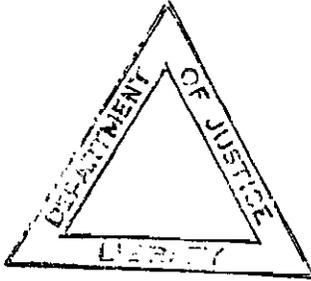


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"THE GOVERNMENT AND THE WAR"

THE SECOND OF TWO

WILLIAM H. WHITE FOUNDATION LECTURES

by

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In my first lecture I spoke of the democratic ends for which we fight this war and some of the traditional difficulties which must be overcome in our own thinking if democratic purposes are to be genuinely achieved. I pointed to the fear of change and the horror of planning, the tendency to view complex problems in terms of such over-simplified dilemmas as the choice between Socialism and Laissez-faire; the assumption of a rigid distinction between the functions of Government and of private enterprise, with Government inevitably evil and enterprise necessarily good; the suspicion of experts in Government as an abiding threat to popular rule. These are difficulties which go not merely to the structure of Government--the distribution of power among the various branches of the Federal Government and between the nation and the states; they go to the entire governmental enterprise and thus determine in the largest sense the measure of our aspirations and our powers. Speaking in December, it seemed appropriate to state our essential problems in such general and long range terms. You will understand why it is that speaking in May I intend to concern myself with recent developments and to outline our difficulties in much more immediate terms.

I.

I take no risk of overstatement when I say that the five months since I first addressed you have been months of unmistakable reactions. This is not surprising in view of what has been accomplished and the sacrifices that grow increasingly necessary as the war program proceeds. That the reaction should have become swiftly articulate following an election which resulted in gains to the opponents of the Administration was to be expected. Its manifestation in Congress has, of course, taken the form of an attack upon the Executive Branch of the Government, the powers under which it operates, the

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appropriations by which it functions and its extensive civilian personnel. The lawmakers, having vested the broadest powers in the President to supplement his Constitutional authority as Commander in Chief, having directed the Executive to act promptly and vigorously, now protests the exercise of delegated powers by challenging the necessity for having delegated them at all. The attack transcends particular acts of alleged mal-administration and includes the field of administration as a whole. Administrators, whether old line civil servants, New Deal Administrators or business men employed in the new war agencies, are grouped as "bureaucrats"; and the legislators appear as popular champions, struggling to win back for the people the powers which the "bureaucrats" have usurped. Administration is discussed as if it were essentially incompatible with legislation, and the attack on administrative agencies gathers new life. Even some of the friends of the New Deal program, giving voice to the popular sentiment, hit the new saw dust trail which leads to casting out the "bureaucrats" from the body politic.

This climate of opinion manifested in daily discussion on the floor of Congress as well as in action on specific measures, was given its most pointed expression in the mounting enthusiasm to investigate the Executive Branch and all its works. The standing Committees of the House and Senate, including the great committees on Appropriations are the traditional media through which the Congress maintains its necessary critical awareness of the details of administrative operations. A number of special committees were, in addition, functioning at the close of the last session, notably the Truman Committee established to investigate the National Defense Program and the Joint Committee on Reduction of Non-Essential Federal Expenditures. A score of resolutions introduced at the present session in the House and more than a dozen in the Senate

proposed to add to the normal work of the established committees special investigations into various aspects of the work of the Executive Branch. Many of the proposals, particularly in the House were for the creation of special committees.

By the middle of March, the House, in addition to continuing the Dies Committee and the Committee on Small Business had by resolution authorized the Committees on Military and Naval Affairs to investigate the progress of the war effort; it had empowered the Civil Service Committee "to conduct thorough studies and investigation of the policies and practices relating to civilian employment in the departments and agencies of the Government, including government-owned corporations"; it had created a Select Committee to investigate the organization, personnel, and activities of the Federal Communications Commission to determine whether the Commission is "acting in accordance with law and the public interest"; it had established a Select Committee to investigate the Farm Security Administration (which it subsequently voted to destroy) "with a view to determine whether or not such activities are being carried on in accordance with the policies of Congress"; it had authorized the Committee on Public Buildings and Grounds to conduct an investigation into the progress of the entire defense housing program; it had directed the Committee on Appropriations, through a sub-committee, to examine charges that certain persons in the employ of the executive agencies are unfit for public employment because of association with subversive organizations; it had granted general authority to the Committee on Appropriations "to conduct such studies and examination of the organization and operation of any executive department or ... agency ... as the Committee may deem necessary to assist it in connection with the determination of matters within its jurisdiction"; and, finally, it had established

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a special committee "to conduct investigations of any action, rule, procedure, regulation, order or directive taken or promulgated by any department or independent agency of the Federal Government where complaint is made" to the Committee that the action deprives citizens of Constitutional rights, or otherwise exceeds the agency's power or inflicts a penalty without affording an opportunity to present a defense "before a fair and impartial tribunal."

I cite this enumeration not in criticism of the House or any of the committees, but rather to exhibit the temper of the Congress with respect to the Executive Branch after seventeen months of war. There is hardly a field of executive action that is not being critically reviewed—often by several committees in succession or even at the same time.

At least one member of the House, Representative Dirksen of Illinois, has made clear that he regards it as appropriate for Congress not only to investigate the executive agencies as the occasion arises but to maintain a day by day review of their activities in the exercise of their rule-making authority. On January 25 Mr. Dirksen introduced a resolution—thus far not adopted—proposing to establish a Joint Committee on Administrative Review to which all agencies would be required to submit their rules and regulations before they could become effective. Within ten days the Committee would determine whether the rule submitted runs "counter to the intent of Congress in creating and delegating the functions for the enforcement of which it is proposed." If the agency is notified that the proposed rule does violate the intent of Congress as construed by the Committee, the rule could not be made effective until the expiration of forty days. Even if Congress took no adverse action during the forty-day period, it may be assumed that the objection of the Committee would in normal circumstances have the force of a moral veto.

Mr. Dirksen fully recognizes that implementation of his plan would necessitate the establishment under the aegis of the Committee of a corps of Congressional experts to study what the administrators propose to do. He has in mind that the Committee will actually police administrative procedures. This is indicated by his comments on the resolution. "There must be bureaucratic discipline," he said ... "there should be review. I am persuaded that a great many bungling procedures of the Office of Price Administration ... could have been avoided if a group of legislators could sit down with a staff and examine them meticulously and straighten them out and send them back and say 'with these modifications they are all right'. So we need legislative review."

II.

Whether or not the suspicion of the Executive Branch thus articulated in Congress reflects prevailing public sentiment, I shall not undertake to judge. It is, to be sure, one of the great functions of Congress to act, as it has been said, as "an organ of registration, an instrument of criticism, a sounding board through which the voice of the nation can make itself heard." Congress is the immediate link between the people and their servants in the Executive Branch, the ever-present guarantee that administration will remain reasonably close to the line of popular will. It is in fact extraordinary how fast the irritations of private citizens over what they believe to be unnecessary or unfair in government are translated into Congressional criticism of administration. What begins in specific complaints soon swells into attacks on policy. A member of Congress, finding himself often enough the unhappy victim of an enraged constituent's dissatisfaction with an impersonal "government," acquires a relish for the word "bureaucrat" which it is not difficult to understand. But the President of the United States is also an elected official. He is, as Woodrow Wilson once tried to explain to a foreign diplomat, bound to be the interpreter

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of the great majority of the American people. "It is his duty to divine the moment when the country requires action and to take the action which the great majority demands." The President has not deviated from his course or altered the essential policies on which the operations of the Government have been set.

Whatever the state of popular opinion may be when tested by specific issues, it is clear enough that the attack upon the "bureaucrats" was not without popular appeal. Men and women throughout the country were feeling the impact of total war in its progressively stronger pressure on the domestic front. The manpower barrel seemed almost empty though we knew that it had not yet yielded half enough. The last stages of the conversion of industry from peace to war were being completed. Regulations and complicated restrictions seemed to multiply overnight. Could not the Government just issue a few simple orders and let the public, eager to further the grand effort, cooperate to the limit? Who was the Government to say what work was necessary for the War and what was not? What did the Government know about local conditions, about the needs of any particular locality, about the problems and the point of view of a minority group, about the urgent yet conflicting needs of farmers, of workers, of industrialists and consumers?

If this is what people were thinking, we have no cause for surprise. Add to this the frustration that all of us feel at not being able to do more to win the War. Our sons, our brothers or our husbands are fighting or may fight at any time, yet there is so little any one of us can accomplish to further the total effort, to lighten the burden they bear. Small wonder that we look for a whipping post, and find it in that part of the Government that wears civilian clothes.

But after the whipping post has been duly whipped we recognize, as indeed we must, that as President Wilson wrote during the last war "there is obviously but one instrumentality through which the war can be carried

to a successful issue" and that instrumentality is the Government of the United States. Apart from the actual conduct of hostilities, the essential functions of the Government are and must necessarily be performed by civilian agencies, agencies which must remain in civilian hands.

III.

You may say, I suppose, that I began by discounting Congressional criticism and now have put aside popular discontent, thus demonstrating that I too am a "bureaucrat" and nothing more. But if the test of a "bureaucrat" is either insensitivity to criticism or a belief in the infallibility of the Executive Branch, I cannot qualify.

That there are weaknesses in the Executive Branch, its structure and organization and the occasional fragmentation of its authority, cannot be denied. That there are incompetent persons among the 2,943,919 employees shown in the last enumeration is of course true. What is important is that the Government is essentially sound. For the Government of the United States today is not a party government. It is not a New Deal Government. It is an aggregate of the best available civilian talent which this country can marshal, drawing upon persons who are not committed to activity in industry or agriculture or state or local government, no less necessary to be maintained than the work of the Federal Government itself. If that is so, a broad indictment of the personnel of the Government must necessarily fall to the ground. The largest single question that those who would expel the "bureaucrats" must ask themselves is who is available to take their place. Viewed as anything more than change in the direction of Government from the top, it is not a question to which, so far as I know, a satisfactory answer can be made.

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The size of the Government has often been represented in grossly misleading terms. While the total personnel of almost three million has received great currency, it has not been adequately understood that approximately two-thirds of this total, or about 2,000,000 federal workers, are employed in the War and Navy Departments; principally, of course, in the arsenals, ship-yards, government airplane factories and the other services of war production and supply. The balance of approximately a million employees is about double the civilian personnel employed by the Federal Government (exclusive of the War and Navy Departments) in July, 1919. It is about 300,000 more than the total employees of the Government in 1933. And of the million employees outside the War and Navy Departments at the present time, 175,000 are employed in agencies exclusively devoted to the War; and 319,896 are employed in the Post Office, hardly a bureaucratic enterprise. In spite of this I do not say that the Government may not be over-staffed. Keeping in mind what has been done in the space of two short years to convert our productive capacities to the business of waging a total war, to exert the necessary controls over the domestic economy of 130,000,000 people, to mobilize the national manpower, and to maintain the ordinary functions of Government at the same time, it is natural that the instrumentalities developed for these purposes should prove not to be fool-proof. I say only that responsible criticism must take into account the magnitude of our achievement and the dimensions of the problems by which we have been faced.

Not the least of the problems confronted--and one that has by no means been overcome--is that of keeping the governmental organization together in the face of a constant drain upon its personnel. For employees of the civilian government, like those of private enterprise, have entered the armed services during the past two years at a constantly accelerating

pace. As of December 1942, 26% of the male personnel within the ages of 18 and 37 years had already entered the armed forces; a much larger percentage would necessarily obtain today. Yet charges were made and widely played up that the Government was a draft-evader's paradise, with occupational deferment the order of the day. On December 15, the President appointed a distinguished and disinterested committee composed of Paul Bellamy, Chairman, Eric Johnston and Ordway Tead to investigate the problem and formulate a general policy to govern the deferment of Federal employees. The Committee, in submitting its recommendations (since adopted by the President and approved by Congress), found that in the federal establishment

"the extent of draft deferment has in the aggregate been moderate and conservative. A figure of slightly less than 2 percent of the employees deferred is a good showing. It compares favorably with the experience of private industry in which a percentage figure of deferments at least twice as high is not deemed to be excessive and unwarranted."

The Committee reported in February; its recommendations were adopted in an Executive Order issued by the President on March 6; the Report and the Order were transmitted to Congress on March 10; on March 17 the Senate Committee on Military Affairs reported favorably a bill to give explicit legislative approval to the Executive Order, and by early April the bill had become law. But at the same time that all this was taking place a sub-committee of the House Committee on Military Affairs undertook an examination of the deferment problem, with emphasis on individual cases; and the country was given the impression that the Executive Branch was guilty of wholesale evasion of the draft. Great publicity attended a finding that over 800,000 of the three million government employees are within the military service age, ignoring the fact that most of the individuals in question are husbands and fathers who have not yet been called up--with only an infinitesimal fraction deferred on occupational grounds.

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I speak of the deferment problem at this length because it is important to take into account that the civil government as well as the armed services are engaged in fighting this war. I have in mind not only services performed by civilians directly related to military operations, such as the work of the Board of Economic Warfare and the War Production Board, and similar functions performed throughout the entire civil establishment. I mean to include any governmental service reasonably necessary in time of war. If such an essential activity collapses in the civilian branch it will necessarily be built up in the armed services, which quite properly will not hesitate to use personnel otherwise useful in the hostilities themselves. The Army and Navy now parallel much activity performed in civilian agencies. At the same time much of the skilled professional and administrative manpower that is being withdrawn from the civil government is employed in non-combatant work in the armed services inferior in importance to the work formerly done. If, as I believe, it is important to the country that civilian functions remain in civilian hands, there should not be military priority in such cases for obtaining civilian personnel. Functions should not be allocated between the military and civil branches only on the basis of a shortage of manpower produced by operation of the Selective Service Act. If experience on this score is necessary, we have but to turn to the British example, carefully contrived in this war to avoid the mistakes of the last.

IV.

You will not understand by what I have said that I challenge the right and the duty of Congress--or for that matter of anyone else--to criticize and investigate the Government even in the midst of the War. The priority of Congress in matters of legislation and legislative policy should never be disputed by the Administration. The nature of the criticism and the extent of the investigation that can contribute to the attainment of our common goals are matters of honest judgment. Every investigation takes precious time from Government officials, time otherwise devoted to the discharge of their normal duties and the administration of the war effort. It offers, in compensation for this loss, the valuable opportunity to set the ground-work for legislative action; to obtain legislative approval of what the Government is doing or attempting to do; to set the facts straight on the record, to clear the air of suspicion and recrimination, to advance the cause of public understanding at a time when it is needed most. Where there is suspected extravagance or negligence, a Congressional investigating committee can perform with promptness and effectiveness what in substance corresponds to investigation by a grand jury. The Truman Committee offers a striking example of this kind of work.

No one would defend the type of Congressional investigation symbolized, as T. Harry Williams has recently reminded us, by the famous Committee on the Conduct of the War established at the end of 1861, because of the dissatisfaction of the Radicals with Lincoln's war aims and his conduct of the war. The Committee, consisting of three Senators and four Representatives, was granted broad powers to investigate "the general conduct of the war," past, present and future and to summon persons and papers before it. As one Senator grimly put it, the purpose was to "probe the sore spots to the bottom."

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Executive sessions did not prevent news of what took place behind closed doors from finding its way into the press or into speeches on the floor of Congress. As Professor Williams suggests: "The Committee was an experiment in civilian, Congressional control of the executive and the military in a democracy at war." The consequences do not warrant attempting the experiment again.

It is equally true, however, that the agencies of the Executive Branch can do much more than they have done to maintain adequate contact with the Congress, presenting through the medium of the standing committees the facts and the problems involved in administrative action with the fullness and continuity that cooperative effort demands. Some at least of the present controversy with respect to the exercise of delegated powers would never have arisen in any serious form if the Congress had felt itself adequately consulted in the flow of daily operations, and sufficiently informed. Let me illustrate by contrasting two recent experiences in legislative matters closely affecting the War.

The first, which typifies the executive-legislative relationship at its worst, is the history of the "Free Movement Bill", which proposed to empower the President to suspend for the duration of the war legislative restrictions on the free movement of property, persons and information required for the effective prosecution of the war. It was intended to speed up the whole war effort, and remove unnecessary delays, an obviously meritorious purpose. But the Administration--or more exactly that portion of the Administration interested in the passage of the bill--were not alive to its controversial aspects. The immigration laws, the customs laws, and the espionage laws have behind them long years of controversial history. The potentialities of political excitement were accentuated by the fact that the bill was introduced in the last days of the 77th Congress, when many defeated members were still sitting, and all were anxious to get home for a rest after an unusually long session. The stage was set for an explosion and the explosion came.

Those in charge of the bill did not take the trouble to discuss it with the legislative leaders before causing it to be introduced. It was referred to the Ways and Means Committee, presumably on the ground that it involved the customs laws, although the members of the Immigration and Judiciary Committees would probably have been more familiar with the problems involved. The members of the Ways and Means Committee did not have the sense of participation in the proposed legislation which would have resulted from prior informal discussion or from carefully planned hearings. Had such discussion taken place there is little doubt that the broad powers which the bill purported to confer on the President could have been so modified as to make it obvious that no fundamental changes were being requested; and the ensuing violent opposition to the bill might have been forestalled.

The basis of the attack was that the immigration restrictions were being opened wide. What would prevent the admission to this country, under the excuse of war necessity, of hundreds of thousands of immigrants beyond the quotas fixed by law? Abuse of executive power, undermining our institutions, government by executive orders--these charges raised such fury that it was then too late for the proponents of the bill to suggest, as they did, that they would readily agree to a clause providing that nothing in the bill should affect existing quotas.

It would be difficult to find a more striking example of failure of the legislative and executive branches to participate to a common end. Yet the result was unnecessary. The bill involved no genuinely controversial issues, or at least would not have involved them if the problem had been presented to Congress by the executive authorities in terms which afforded an adequate opportunity, prior to the public hearings, to achieve a cooperative solution of the actual problem at hand.

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The legislative extension of the Lend-Lease Act by the new Congress, a measure of incalculable importance to the conduct of the war, presented a very different picture. In the two months before the bill was introduced, detailed discussion was held with legislative leaders and the Committee chairmen. Their judgment was obtained in advance on whether the extension should be for one year or a longer period, on the timing of the bill, and its relationship in time of the Lend-Lease Appropriation Act; and on various substantive features. Prior to this discussion, seven public reports had been made to Congress on the operations under the Act, and, shortly after the new Congress had convened, a special report was submitted covering the full program. A detailed and frank disclosure was made of the whole program during the hearings. The questions of Committee members were answered directly and promptly. As a result they felt that they were--as indeed they were--participating in this unique and, in a sense, experimental legislation.

Some of the Republican members of the House Foreign Affairs Committee felt, for example, that Lend-Lease should be extended for two years rather than one. The Administration took the position that an extension for a year would suffice, that Congress should watch the operation, and, they felt confident, would extend it again if it proved satisfactory. How could the reaction of Congress be otherwise than sympathetic to such an approach? Another minority member of the Committee proposed an amendment to the Committee report, which was unanimously accepted, praising the Lend-Lease Administrator and his staff for the outstanding job which they had done in carrying on the Lend-Lease program. The vote in the House in favor of the bill was 407 to 6; in the Senate 82 to 0--in spite of the fact that a few months before there was

evidence that there might be bitter political opposition to the bill when introduced. When Congress knew the facts and understood the importance and success of the program, it acted promptly and sympathetically to approve and extend it. Incidentally, the country was educated, and the mistaken impression that we were depriving ourselves of needed goods without any quid pro quo quickly disappeared. The bill was signed by the President on the same day that it was passed by the Senate—the second anniversary of the passage of the original Act.

The history of the bill shows what can be accomplished, even in moments of tension, by careful planning between the two branches, advance discussion, complete disclosure, adequate deference to the responsibility of Congress and hearings which are carefully prepared. The type of relationship typified by this experience should be attainable in many fields. Reliance by Congress on the great standing committees and responsive development by the Executive Branch of the possibilities of cooperative effort should go a long way towards relieving the tension which has recently characterized the Washington scene. Substantive differences will to be sure remain. But the Government of the United States transcends any particular policies, and is not the property of a political group, whether the party in office or the opposition. What is of abiding importance to the conduct of the War is that the area of tension between the Congress and the Executive be reduced to minimal terms.

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V.

The Government's domestic war program is comparatively simple in outline. To attain maximum production of arms and essential products; to insure a wisely balanced distribution of manpower; to keep men at work by mechanisms which assure both management and labor a fair solution of their conflicting interests; to allocate scarce materials among the various needs--military and civilian, foreign and domestic--competing for consideration; to control prices, wages and profits and thus, without inequity to any of the interested groups, hold off the terrible threat of inflation--these are the fundamental objectives that our Government or, for that matter, any government in time of total war must pursue. The complications inhere in the procedures designed to achieve the objectives and the obvious difficulties of executing policies so all-embracing in scope. To us total war is a new experience, requiring above all things an informed and serious public opinion. Those who undertake to guide public opinion owe a duty to recognize accomplishments as well as to point out mistakes.

The country has been turned to war production at a strikingly increasing pace. A magnificent army has been built up, splendidly trained, well-equipped. Our great navy, with constant additions turned out far ahead of schedule, has shown what it can do in the Pacific without weakening the convoy of men and munitions to all parts of the world. Strikes have been held at a minimum. Public order has not been threatened, and civilian institutions have been maintained. While the cost of living has increased in this period of enormous expansion, unprecedented in the history of the world, the increase has not been dangerously extensive if we prove able to hold the line. These are the achievements of no single group--management, labor, government and the people

everywhere have pulled together. Certainly the results do not indicate that any sweeping criticism of government, which conceived and directed the program, is justified by the facts.

I am tempted, therefore, to think that we are in a transitional stage of the War. Immediately after Pearl Harbor politics were pigeon-holed (it was said for the duration), the President got everything he asked for, Congress and the States did not oppose but insisted on comprehensive executive action. But then the manpower pinch was not felt; food was plentiful; inflation had only begun to look over the horizon. Today we are in the middle period, the period of irritation, of revolt against the inevitable change in our standards of living, necessary if we are to win, of criticism levelled at every mistake, however inevitable. The air is full of charges and counter-charges, so that sometimes we wonder where the War is being waged. The third stage of the War has not yet begun. I mean the period when we shall have learned to accept the controls we have imposed on ourselves. It will take time to rectify our mistakes, to integrate the different programs, to have them understood and adopted. Such a unity has been achieved in England, but only after several years of experience of war. This is a larger country, younger and therefore with a shorter national tradition, with mixed bloods, greater in population as in territory. Yet what we have done in a year encourages the thought that the problems which seem so difficult now will prove soluble before very long, that the final great effort will find us united and determined, not only to win-- that we are--but to forego the recriminations and the squabbles that sap our strength and consume our time.

Only when we have reached this final stage of concerted effort shall we fully perform our duties to our country and our cause. For as

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Woodrow Wilson reminded us, speaking on a May evening twenty-five years ago, we have two duties:

"The first duty is to win the war. The second duty, that goes hand in hand with it, is to win it greatly and worthily, showing the real quality of our power not only, but the real quality of our purpose and of ourselves"