter I have just written to Mr. Lilienthal. Naturally, I hope you will treat it as confidential. The job in this case is the editorship of a prospering West Coast magazine with a chance for development of editorial policies, and a participation in its growth. I think you can appreciate the difficulty of making a decision in the face of all the present confusion, but a number of those in the TVA who, I feel, have the best minds and imaginations, are now facing the same problem. If they all go, there won't be much left of the TVA except a lot of concrete and some pretty hopeless office-holders. My own inclination is to stay on, because I enjoy life here, because I still feel the TVA is a magnificent conception, and because the latest 19-company injunction has made me mad and I'd like to stand by and help "larn 'em". On the other hand, however, pleasant the immediate job, people in my circumstances just simply can't afford to get lost in the shuffle and wake up in middle age to find themselves on a siding. I think you realise that I am talking not about money alone, but about the opportunity for growth and personal fulfillment.

Well, it's an old story, and probably a boring one to anyone like yourself who has been in loco parentis to so
many people. But anyhow, I am mentioning it to you, for, from the beginning of my stay down here, I have been conscious of your friendly interest and grateful for it.

With all best wishes,

Faithfully, 

Bill Nichols

Mr. Felix Frankfurter
Law School of Harvard University
Cambridge, Massachusetts
December 26, 1936

Dear Mr. Lilienthal -

At a time when you undoubtedly have a great many
bothers of your own, I hesitate to write you a bothersome,
personal letter.

My reason for doing so is that I am trying to use
this vacation season for a year-end "stock taking" about my
present work and future plans. Within the past few weeks a
reasonably attractive opportunity for private employment
has turned up, and I feel confident that others could be
discovered with a little effort.

In trying to determine what to do, the principal
"unknowns", of course, is the future course of events at TVA.
I don't need to tell you how much I have enjoyed life in
Chattanooga, and the opportunity to do what I felt was in-
teresting and fairly constructive work for the TVA. On the
other hand, the question now arises as to how long it is
wise or desirable to continue, and on that I badly need ad-
vice. The injunction and the power pool are, of course,
disturbing factors, but only superficially so, I feel. More
serious to me is the feeling that TVA has lost some of its
sense of direction, that morale is rapidly going to hell,
and that bureaucracy is beginning to creep in to the exact
extent that the personal leadership of the directors is be-
ing withdrawn.

Through your personal knowledge of Mary and me, I
think you are familiar with our dilemma. We are entirely
dependent on our own efforts for survival and success.
There are no incomes or endowments or rich relations in
the offing, and so we have got to keep moving and growing.
Under these circumstances, can we afford to sit still here
and wait on the chance that things will get straightened
out, or should we strike out for ourselves? I know that
is a hard question. Perhaps I am wrong to ask it. But I
hoped that you might be able to help us with some advice,
sent not as a Director, but as a friend.

Mary joins me in best holiday wishes.

Faithfully,

Mr. David E. Lilienthal
118 West Norris Road
Norris, Tennessee
Dear Mr. President:

Many, many thanks for your letter of the fifteenth, especially because it sounded as though I heard you actually talking.

1. I did not deal with the case of the particular youngster except as a straw in the wind, else I would have told you that I promptly replied to him in terms that you would have found strikingly like your own. I have been singing that song for a great many years and particularly during the last few years, summarizing it all in the phrase that the kingdom of heaven cannot be stormed by a single sortie.

2. You know that there is no single aspect of public affairs with which I have been more deeply concerned than the promotion of public service as a permanent career for the nation's best abilities. That, in a way, has been my predominant interest in the School here. Nothing brought home to me more poignantly the post-war materialism and the debasing influence of the so-called leaders of the bar than the standards of worldly success by which youngsters of generous impulse were so often deflected from public service. After all, we live by symbols, as Holmes was fond of saying, and, if the symbols of leadership and distinction are high monetary returns in the service of so-called big interests, the youngsters naturally will follow such lodestars. Relatively very few people can be expected to be either heroes or saints. That is why the force of example and right standards are so important.

But you and your leadership during the last few years have made an enormous difference. In many ways, perhaps the single most far-reach-
ing achievement—because everything else, I believe, is dependent upon it—is the extent to which you have stirred the imagination of younger people to the adventure of, and the durable satisfactions to be derived from, public service, and have made them realize its indispensability in maintaining the best traditions of the past and bending them to a civilization worthy of our times. And the youngsters, I think, do respond and will respond in ample measure. I haven’t any doubt, as I have indicated to you, that you can get in sufficient numbers as good brains for the sake of service, as those on the outside buy with money.

3. But that means that somehow or other the vibrant stimulus, which you so frequently impart to the Ed McGrady’s, must by some galvanic rays be sent down the line. I know that you cannot see hundreds or thousands of the juniors—it is a source of constant surprise to me how, in the brief hours of each day, you manage to hold as many hands as you do—but it does mean that that stimulus or inspiration must, somehow or other, be conveyed by the sub-chiefs, the atmosphere must somehow or other be impregnated with at least a part of the exhilaration that you radiate in the immediate precincts of the White House.

4. Perhaps one of these days before very long you will give me a chance to talk to you about all this in some detail. How to build up a passionate, devoted, capable, fighting personnel for national administration has been the one subject about which I have been continuously thinking for thirty years. I hope, therefore, there will be a chance of talking with you about all this in your good time. I hope to see you shortly—I mean literally to see you, for Marion and I will be among the many
thousands who will see you on Wednesday.

5. Are you trying to find out how well I can sit on top of a Vesuvius by giving me notice that "an awful shock" is in store for me "in about two weeks?" Well, I shall try to hold my patience and fortify my capacity to withstand "an awful shock", but you certainly tease my curiosity when you threaten me with something with which I may not agree. That, certainly, would be a great surprise.

Ever faithfully yours,

[Signature]

P.S. If you have not seen the enclosed it will interest you. Coming as it does from a little-known Republican people, here from an Eliot, this has been eagerly taken for gain.
Barnacles on the Ship of State

President Roosevelt politely but firmly threw a challenge at Congress when he asked for sweeping changes in the administrative department of government. His is one of the most important messages sent to Congress in many years and when the public fully understands the plan the President will have back of him even more Americans than the millions who voted for him last November.

For the good of our editorial soul let your newspaper confess at the outset that when word was first flashed of the President's proposal, our instant thought was: "What's this fellow trying to do; set up new powers for the executive?"

Come to find out, all President Roosevelt asks is the co-operation of Congress in aiding the executive to exercise his responsibility under the constitution.

In short, the President's purpose is not to venture upon the road to greater power. He merely wishes to give the ship of state a chance to progress. He would remove the almost countless barnacles that have fastened themselves to the hull during many years.

President Theodore Roosevelt tried to do the same thing. So did President Taft and President Wilson and President Hoover. As does President Franklin D. Roosevelt, they wished to junk much antiquated government machinery.

President Roosevelt wishes to overhaul over 100 separate federal departments, boards, commissions, administrations, authorities, corporations, committees and agencies and put them efficiently under cabinet heads—and add two members to the cabinet—secretaries of public works and of social welfare. And he would overhaul all government agencies with the view of establishing, under civil service and with higher pay in the higher brackets, a system served by what eventually will be career men and women.

Not once does the President's plan intrude upon the legislative or judiciary. Hence it constitutes no threat to democracy; rather it strengthens democracy.
Dear Aunt,

Had Providence brought safe the children and had a grandchild James asked me in my bed, what his ancestor was I was his President Rutherford B. Hayes, President Roosevelt I think I should have replied by telling the child truly, something like this:

Very often the hardest experience of life is close pressed on me.

[2-21-37]
When the water opened their flood gates
And then it's he
loos 17" Deuffer some
had found out the
was drenched inside
and thirsted, and the
word had to come
self back out. If none
upstairs and back to
war. a jockey. He
feigned first aid
the water, treating
protected, and asked
when it was all right.
for she to help me out of the president's work closet. He said in looks and accents he left us doubt, though you asked the president would want me to do it - he there would be tickled when he learned that I'd done. Here, I'd say that grandchild, that little
Reading and re-reading Your Second Inaugural
With warmest good wishes.

Ever your friend,

Thursday, January 21, 1837.
Dear Mr. President:

1. A press dispatch reports Rudolph Wurlitzer's having told you that his company "has gone far toward solving its seasonal employment problems" and providing all-year employment for most of its men. This tempts me to send you the enclosed recent statement of the J. F. McElwain Company which has achieved the extraordinary result of keeping its factories operating for fifty weeks a year. (This company, you know, manufactures shoes sold under the trade name of Tom McAn). Not only has Frank McElwain achieved this remarkable continuity of employment but I have the best of reasons for believing that the public gets its shoes at a lower cost and the employees a higher wage than is true of the biggest shoe concern in the country—the International Shoe Company of St. Louis.

It occurs to me that you might find it profitable to talk with Frank McElwain, a money-making, hard-headed, nice fellow. The way the McElwain Company has been able to accomplish what it has been able to accomplish would give you a further factual leverage in trying to secure really constructive action instead of merely constitutional fundamentalism from some of our industrialists.

2. I thought you handled Lewis' explosion with neat effectiveness, and yesterday you showed how incorrigibly men like Sloan have the habits of an overlord.

3. And I read with relief and pleasure your termination of the pooling conference which has been used so mischievously in seeking to distort your settled policy. As I watch this power fight I cannot help recal
Law School of Harvard University,
Cambridge, Mass.

ling the prescient words of T. R. in his famous message to Congress on the power situation. How foolish these people are who think that convictions of yours, which are as deeply rooted in knowledge and experience as are your views on the power situation, will change overnight although the facts remain the same. But that such foolish views should be entertained in some quarters is not without its public good, for it must be one of the sources that gives you fun in life.

With warm regards,

Faithfully yours,

[Signature]

The President
J. F. McElwain Co. Wage Increase

Advance of 5% Announced Effective Jan. 1, 1937—Will Amount To Approximately $300,000

Directors of the J. F. McElwain Co., large New Hampshire shoe manufacturer, have decided that beginning Jan. 1, 1937, all hourly and piece work rates in the factories of the company shall be increased to the extent of 5%. This will mean an additional income to the employees of approximately $300,000 for 1937.

In announcing the increase, Pres. J. F. McElwain says:

"It has always been the policy of the company to maintain a high weekly wage and to put all it can into the regular weekly pay check, instead of supplementing the wage by occasional or anticipated bonuses. As a result of this policy, and of steady employment throughout the year, the average weekly and yearly earnings of our employees are believed to be the highest in the shoe industry.

"Notwithstanding these outstanding wage conditions, the increase in wages for 1937 is now announced in anticipation of good business and of the possibility that the return of better times may increase the cost of living.

"Our average weekly earnings, exclusive of the executive and supervisory force, for each of the years 1935 and 1936, are approximately $28, at least 33 1/3% higher than the average in the shoe industry. Because our factories have operated with a uniform production for fifty weeks in each year, an unusual and difficult attainment in the shoe industry, our average yearly earnings have approximated $1400."
"In common with other manufacturers we have adhered to the rules and regulations established under NRA relative to minimum wages, maximum hours and employment of child labor.

"Although since 1929 our hours of employment have been reduced 16 2/3%, and the cost of living is estimated to have declined 15%, the average weekly and yearly earnings of our employees have increased. Therefore, 'real wages', the amount that can be purchased with the money wage, are about 20% better than in 1929.

"The foregoing has been accomplished in spite of the fact that the price of our product to the ultimate consumer is less by 21% than in 1929."
Law School of Harvard University, Cambridge, Mass. Sunday.

Dear Rank:

And now you have thrown me off the top of the vine where you sat me some weeks ago. Yes, you shocked me by the deftness of the general scheme for dealing with the mandate for national action which you received three times, viz., '32, '34, and '36, each time with increasing emphasis. You shocked me no less by the dramatic, unadorned secrecy with which you kept your scheme until you took the whole nation into your confidence. Dra-
Naturally and artistically, you did "Shock me."

But beyond that — well, the moment came for a long series of decisions not defensible in the realm of reason nor justified by settled principles of Constitutional interpretation. I had convinced me, as they had convinced you, that means had to be found to save the Constitution from the Court, and the Court from itself. As an interested subject of our constitutional system and of its needs your...
Society could yield with complacency the instance created by a blind and stubborn majority of the Court. There was no perfect nor easy way out. Risks had to be taken - for you had to consider the costs and limitations of possible choices of action, as well as the risks of non-action.

And so it was clear that some major operation was necessary. Any major operation to the body politic, no less than to the body physical, involves some shock. But
I have, as you know, deep faith in your instinct to make the wise choice—
the choice that will carry intact the motley aggregation that constitutes the progressive army toward
the goal of present-day needs, and that will at the same time maintain all that is good in the traditional democratic process.

With all good wishes.

Ever faithfully yours,

K.T.
February 9, 1937.

Dear Felix:

I am awfully glad to have your Sunday letter and to know that although shocked you have survived; but most important of all that you understand the causes and the motives.

As a matter of fact, the decision was arrived at by a process of elimination. The amendment process, as you will remember, was fought bitterly by the conservative element through the past four years — the only concession being a few words from Landon which meant absolutely nothing. It is interesting to note that these same people this week are demanding the amendment method in place of any other.

The reason for the elimination of the amendment process was to me entirely sufficient: to get two-thirds of both Houses of this session to agree on the language of an amendment which would cover all of the social and economic legislation, but at the same time, not go too far would have been most difficult. In fact, the chance of a two-thirds vote in this session was about fifty-fifty.

Supposing such an amendment had passed at the close of this session, every state legislature would have adjourned for the year. In 1938, only about one-third of the legislatures meet and because of the Congressional elections in 1938 the issue would, in all probability, be delayed in enough states to make ratification in 1938 impossible.

That brings us to 1939. The chances are that quite aside from this issue an unwieldy Democratic majority in both Houses will be slightly reduced as a result of the 1938 elections. Any such reduction would be used as an argument against ratification thus, in all probability, leaving the amendment unratiﬁed up to and through the 1940 national election.

If I were in private practice and without a conscience, I would gladly undertake for a drawing account of ﬁfteen or twenty million dollars (easy enough to raise) to guarantee that an amendment would not be ratiﬁed prior to the 1940 elections. In other words, I think I could withhold ratification in thirteen states and I think you will agree with my judgment on this.

It is my honest belief that the Nation cannot wait until 1941 or 1942 to obtain effective social and economic national legislation to bring it abreast of the times, avoid serious labor troubles, maintain farm prices, raise the purchasing power of the “one-third of the population that is ill-housed, ill-clad and ill-nourished.”
The return of prosperity, at this moment, may blunt our senses but under it all I am very certain that the maintenance of constitutional government in this Nation still depends on action — but it is the same old story of the failure of those who have property to realize that I am the best friend the profit system ever had, even though I add my denunciation of unconscionable profits.

After this elimination, I searched through all the other proposals for legislative action and almost at once came face to face with the problem not of the Supreme Court but of the whole Federal Judiciary. From this it was a logical step to build up a program covering the whole of the judiciary impartially. You will realize that in this process I eliminated the suggestions of compulsory retirement, seven-to-two decisions, etc. as being, in all probability, unconstitutional per se.

Do you want to help me? Probably, I shall in the course of a normal fireside chat, in a few weeks, dwell on the reorganization of the judiciary, at the same time that I speak of the reorganization of the executive and of flood relief, etc. Do you want to send me a little elaboration of what you have mentioned in your letter and anything else you think I could use in a talk to the people themselves?

As ever yours,

Professor Felix Frankfurter,
192 Brattle Street,
Cambridge, Massachusetts.
Dear Mr. President:

You are extremely generous of your time and thought to write me as fully as you do in your letter dated the ninth. I deeply appreciate the analysis you make of the "process of elimination" by which you reached your present major proposal.

Of course if any "elaboration" of the central remarks I made in my letter will be of help to you, I want to see if I can helpfully elaborate them. Let me mull over the thoughts that I tried to express and see what I can put on paper in the course of the next few days, and write you again.

The issues raised are, of course, very complicated and rather subtle because of the great mystery with which the work of the Court is enveloped, and the uncritical assumptions that are made as to what the Court does when it decides constitutional controversies. The situation presents a very difficult problem in public education because, I believe, the easy, emotional slogans are mostly the other way. If you have no objection I plan to go over the situation very thoroughly with Tom and then have him convey to you the way the matter lies in my mind.

You will hear from me in a few days. Again let me thank you very warmly for your full, generous letter.

With warmest regards,

Very faithfully yours,

The President
Chase's article put in Judiciary Message folder-Drawer 2-1937
THE WHITE HOUSE
WASHINGTON

February 18, 1937.

MEMORANDUM FOR

F. F.

In case you have not
seen this, it is worth reading.
What would happen, for example,
if I were to go on the air and
talk to America along the lines
of Chase's article to the TIMES?

F. D. R.

(ENCLOSURE)
FELIX FRANKFURTER
CAMBRIDGE, MASS.

February 23, 1937

Dear Faneck,

Many thanks for sending me the Frank Chase letter, otherwise I should not have seen it, for it was not published in the Times but appeared in Cambridge.

What would happen if you were to say over the radio what Chase wrote in his letter? The American people would get some enlightenment. Why shouldn't you explain these things - saying them pitched, of course, in your key. And you should enlarge upon Chase's mystical - pointing out the long course of judicial abuse in the interfering with only national but also state action - denying Maryland the right to regulate telephone rates reasonably, and Vermont the right to devise its own local rate policy, and so
also North Dakota, and DLonging Nebraska
the measure of freer being short, weighing
of bread, and bread goods the measure
of freer being. Exploitation of the Eco-
nomical necessities of working masses,
and protecting the health of fair-
willed men, women, and the
and always, over the powerful
protect of the great men. To the
comes against putting private
social needs into the Constitution.

And then, They not tell the
American people the various re-
straints that were open to you for
dealing with the major problem
of depression. What he Corte
difficulties each were why
you discarded them? Why
you those which you did.
I believe that you should
like to country at school - give
been a free dress to it.
olag for such as you can give here
ever share
Dear Frank:

Many thanks for sending me the Stuart Chase letter, otherwise I should not have seen it, for it was not published in the Times that comes to Cambridge.

What would happen if you were to say over the radio what Chase wrote in his letter? The American people would get some enlightenment. Why shouldn't you explain these things -- saying them pitched, of course, in your key. And you should enlarge upon Chase's recital -- pointing out the long course of judicial abuse in preventing not only national but also state action -- denying Maryland the right and duty to regulate telephone rates reasonably, and Vermont the right to devise its own local tax policy, and so also North Dakota, and denying Nebraska the means of preventing short-weighing of bread, and New York the means of preventing exploitation of the economic necessities of working women and protecting the bulk of fair-minded employers, etc., etc., etc., -- and always over the powerful protest of the great men of the court against putting private social views into the Constitution.

And then, why not tell the American people the various remedies that were open to you for dealing with this major problem of democracy -- what the costs and difficulties of each were, why you discarded them and why you chose what you did.

I believe that you should take the country to school -- give them a full dress exposition and analysis such as you can give them.

Ever yours,

F. F.
Dear Fankel,

And now, with the shift by Roberts, even a biased man ought to see that the Court is in politics, and understand how the Constitution is "judicially construed." It is a deep objection - a deep, deep, objection of the relation of men to the meaning of the Constitution.

This behavior (in the
light of the outrageous misrepresentation by Butler of the scope of the issues in the Ralston case, confirmed as late as October 12, in denying the petition for rehearing; corner on Top of the Hughes letter. That was a characteristic Hughes performance—park and parcel of his pretended withdrawal from considerations of policy, while trying to shape these, which is
The care of the land chief of which the majority have been guilty. That Chandler should have been persuaded to allow the chief to use his name in any course of action that I need hardly dwell on longer.

I have absolutely indefensible, editorial friends on the other side who tell me that some foolish
Your folk are doing their descendant tribute to me a attack the court so as to start a deep line of attack against your personal. They keep their guns, thank help seem to divert the issue from the real behavior of the court. These are harder way of fighting a fight.

I wish that you had a refreshing wasn't trying to fix your self up yet.
April 5, 1937.

Dear Felix:

It is good to get yours of the thirtyeth. I wish I could see you and have a good long talk. Is there no way in which you can slip into town and to the White House unobserved -- any time after April twelfth? You are dead right in keeping -- for the moment -- wholly out of the hearings. As you know, we are carrying out the dignified process of keeping still and watching emsh new witness damn the proposal and offer a new remedy. My last count runs to over two hundred amendment proposals and over one hundred legislative proposals.

It is quite clear that the utter confusion of our opponents among themselves means success for us even though it may be deferred until June or July. The opposition has daily epilsey because we are keeping "our shirts on."

As ever yours,

Professor Felix Frankfurter,
192 Brattle Street,
Cambridge,
Massachusetts.
لا يوجد نص يمكن قراءته بشكل طبيعي من الصورة المقدمة.
Dear Saul - PF

Many thanks for your letter. I am delighted to have your audacitaine estimate of what one considered were happy prospects.

Of course I am eager to come down for a talk. I can manage the 11th Wednesday night, the 14th - but I
have to be in bed after the 15th, so please
as your inconvenience.
nes of the Harvard Law School here in Cambridge and the week after on the following Saturday. We want to celebrate at the 50th anniversary of the Harvard Law Review. And so if Wednesday is not too convenient for you, I can come any time after Monday in the week of the 19th. Please let me know your wishes and I shall act.
accordingly. As for managing the dox. I shouldn't think that would be very difficult. I might stay either wit. Buter V. or Reynolds V. He would make my visit wholly constitutional.

Yes, you're keeping your shirt on beautifully.
The White House
Washington

Cambridge, Mass., 6:57 p.m. April 12, 1937.

The President.

After today I feel like finding some honest profession to enter. Affectionately yours,

Felix Frankfurter.
FELIX FRANKFURTER
CAMBRIDGE, MASS.

Jully 27th

PSF     August 21, 1937

Dear Zane:—

In the glare of the
White Light of Pennsylvania
Avenue and under the
eagle eye of three Secret
Service operators I
"slipped out of the White
House. But in any event
"slipped out is a very in-
accurate expression. If
anything, I fled out
for after my long letter
exhilarating course
with you, I war, and
in
here, on loving, and your
pick more spirits, worse
there poor boy could any
Radcliffe bricks — or
new that you will have
put in wood. Ever for
forty years, in the Virgin
Islander.

What you did done
and what you do to
att this case the
good fortune of your
personal aircraft —
minds with sails, air
into flat tires — is the
reason why I is married.
Hope that you will be able to bend on a familiar, friendly basis to junior administrative officials once a year. It will just been a tonic to effect of which you can hardly appreciate.

And it was such a comfort and reassurance to find you so fit in every way - to recapture in your vitality and understanding as he
great democratic leader
Your task - fully
aware of the qualities
and difficulties of the
honest progressive forces
through your leadership
and the tools to use
for hope and fulfillment
but do not be aware of
the forces, pleasant and
otherwise, that are ar-
range against you.
The Lord keep you
strong and fit - and
may the principle that
continue to work for you
as its occurs. Very forewar.

T. W. C. C. June 1919
Dear鑫鑫:

This is from one
of my pet products
here — and west among
my junior colleagues.
Grand person of whom
some "distinguished"
Harvard were do not
prove. Strange — inde

I hope the first week
is to you, heartily 5
see — best as could
ca. A gay food time.

Ever, speed dearest
The United States Supreme Court

An Argument on the President's Side

By Henry M. Hart, Jr., '26, LL.B. '30, S.J.D. '31.

President Conant's public statement opposing the proposed increase in the number of Supreme Court Justices raises several questions which invite further consideration, bearing both upon the merits of the proposal itself and upon the process by which opinion is being formed on the issue.

First. President Roosevelt is described as attempting to "pack" the Court in order "to affect decisions on the constitutionality of acts of Congress". Like so many expressions which achieve wide popular currency, "packing the Court" contains a critical ambiguity. Does it mean—as the analogy to juries and the House of Lords suggests—that President Roosevelt is attempting to secure specific decisions on specific legislation from subservient Justices pledged to render such decisions? If so, the charge encounters the difficulties that, under our system, Justices of the Supreme Court, once appointed, are independent of the executive; that appointees of a character mean enough not to exercise that independence in some cases would be the surest ultimately to abuse it in others, and so to defeat the larger purpose; that, indeed, experience has shown that the independence will be exercised and that the attempt to predetermine future votes is futile. Unless those difficulties are met, the charge casts a reflection upon the integrity of the President, the Senate, and the prospective appointees, which seems out of place in anticipation of the event. And it reflects also upon present members of the Court whose concurrence would be necessary to make the scheme effective.

Or does the expression simply describe an effort to secure more Justices of a certain cast of mind—in this case Justices who will practice the judicial self-restraint exemplified by Holmes, Brandeis, Stone, and Cardozo? This is quite a different matter. For, of course, Presidents in the past have steadily thus inquired, with entire propriety, at least into the philosophic attitude of prospective appointees toward the Constitution, and often into their views on the substantive issues of the day. There remains, indeed, the serious question whether a President, with the concurrence of Congress, should be permitted to create an opportunity to do this with respect to six members of the Court all at once. But the gravity and difficulty of this question are obscured by the emotional slogan, "packing the Court".

Second. President Conant sees in the proposal, as many others have seen, a threat to "freedom of speech and inquiry", to "liberty itself". He refers to "the number of instances in which the Supreme Court served to protect the fundamental principles of a free country—freedom of speech and assembly". He does not suggest that these personal liberties will not be safe for the time being, even in the hands of the proposed new Justices. Rather are we asked to look forward to a later crisis when the foundations of democratic society are crumbling. If the second of the two meanings of "packing the Court" is the proper one, this is an expression of fear that a proposal now advanced for a defensible purpose will, if adopted, be later perverted for a sinister one.

Whether the survival of personal liberties in the United States is so largely dependent upon the Supreme Court as this warning implies is worth inquiry. That a healthy state of civil society, and not the Court, is the ultimate safeguard of all civil liberty would have seemed axiomatic, were it not so widely assumed to the contrary—and now with the authority of the country's unofficial first minister of education.
So far as concerns the interest most immediately dear to a university—freedom of scholarly inquiry and expression—the assumption plainly will not hold. That interest can be impaired in ways too subtle to be vindicated, in any important degree, by the relatively crude mechanism of constitutional guarantees invoked in litigation. Its protection depends, as it always has depended, upon the vigilance of a free people, convinced of its importance. Courts are not barriers against mischiefs like the teachers' oath acts. Is the case significantly different as to those other liberties of expression which members of a university exercise in common with all citizens?

To conceive of a situation in which the Supreme Court first repels an assault upon personal liberties and is then sought to be overwhelmed by Congress and the President, we must conceive also of the circumstances under which Congress or the President would either desire or dare so to act. The assumption is that what is now done will have a bearing—in such a climate of national opinion—on what then happens. But does experience show that the actions of a would-be dictator are thus determined by precedent? Are popular majorities, stirred by deep forces to give support to such a leader, thus respectful of the guidance of the past? The assumption is also that the Supreme Court itself would be unaffected by the forces which made for such a state of opinion. It is a relevant but minor point that, so far as constitutional power goes, many members of the present Court have consistently taken a restrictive view of the scope of civil liberties even in normal times. The major point can be made by recalling that the Supreme Court did not decide *Ex parte Milligan* until after Appomattox, that *Abrams v. United States* fairly represents its attitude during the Great War. These facts should be a warning against easy confidence that in some dread cataclysm of the future the Court as an institution will set itself, in such matters, against the emotional temper of the times. But suppose that the Court does so set itself. What then? Decisions of the Court defending civil liberties, it must be remembered, are an infinitesimal part of all the instances occurring in the nation, whether in normal times or emergency, in which civil liberties are brought into question. Of course those decisions have large symbolic value. But so far as judicial action counts at all, what is primarily decisive is the action of trial courts and juries, which the Supreme Court can only in limited measure control. And trial courts and juries, even more than the Supreme Court, are responsive to deeply-felt currents of popular opinion. Again and again we are thus thrust back upon the question, what is it which will set those currents of anger and intolerance in motion? It is no service to the cause of civil liberty to neglect this inescapable nexus between the satisfaction of the reasonable wants of mankind and the survival of democratic processes. Two conditions will be indispensable to the success, or near-success, of any movement seeking a violent break from established ways. The first will be many empty stomachs, the second widespread despair of filling those stomachs by the established ways. Consideration of the relation of President Roosevelt's proposal to the future of personal liberty must include consideration of the relation of his larger purposes to the avoidance of those two conditions.

*Third.* Of these broader questions, President Conant says: "I am not one who believes that the recent decisions of the Supreme Court confront the country with no serious problems. I believe they do". The limitation of this statement to the "recent decisions" of the Court may convey the impression that we have to do solely with a current controversy between President Roosevelt and a transient majority of the Supreme Court. Such, of course, is not the fact. We are witnessing the culmination of an historic process in a disaster foreseen, as long ago as 1905, by Mr. Justice Holmes in his dissenting opinion in *Lochner v. New York*, in which five
Justices held that a State law forbidding employees in bake-shops to work more than sixty hours a week was arbitrary and capricious, and bore no reasonable relation to any legitimate purpose of government. Such cases as the Child Labor Case (1918), the Adair case (1908), and Coppage v. Kansas (1915), have substantially the same contemporary significance as the AAA case, the Guffey coal case, and the New York minimum wage case.

President Conant does not elaborate upon the “serious problems” with which the country is confronted, except to express his own preference for “the present Constitution as written, but as interpreted by the minority of the present Court”. Yet the implications of that statement are of the essence of the question. For the differences between the majority and the minority of the present Court are not differences as to what is good for the country. They are differences as to how far the Court can properly go, under the Constitution, in imposing its own view of what the country’s good is. One who aligns himself with the minority of the Court, therefore, aligns himself with the opinion, which is widely and seriously held, that the Supreme Court has overstepped the limits of its appropriate functions under the Constitution. But what does this mean? It means that because of the unconstitutional action—in effect—of five or six men, women in New York must continue to labor for inadequate wages. Children must be kept in factories. The legitimate aims of labor organizations must be frustrated. Widespread defiance of law must be encouraged by lawless judicial decisions. The efforts of Congress to master national economic problems must again and again be embarrassed, delayed, or nullified.

These are serious problems, indeed. They are the more serious because they are problems arising out of the state of mind of conscientious Justices, exercising normally unrestrained power, who, being conscientious, are of course outside the purview of the corrective process of impeachment. And they are problems of liberty. They are problems of actual impairment of present liberty which have to be taken into account no less fully than problems of hypothetical danger to future liberty. Diagnosis of the evil must precede consideration of the cure. The overwhelmingly important issue now before the country is to determine whether the asserted evil is a real one. The keenness with which any commentator realizes the gravity of the problem to which the President’s proposal is addressed and the carefulness with which the problem is stated furnish the best index to the adequacy of the comment.

The importance of formulation of the problem in discussion of the cure is aptly illustrated at two points in President Conant’s statement. Thus, attention is called to the need of examining with the greatest care the claim that an emergency exists, lest “the country may proceed under the banner of emergency legislation down a road which leads to the abolition of democratic government”. A proposed whittling away of constitutional limitations is one matter. An accomplished whittling away of constitutional powers is another. If the second is the true problem, its ultimate solution, by whatever means adopted, will entail not the abolition of democratic government but its restoration. Democracy, granted a breathing spell between the last depression and the next, may hurry to restore to itself its own powers, where it should be slow to free itself from its own restraints.

Again, President Conant forcefully
points out that "the appeal of law is in the last resort to the conscience of mankind!", and that it is important that law should satisfy that conscience. But he considers the application of this canon only to the President's proposal. Is the New York minimum wage case satisfactory to the conscience of mankind? Or the Child Labor Case? Is the conscience of mankind satisfied that a narrow majority of Supreme Court Justices should continue to hand down other decisions which it is reasonable to believe are improper for them to hand down? These questions cut deep. Responsible men, of whatever political faith, have earnestly to ask themselves whether the increasing popular dissatisfaction with the Court may not so undermine respect for the Court, and for all courts, as to threaten damage far exceeding anything which, by any calm view, may be anticipated from President Roosevelt's suggestion.

Fourth. If an evil exists, what solutions are possible other than President Roosevelt's proposal? Grave difficulties are involved in all the various drafts of a constitutional amendment. President Conant recognizes this in declaring his own preference for "the present Constitution as written". One such amendment, however, he does mention. "Even the proposal now before the Senate," he says, "if cast as a constitutional amendment (thereby fixing the size of the Court), might be defensible." Surely this amendment would be particularly difficult to defend. The clearest objection to President Roosevelt's plan is that a Court of fifteen is too large. That objection can be outweighed only by the belief that greater dangers threaten the Court and the country than the danger of a cumbersome membership. Such an amendment would shackle the Court with a permanent handicap in order to remedy an evil which, it can be hoped, will be temporary. The whole American tradition of a flexible constitutionalism would be a reproach to such hand-to-mouth statesmanship.

Although President Conant concludes by urging that there is ample time "for submission of an amendment to the country," it appears from the context of the statement that his primary insistence is not upon an amendment, as such, but upon some kind of submission "to the voters". He regrets that such a submission was not made. Would a more thorough consideration and a wiser verdict have been possible had the issue been injected into the heat of the campaign? Or was it necessary, or preferable, to decide first the issues which were decided in the campaign? Evidently these are debatable questions. One can say only two things. First, the immediate question is the merit of the measure, not of its proponent; a measure which is for the well-being of the country should not be rejected out of hand because of the circumstances under which it was proposed. Second, if the inference is that the issue will not now be settled by "time, discussion, debate, orderly processes of government," it can scarcely be accepted. If, as Senator Ashurst suggests, the Senate will not come to a vote until July we shall have an abundance of these, though we may never count heads. The discussion, moreover, will have the benefit of being concentrated upon a single problem instead of being distracted by many. In that great national debate, the transcendent need will be to defend the Court from the charge which has been brought against it, if it can defended, and, if not, to aid in a wise choice among the various proposals for corrective action or inaction that are advanced.
THE WHITE HOUSE
WASHINGTON
4/29/37

TOM CORCORAN:

To read and return to Paula Larrabee
to be filed in confidential file.

F. D. R.

[Signature]

[Signature]
Law School of Harvard University,
Cambridge, Mass.
June 3, 1937

Dear Mr. Powell:

How could anyone not morally obtuse fail to read your account of the shabby devices for getting civilization at a discount without a feeling of deep indignation? To forecast the future is a rather irresponsible sport, but I should lay the heaviest kind of odds that your tax message of Tuesday will find a place fifty years and a hundred years after that, in even the slenderest volume of American state papers. How can they behave that way? And these be the "leaders" of finance and industry, and, to our shame, even "leaders" of the profession in whose special keeping is the law. With all the unedifying aspects of a social caste system, the English aristocracy are in the main at least under the sway of noblesse oblige. While our "economic royalists", and their auxiliaries, haven't even the morality of prudence--the prudence of not undermining the very system to which they profess devotion.

I can't help recalling a story of T. R. Powell's. He found himself with a bunch of important financial and legal people who were ranting about my alleged radicalism until his patience gave way, and then Powell said, "Felix a radical? Hell!! The damn fool is wearing out his heart trying to make capitalism live up to its pretensions."

And the pathos of it all is that it is the same old story--their lack of enlightened self-interest. Of course their response to T. R.'s efforts to prune away the excrescences and abuses of our economic society are fresh in your mind, but it is funny to go back, as I have done recently, and re-read the ferocity of the terms in which T. R. was assailed for such rudimentary reforms as the Hepburn Act, the Pure Food and Drugs Act, and his proposal for an inheritance tax. "They know not what they do." And so, I look forward to the investigation which you proposed as another indispensable process of national education.

With warm regards,

[Signature]

[President's name]
Dear Mr. Barret

Be good enough to place this in the President's hands. And don't let business turn back "fob" you. It can be mean, or it can receive less favor. I received more than one letter secured in this way. A year ago, you were told to be(hdrig in an enemy occupation. Belz's several.
BF Frankfurter M.3.20.47
FELIX FRANKFURTER CAMBRIDGE, MASS.

Dear [Name],

This is a belated word of warm appreciation for your concern over our meetings.

I have since thirty years ago stirred hope beyond understanding (I was don't


desire what "winter" where


is! so your song) of the fundamental significance


of the fuel and you have

have been given elastic ex-


pression to the meaning of

the organic problems by

pointing out that

"free user hundred of

our national estate holdings"
fan-lighted Management.

It was a beautifull piece of exposition — for it so admirably related the aspects of principle to the needs and duties of man.

What a letter I gained.

T. F. Morgan repeatedly in the wasman's press. I nearly exploded — to I had written the diary letter to Charlie Burlington. I thought I'd let you or two letters upon of C.C.B.

Keep on keeping your fit. 

-
June 8, 1937

Dear C. C.:

Evidently J. P. Morgan confounds Christianity with the ethic of "getting away with it." Before he again gives his moral sanction to the incorporation of a yacht, as a means of "avoiding" taxes, some one should suggest to him that he ask his good friend, the Archbishop of Canterbury or his other good friend, the late Prime Minister, Lord Baldwin, whether an English gentleman would think of doing such a thing, or, having done it, continue to enjoy the esteem of his class. And while he is about it he might ask some of his eminent legal friends in England how long such decisions in tax cases, as that in the Stock Dividend Case and Reiner v. Donnan, and others which the Supreme Court rested on the Constitution, would survive in England.

The mentality revealed by Morgan furnishes a striking commentary on the claims of the Walter Lippmanns that F. D. R.'s tax message was merely wealth-haunting. When the most esteemed of financiers discloses such a morally obtuse, anti-social attitude, one realizes anew that the real enemy of capitalism is not communism but capitalists and their retinue of scribes and lawyers.

Ever yours,

C. C. Burlingham, Esq.
June 25, 1937.

Dear Felix:—

I have not time for more than to dictate this brief note before I leave for three days at Jefferson Island. It is good to have yours of June twenty-third.

Things are all right except for the strike situation. That is a real headache.

Van Zeeland is a grand fellow—I wish you knew him.

What about your plans for the summer?

As ever yours,

Professor Felix Frankfurter,
192 Brattle Street,
Cambridge,
Massachusetts.
June 23, 1937

Dear [Name],

You’ve been much in my thoughts these days, and I wish deeply that I could help to lighten even so little the load of your heavy burdens. For no president ever carried a heavier one – not even in war-time. There, at least there are some restrictions against unbridled and inscriptive uses. The obligations of loyalty and cooperation are taken very light, especially even by those whose party and personal ties ought to bind to your leadership.

Well – that is to say, a great leader is in the throes of salvaging the best of the past and meeting the new problems of a new age. Especially hard are the tasks of the college.
out of which a progressive becom,
which is the forger. I wonder
if you read Bourguet's remarks
in your last letter, to hasten
the enclosing the Extract. If
that was free in the pre-
war days of England, how
much more free is it on the
bacter and more complicated
stage of action that confronts
you.

And so I hear that he
is entirely self-portrait,
and Queen and wine
pleasurefulness in it. Such
you are steering your course
to avoid the shallows of re-
action, and to reach to the
"lucrative foreigner."

This is just to send you
a word of affectionate good-"-bye.
Evelyn Good

FRANKFURTER
CAMBRIDGE, MASS.
July 22, 1937.

Dear Felix:

If you had got me on the telephone your language would have been just like Bernie Baruch's when he heard of the Lehman episode. Like you, I have no anger but only sadness. If I were British I would say only one thing — "It isn't cricket" — and you know all the implications of that remark.

As you know, you and I will continue to think in terms of the ultimate objective and, where occasionally we run into barbed-wire in front and people who take pot-shots at us from the rear, we still do not lose sight of the goal.

As ever yours,

Professor Felix Frankfurter,
193 Brattle Street,
Cambridge,
Massachusetts.
July 20

Dear Saul:

Last night I tried to reach you by phone and, on the whole, I am glad that I did not succeed. I'm afraid I would have used language hardly decorous over the wire. I was - and am - not all over regarding Herbert Lehman's letter. Some things just aren't done -
They violate the de-
cency of human rela-
tions and offend
the good taste and de-
corous of friendship.
And to I war - and am
not - but hear with
anger - hear with sad-
ness.

I wanted to see
you this - at least
inadequately - feel
among feelings,
and wish for your
yearning power
of serenity and
Courage, and God's love in pertinacity in the good fight. The long, peaceful process of perusing the idea of incorporating democratic ideals to which our country is dedicated.

Sincerely yours,

[Signature]
Dear Mr. President,

1. You sent me off with words in my sails, gas in my engine, air in my tires - and all the other figurative speech, phrases and mumbo jumbo, to indicate the exhilaration of our visit. You can hardly realize what a tremendous surge of joy you gave us both. I won't tell you all the facts, but I shall quote one remark of your's:

   "I now understand this Optimism better. It isn't merely the permanent to it's force but. But with it's achievement as well as an heritage. Optimism is something that he has Conquered - a positive principle of life - well - it was really great.

2. And what was very inspiring was to find you in such serene spirit with full realization of
Law School of Harvard University.
Cambridge, Mass.

of the forces that are however quietly and with prepared self-service devotion enlisted against your real objectives. But, then, are great generals—Wellington and Washington, Grant and Foch— knew the strength of the enemy and the deployment of its troops.

3. During the winter I received a letter from a close English friend who is an intimate of Lord Sankey. He is continuing in the MacDonald-Tory line. He asks me to quote from my friend:

"Sankey was very alarmed at the big race now in full swing among the Tories. He insists it would be very helpful if your President came at the right moment but to say publicly that he expects the conference of '35 to result in drastic reductions."
4. I wrote to Lloyds & Armitage - wish she'd join tell anyone, but I think it's a safe money - that he never stays on for job for a year. It seemed to suggest that the Wisconsin Law that cannot mean one without being.

5. You probably have seen the interesting financial piece in today's Times. Enide the T.U. b. looks like a Santa clause to the World war bond holders & utilities.

lose - it was a very good one.

Of course I am at your disposal either at Hyde Park or Washington. I can be any where. When you are back in Cambridge on September 6th.

Yours faithfully yours.

[Signature]
Dear Dante -

Welome back - after a trip that was an admirably conceived as it was successfully executed. To one who reads all sorts of papers and has had long experience in reading between the lines, there can be no shadow of a doubt about the great value of your tract. If my infirmities were such as fit me well with all its vitriolic, it also brought you refreshment.

I am ever so glad that you read Justice Clark's letter. What he wrote is pleasing, very deepest feelings - glaring offenses in private. New York effort and to accomplish in eight years what should have been in process of accomplishment through the last forty or fifty years. A fresh from the wasteage ground - is his own - from the perspective
of his age and distance, to dear old Gentleman Expresser. What may he called the verdict of contemporary posterity when he says that

"You have put a need face upon the social and political life of our country."

I have the deepest conviction that he will be the judgment of history as to our schools and churches in the folding of American civilization.

There is much to talk about, and perhaps there'll be a chance if you get back to a stretch of Hyde Park.

Mahan followed the trip with eager zeal and called faction, and you in affectionate regard.

Sincerely yours
Dear [Name],

With respect, I am sending you this on the advice of the President. For your consideration.

Yours sincerely,

[Name]
October 20, 1937

Laski which has just come:

"F. D. R.'s speech has had a terrific effect over here—better than anything I could have hoped for. It has undoubtedly stirred the decent average man with the feeling that words are not enough; and, if either Italy plays the fool in Spain—which is said to be very likely—or Chamberlain says nothing about Japan, I think we can get up something like a national campaign."

Incidentally, if you have not already heard, it will interest you to know that Laski has just been elected a member of the executive of the Labor party.

The latest number of the Economist is also interesting on your Chicago speech, and, on the chance that you have not seen it, I enclose it.

What awful tripe poor Landon dished out last night—and not even good tripe. How little even the Republicans cared for it is evidenced by the comment in this morning's Boston Herald.

With warmest regards,

Ever yours,

[Signature]

I am also enclosing some illustrative figures on unemployment which I hope you will confide, if possible, to a Morning Post.

### COMPARISON OF MID-YEAR BALANCE SHEETS OF 140 INDUSTRIALS

<table>
<thead>
<tr>
<th></th>
<th>1937</th>
<th>1936</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventories</td>
<td>1,426,614,000</td>
<td>1,073,612,000</td>
<td>plus 32.9</td>
</tr>
<tr>
<td>Receivables</td>
<td>589,972,000</td>
<td>484,440,000</td>
<td>- 21.7</td>
</tr>
<tr>
<td>Cash</td>
<td>763,413,000</td>
<td>876,306,000</td>
<td>- 12.9</td>
</tr>
<tr>
<td>Curr. Liabilities</td>
<td>775,860,000</td>
<td>572,067,000</td>
<td>plus 35.6</td>
</tr>
</tbody>
</table>

**Comment:** Of interest is the fact that an aggregate increase of $458,534,000 in inventories and receivables was offset by a $316,786,000 combined reduction in cash and increase in current liabilities. Roughly $141,746,000 was thus indicated as having been financed by new capital and earnings.
THE LANDON SPEECH

Few Republicans will be dissatisfied with Gov. Landon's speech of last night, but most of them will probably remain unsatisfied and uninspired. They will agree with him that an administration should have head, in addition to heart, as he declared in his final sentence. They know that the President has sought too much power and that he has not been over-scrupulous about his methods of acquiring it. But what the Republicans are yearning for, besides a new leader, is a constructive, comprehensive program, positive, practical and, most of all, concrete.

A party policy of which the best that can be said is that it is not unconstitutional will cause no enthusiasm among those millions of Republicans who are as loyal as ever to the underlying doctrines of traditional Republicanism. A great deal more is required than a slashing speech of denunciation, sound as the attack may be.

Gov. Landon did not offer anything of a specific nature, and, in his failure to give at least a rough outline of precisely the sort of platform which Republicans can support with some hope of success, he was disappointing. He blew no clarion note. The arguments which he developed have been familiar for many months. If the Republicans are to make a good showing in the congressional elections next year and in the presidential contest of 1940, they must have something more stirring and stimulating than came from Gov. Landon last night.
America Takes a Hand

The profound emotion which was stirred last week throughout the world by the news of Japan’s slaughter of civilians in China has been followed this week by a sequence of events which—if the public opinion of the world responds to them—may prove to be of historic importance. At Geneva, the Assembly of the League of Nations, following up its resolution of last week specifically condemning the bombing of open towns, has adopted a resolution which declares that the Japanese invasion of China constitutes a breach of Japan’s obligations to China and of her obligations to other countries under the Boxer Agreements and the Nine-Power Treaty. The resolution further expresses moral support for China and it recommends the members of the League “to refrain from taking any action which might have the effect of weakening China’s resistance” and to “consider how far individually they can lend aid to China.” Finally, the Assembly requests the signatories of the Nine-Power Treaty to meet as soon as possible for consultation.

Meanwhile, in this country, public opinion has spoken clearly. On Monday the Labour Party Conference condemned Japan’s action and called upon the British Government to mobilise the nations for the application of economic and financial pressure. On Tuesday, at a great protest meeting in the Albert Hall, the Archbishop of Canterbury sponsored a resolution to the same effect, and supported it in words which were the more impressive because of their very restraint. These demonstrations of deep feeling, these protests against aggressive barbarism coupled in every case with demands for preventive action, were at once reinforced and overshadowed by a speech made by President Roosevelt at Chicago on Tuesday. Speaking, with almost symbolic significance, in the capital of the Middle West, and investing his words with a solemn emphasis, the President deliberately took a hand in the defence of democracy. He drew the attention of his audience to the present alarming state of the world and left them with no doubt that he placed the blame on the shoulders of three aggressive nations. “Innocent peoples and nations,” he said, “are being cruelly sacrificed to a greed for power and supremacy which is devoid of all sense of justice and humane consideration.” So far the speech differed from previous pronouncements only in its greater emphasis. What gave it the character of an historical occasion was that Mr Roosevelt proceeded to draw the practical conclusions from his analysis of the world’s malaise. “If these things come to pass in other parts of the world, let no one imagine that America will escape, that it may expect mercy, that this western hemisphere will not be attacked. . . . The peace-loving nations must make a concerted effort in opposition to those violations of treaties and those ignorings of humane instincts which are to-day creating the international anarchy and instability from which there is no escape through mere isolation or neutrality.” The President dared to be not merely positive but specific. “When an epidemic of physical disease starts to spread the community approves and joins in the quarantine of the patients in order to protect the health of the community against the spread of the disease.” Similarly the contagion of war should be prevented from spreading by placing in quarantine those nations infected with the aggressive virus.

Direct attack by the President of the United States
upon the conceptions of isolation and neutrality, recently so close to the American heart, is something new. The suggestion that something uncommonly like economic sanctions is even now in the air was, immediately after the speech there were grounds for thinking that Mr. Roosevelt had been too courageous, and that the Berlin Press felt justified in returning him the fate of Woodrow Wilson. But it was evident within twenty-four hours that the President had not been touring the country for nothing. The reaction of the American Press and public to his speech has been surprisingly favourable. And as a further indication of the President's purpose, the State Department on Wednesday issued a statement announcing its "general accord" with the resolution of the League Assembly, and concluding:

In the light of the unfolding developments in the Far East the Government of the United States has been forced to the conclusion that the action of Japan in China is inconsistent with the principles which should govern the relationships between nations and is contrary to the provisions of the Nine-Power Treaty of February 6, 1922, regarding the principles and policies to be followed in matters concerning China, and to those of the Kellogg-Briand Pact of August 27, 1928. Thus the mission of this Government with respect to the foregoing are in general accord with those of the Assembly of the League of Nations.

The speech and the declaration, taken together, have changed the diplomatic climate. It is too early yet to say what precise form will be taken by America's altered policy. It is taken almost for granted that the United States will attend the projected Conference of the signatories of the Nine-Power Treaty, and it has been suggested that Washington would be the best place for it to meet. Beyond that the new policy is indistinct, and there are at least two important unknown factors in the situation. One is the exact degree to which the President can carry American public opinion with him. The main objective of American policy—of every Government in the world—is "to avoid involvement in war." The American public has probably moved far enough from its erstwhile love of pure isolation to agree with the President that the avoidance of war cannot be secured by that route. Whether it has moved far enough to authorise him to join in "concerted action" strong enough to achieve anything in the face of determined aggression is one of the questions to which only the passage of events can supply an answer. The President is reported to be sufficiently confident of his own reading of opinion to call a special session of Congress next month at which any reversal of "neutrality," and any legislative authorisation of alternative policies will have to be discussed. The second unknown factor is whether the British Cabinet, with their grave preoccupations in the Mediterranean, will be able to respond to the President's initiative in the right psychological key.

These considerations belong to the future, and they do not detract from the hopefulness with which it can be approached. For the present, the importance of the President's speech lies in the psychological sphere. It should not be forgotten that though the United States never accepted the Covenant of the League it was on American initiative that that document came into existence. A new voice calling from the West for international morality and respect for treaties cannot fail to be an encouragement to everything that the League stands for.

The American Government may be hesitant in implementing the doctrine of quarantine. But the idea, nevertheless, may spread throughout the world.

Even at the lowest estimate, the President has helped immeasurably. Within forty-eight hours of the delivery of his speech, its implications had obtained a warm welcome from the Prime Minister of France, and in a letter to Mr. Winston Churchill at the British Conservative Party's Annual Conference. The President has opened up a great opportunity for constructive cooperation in securing international order and in drawing closer not merely the political but also the economic and cultural relations of all the great nations who adhere to common standards of decency in conduct. Opportunities such as these do not occur often. The extremity of the world's peril provides at once the need for seizing the chance and the hope that it will not be let slip.

His Majesty's Opposition

The constitutional conflict of parties is the very stuff of our parliamentary democracy. "The House of Commons," wrote Walter Bagehot, "lives in a state of perpetual potential choice; at any moment it can choose a ruler and dismiss a ruler; and therefore party is inherent in it, bone of its bone and breath of its breath." The Opposition, no less than the Ministry, is a part of government. Its function is to oppose and, if need be, to govern; to assist by constant constructive criticism in the shaping of national policy, and to take office on the turn of the electoral tide.

The vital role of His Majesty's Opposition in British politics was directly recognised last April when a salary was given by statute to the Leader of the Opposition. But mere recognition of the need for an official Opposition does not automatically bring an effective Opposition into existence. The Labour Party has met in conference this week at Bournemouth under grave suspicion of failure in some of its essential constitutional duties. For some time past it has been evident that the Party is making no headway in the country—and that for two reasons. On the one hand its personnel, depleted by the loss of its leaders in 1931, has failed to convince the country that it could adequately staff an alternative Government with chiefs of political judgment and experience; and on the other hand its Socialist programme, though too tepid to satisfy the masses of the country ablate with revolutionary enthusiasm, has been too much concerned with cloudy doctrinaire slogans to win the confidence of the hard-headed artisan or the sky middle classes. The Party has long been struggling to allay the fear that a Labour Government would mean financial collapse; but post-Coronation by-elections showed little evidence that the country was sufficiently convinced to be ready to give Labour its full confidence.

The recent campaign in the constituencies has done a little to stir this apathy, but the public as a whole is still sceptical: and in recent times its doubts have been increased by the equivocal and discordant attitude which the Party has displayed to the subject of re-armament. There are millions of voters in this country who believe that the arms race would never have reached its present stupendous dimensions if British foreign policy had been firmer and more single-minded. It has not been easy—it is not easy now—for those who hold this opinion enthusiastically to entrust the task of making Britain strong to the same Government whose foreign policy they believe to have been partly responsible for the emergency. The fact that it is so clearly necessary for Britain to be strong if she is to make her voice effective for peace and democracy makes the dilemma more
Hyde Park, N. Y.,
October 29, 1937.

MEMORANDUM FOR

FELIX FRANKFURTER

I am sorry if all this is true about Santayana's personal problems. It seems to me that Harvard ought to do something for a man who was, after all, one of our great teachers. Will you talk with some of the crowd about it in confidence of course?

F. D. R.

Enclosures - two letters from Harrison Reeves of 142 East 37th Street, New York City, and copy of our reply, in re Santayana.
COPY

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE

49 Fifth Avenue, New York

November 29, 1937
(Dictated November 27th)

Dear Felix:

Thank you for your two notes. Everyone is asking whether or not the President is going to recommend to Congress passage of the bill. I have been indirectly informed that he fears to do so since he will have to rely on some of the southern Senators and Congressmen to get other legislation through. It seems too bad, however, that since passage of the bill is now almost definitely assured he should not get some credit since he has done some things for the bill without publicity. Not only would it please a good many people, but a message would, according to a number of newspaper men and others in Washington and elsewhere, serve to reassure many persons who are disturbed by the Black appointment.

Ever sincerely,

Walter /s/
Secretary

Prof. Felix Frankfurter
Harvard University Law School
Cambridge, Massachusetts

W:CTF
TELEGRAM

The White House
Washington


Miss Marguerite Le Hand,
The White House.

Your special has just come. You will have my comments within time limit. All good wishes from us both.

F. F.