
THE LAWYER
IN GOVERNMENT SERVICE

Address by

STANLEY REED
ASSOCIATE JUSTICE, SUPREME COURT OF THE
UNITED STATES, RETIRED

at the

DEDICATORY CONFERENCE ON
"THE PUBLIC SERVANT"

THE LAW SCHOOL
THE UNIVERSITY OF CHICAGO

OCTOBER 8, 1959

That ours is a government of laws and not of men has been a truism of American life at least since the statement appeared in the Bill of Rights of the first Constitution of Massachusetts. Because it is a government of laws, the rights of the citizens are protected from unauthorized acts of the Executive. Because the Constitution bars impingement on personal rights, our Congress legislates within its limits. Similar rules govern state action. American judges determine the application of our laws. Hardly a social or economic question escapes legal examination and it is not unusual to see certain religious problems submitted to legal analysis.¹ A cynic might assert ours is not only a government of laws but a government of lawyers. The quality and character of government lawyers means much in successful administration. This is well understood. In the preparation of this paper I have received most helpful suggestions and comments from the heads of numerous federal departments and agencies, as well as from many of my friends who are interested in the maintenance of a high standard of government legal service.

Through our guarantees of liberty, the people find protection against the arbitrary powers of legislative bodies or administrative agencies and their personnel. Since neither constitutions nor statutes are self-executing, their interpretation and construction falls into the hands of the lawyers in government either before or after the administrators have applied them concretely to particular situations. This responsibility calls for intellectual integrity and loyalty to the important function lawyers perform in government. He must be a lawyer, not merely an employee of a government.

Since many of our laws put wide discretion into the hands of the Executive, the government lawyer must approach his duties with an understanding of the spirit as well as the letter of the law. The calculated risks of

See footnotes on pp. 18, 19.

business judgments are not for him. The satisfaction of his own social or political theories of course ought not to warp his conclusions as to the law. His responsibility for the successful functioning of government is great but others share the burden of proper administration. But in the sphere of legal guidance from the drafting of proposed legislation and construction of its scope to the arguments before the tribunals, duties rest upon him that are of first importance in the successful conduct of our governments—state and national.

In many respects the work of the government lawyer differs little from that of his civilian brother. He has an advantage in that he need not busy himself in securing an adequate clientele to keep him occupied. There is work enough to occupy all his time.

Just as our proper comprehension of international political problems is furthered by first-hand acquaintance with the social and political institutions of other countries, so an understanding of the political evolution of the United States is furthered by personal experience in government. The lawyer in public and private practice, salaried or independent, must comprehend the fact of changes in the law, even though the causes of these changes may be hard for him to appreciate or accept. Government service will give him this opportunity. Law, governmentally enforceable rules controlling the relations of man with his fellows, changes with society and lawyers must use every means to anticipate these changes, for service to clients and for sound administration.

Our governments have drawn heavily on the legal profession, not only to fill the ranks of government lawyers proper, but also to man the administrative posts, legal and non-legal. Throughout our history the highest places in the state and national governments, legislative and executive, as well as judicial, and in the municipalities, too, have been efficiently manned by lawyers. I need not call a roll here. We have come to look upon that as a normal result of their training in law, which covers a

large part of the field of political science. It may be, as Mr. Justice Frankfurter has suggested, that their success is because they are experts in digging out the relevant facts creating problems and acting disinterestedly to eliminate or improve the hurtful situations.² Government needs modern scientific management just as much as business.

The government lawyer, no matter whether the unit he serves is a small municipality, a county, his state or the Federal Government, obtains unique opportunities for broadening his interests. Over his desk flows a stream of legal problems that cover the human activities of his area. However minor his position, his work will almost certainly bring him into contact with associates and the public more widely than a comparable position with a firm or through his private practice alone. Few people hire lawyers they don't know directly or indirectly. He has the satisfaction, with quite a chance for criticism it is true, of receiving recognition of his services. Even though he is a law clerk in a large agency, his associates come quickly to recognize the efficient lawyer. Although at first he deals with unimportant matters, the bureau chiefs and fellow-workers are quick to recognize ability to perform tasks. That information spreads rapidly.

The problem of pay cannot be overlooked. I shall confine my comments on that essential factor in governmental service to the Federal Government. The pay scales of other units are of such variety, that analysis is impracticable. The Presiding Justice of the Appellate Division, First Department, New York, for example, receives \$38,000 per year, while there are several Attorneys General of States paid at the rate of \$7,500 per year.³ The scale of pay for Assistant and Deputy Attorneys General runs as low as \$4,000.

Laying aside the federal legal positions, such as Attorney General of the United States and the other positions with salary fixed by Congress, legislation has fixed compensation for services, including legal, under a Gen-

eral Schedule, into eighteen grades,⁴ according to the responsibilities of the various positions. The lowest classification for a lawyer entering the federal service is ordinarily G. S. 7—\$4,980 per annum—but a number of agencies take only those who can qualify in higher grades. To these salary rates there should be added the fringe benefits of retirement and group health insurance. The latter will become more valuable on July 1, 1960, on approval of Senate Bill No. 2162, an Act to provide a Health Benefit Program for Government Employees.⁵ A number of classified attorneys such as Deputy General Counsel are in G. S. 17—\$15,375 to \$16,335. One deputy is in G. S. 18—\$17,500.

For comparison with earnings of lawyers in private life, both salaried corporation lawyers and lawyers in general legal service, one may use the last applicable survey of the Department of Commerce, based on the year 1954.⁶ Without consideration of fringe benefits, this survey shows, Table 1, that lawyers with salary only, average \$10,381 net, and the median lawyer, that is, the man earning the middle salary between the highest and lowest, averages \$8,442, net. The median in the non-salaried group was \$7,382, the average \$10,258. Table 9 shows civilian non-judicial government lawyers—all governments, state, federal, municipal—averaged \$7,915. Their median member earned \$7,578. This exceeded both the median lawyer and the average lawyer drawing a salary from law firms only. That average was \$7,786, his median \$6,774. I would presume averages and medians in the major cities would exceed the national average and that the average earnings of federal lawyers exceeded those of state and municipal.

Earnings are not given in the Commerce report for government lawyers by age groups, but there is a table, No. 13, showing that the average earning for ages 25 to 29, salaried, is \$5,641, and the median \$5,460. This seems about on a par with the entrance government salaries.

When we consider the later years in government work, a difficulty develops. It gives rise to dissatisfaction in the government legal personnel and is a major cause of loss by the Government of numerous skilled lawyers. It arises thus, as expressed in 1952 by the Honorable Peyton Ford, former Deputy Attorney General:

“Lawyers of ability who show talent, imagination and willingness to work should find promotional opportunities in the Government excellent. A young man with ability can, within a relatively brief period, reach a salary higher than he could command at the time in private practice. The real drawback is that when such an individual is at or near the top Government salary (i. e., in the vicinity of \$10,000), his monetary possibilities in the Government thereafter are practically nil, unless he attains a Presidential appointment.

“Many lawyers, after they have obtained the maximum salary and have held it for a number of years, leave the Government for employment with private law firms or business, or to practice on their own. They find that the experience that they have gained in Government has equipped them very well for the type of activity that they thereafter perform on the outside. This is especially true where a lawyer has been engaged in the work of a highly specialized agency dealing with problems that are of major importance to large business interests.”⁷

One of the departmental general counsels writes me, “In most geographic areas, the entering salary for young lawyers compares favorably with that in private practice, but as they gain experience in the Federal Service, the salary of their counterparts in private practice frequently is markedly better.” These differences are greater when one compares government pay with that of the twenty leading firms in New York and Chicago, but such openings are only for law review editors.

It is unfortunate for the Government that legal personnel leave the Government. But there are compensating incidents. It places in private practice a group of men experienced in the routine of government legal work to convey to business and the public an understanding of the purposes, practice and policy of the Government toward their respective industries. Such contacts cannot fail to help business understand that Government does not seek to interfere with management, but only wishes to see that its necessary activity is carried on within the bounds of regulation for the public welfare.

Government's contribution of legal talent to private industry is by no means a one-way street. For its higher grades of attorneys, the Government is constantly drafting men at lesser compensation that have been schooled in private practice. Only recently William D. Mitchell, Homer Cummings, Robert H. Jackson, to name only those deceased, have undertaken the Attorney Generalship after distinguished careers at the Bar. Mr. Baker, Mr. Stimson and Mr. Hughes, under similar conditions, as did many others, brought talents developed at the Bar to public service.

I quite agree with Civil Service Commissioner Leonard D. White that younger well-trained men of 25 are better in government than those who "have failed to achieve success in the competitive world, and who in middle life seek refuge in the official world."⁸ Indeed, one of the threats to admission to government legal employment is that middle-aged men seeking "security" will be admitted in numbers beyond a desirable proportion to fill the positions that can be done as well by the lowest 20% of law graduates as by the highest.

One has to be careful, however, not to raise scholastic achievement too high or men most capable in leadership qualities other than high scholastic standing will be eliminated. Government like business has a place for all but the sluggard.

Salary and security are, I think, only minor determining factors in bringing men into government legal service. It is the hope for stimulating contacts, broadening legal experience, training in special fields of law. A lawyer's education calls for a lifetime of study. As expressed by a youngster who has just chosen a government lawyer's career, "You will discover a unique opportunity to become associated with an old established and distinguished law firm whose rich variety of practice demands the highest degree of competence and challenges the sternest skills of the legal profession."⁹

In weighing the advantages of government service, the lawyer young or mature must not overestimate the value of the experience he will have. Specialization can have a shriveling effect if the victim does not use care to keep his interests fresh in broader fields. One, all of whose time is spent in helping solve the legal difficulties of agricultural loans to farmers, may develop myopia to the broader demands of justice. A little bit of luck, as in all careers, is needed to have the most interesting opportunities.

If one determines he desires a governmental legal career, his next step is to secure admission to those ranks. For information of that type the candidate might well start with the booklet issued by the American Bar Center in Chicago, American Law Student Association, "Federal Government Job Opportunities for Young Attorneys," March 1958. It contains a published list of openings in the Legislative and Executive Branches. There are also sources of information for the older men. Information as to state opportunities varies with each state and county. For young men thinking of federal employment, the various departments and agencies during the last 10 or 12 years have initiated visits to law schools in the Association of American Law Schools to interest the students in the first 10 or 20% of the class in becoming government lawyers. This is considered a highly successful experiment. The Department of Justice has its Honor Student

openings which have yielded good results in the view of the Department and of other agencies.¹⁰ Some agencies take law graduates before their admission to the Bar in G. S. 5 at \$4,040. They are raised to G. S. 7 at \$5,000 on admission.

What is a choice agency to work for is a matter of individual preference. In this day of specialization an attorneyship with an agency of specific regulatory power is attractive, *e. g.*, N. L. R. B., Federal Power or Federal Communications Commission. Advancement is usually more rapid in a new agency with expanding powers like the Atomic Energy Commission of the past decade. One interested in litigation considering the choice of an agency should also consider whether it is an agency that has abundant litigation like the N. L. R. B. or whether its cases are handled by the Department of Justice.¹¹ The question of the most efficient way to handle government litigation by the agency involved or by the Department of Justice will never be finally settled. Of course the Attorney General, as head of the Government's legal system has a broader view of government plans, but on the other hand, individual agencies know more of their individual problems. While there are certain regulatory statutes on the problem of representation, the Attorney General normally is and should be the determining voice as to the handling of litigation. That office can secure assistance from the staff of the respective agencies and thus combine an understanding of broad legal policy and detailed knowledge of regulatory needs.

For admission to federal legal service, a standard Civil Service examination is not necessary. Attorneys as a group are excepted from the competitive Civil Service.¹² This accords with the English system of selection, under which the emphasis in the selection of government lawyers is placed on techniques other than written competitive examination.¹³ Both the English and American systems are in sharp contrast to the French practice, where examinations are utilized for selection of both government legal

personnel and judges. One set of examinations is used for the selection of the judiciary. Successful candidates are placed directly as a judicial officer in the lower courts.¹⁴ Under a reform recently instituted by the De Gaulle government a small percentage of judges will be recruited from outstanding members of the legal profession without competitive examination.¹⁵ Another examination is for selection of the highest class of government administrators, including the members of the Conseil d'Etat, the highest administrative body in the French Republic. The examinations are highly competitive and call for exceptional capacity in the student to reach the higher levels in the examination. Successful candidates for this examination, about 60 to 75 each year, are admitted to the Ecole National d'Administration, where they undergo a remarkably broad three-year course.¹⁶ It is at the end of this course of study that the candidates are graded and selected for particular positions. While this system ensures a government legal service of exceptional intellectual talent and uniquely broad training at the highest echelons, it tends to constrict the paths to the top and feeds a sense of frustration in the middle grades.¹⁷ In our governments, where leadership is important to secure needed adjustments, we might lose too many able contributors to sound administration.

Here various methods for employment are followed. In the States with civil service, usually some must take those examinations, while in those same States many of the attorneys are appointed by the Attorney General.¹⁸ A recent study, *The Lawyer in Michigan State Government*, gives an outline of that State's entrance and appointment procedure. It is an oral interview and an experience evaluation by the staff of the Civil Service Commission and two private lawyers.¹⁹ This type of examination is widely followed.

In the Federal Government attorneys are in Schedule A. This removes attorneys from the list of government positions which must be filled by competitive Civil Service

examinations.²⁰ It leaves the various agencies and departments generally free to choose attorneys according to their own views as to efficiency. A few examples will show the current practice. One department recruits at entrance levels and promotes for merit. They "have been able to maintain the high quality of the staff by recruiting from the upper quarter of the graduating classes." One difficulty it has, they cannot get recruits from west of the Mississippi. It is thought, in this day when the family goes to law school, that the cost of removal is the stumbling block. Another important agency maintains an eligible list created by names recommended by law schools and members of their staff as well as applicants. I quote their General Counsel's explanation as to final choice.

"When an opening develops, the applications of those who appear to be most qualified for a position at the level of the opening are reviewed by an Associate General Counsel experienced in personnel matters. The applicants then determined to be most qualified are interviewed by myself and the Associate General Counsel. The ultimate selection of the man for the job is based upon the impressions created in the interviews, his apparent qualifications as listed in his application, the nature of the recommendations which accompany his application and his relative merits as compared with other applicants for the position."

Another important agency selects as follows:

"In practice, all lawyers appointed to positions up to Grade 13 in the Commission are initially interviewed and evaluated by a rating board composed of lawyers representing the different bureaus and offices employing legal personnel. Appointments then are made from the top of the register maintained by the board."

An agency with a medium size roster of attorneys, around seventy, uses this routine:

“Upon receipt of an inquiry, we afford an opportunity for personal interview. Then, if there is mutual interest in an employment relationship, we administer a written examination developed for use in the Office of General Counsel of this Department. The passing of this examination is an essential qualifying factor. Our decision to employ is then made on the basis of the candidate’s performance on the examination, his scholastic record and experience, and our over-all appraisal of all relevant factors.”

My personal experience with employment of legal personnel for federal work ended over 20 years ago except for the annual choice of my law clerks at the Supreme Court. As General Counsel for the Federal Farm Board, I had only three or four legal aides. A lawyer, a specialist in cooperative marketing, was chosen from the Department of Agriculture. Two or three others were fledgling lawyers just out of law school. Each one was entirely satisfactory and all have achieved notable success in legal or business careers. As General Counsel of the Reconstruction Finance Corporation and Solicitor General, I was given *carte blanche* to choose my associates. Those years were during the Great Depression when the excitement of the Washington scene drew the top students of the leading law schools. The names and grades applying then were an embarrassment of riches. Depending upon a personal interview but more upon the recommendations of the various faculties and the personal acquaintanceship of my trusted associates, the results of the choices were, avoiding the superlatives which I really feel, “satisfactory.”

There are certain other legal positions in the Federal Government that offer great opportunities for service which are not in the judiciary though requiring all the qualities of a judge, plus those of an executive. I refer to the positions of examiners under § 11 of the Adminis-

trative Procedure Act of 1946.²¹ Appointment, promotion and separation are subject to C. S. C. regulation.²² Examiners are selected by non-assembled examination (*i. e.*, on the basis of submitted histories and experience rather than by a written examination). Present qualifications call for six years experience as a judge or state administrative examiner or as an attorney in practice with experience in administrative law.

The legislation for hearing examiners which has done so much to systematize administrative procedure was a product of the work of the Attorney General's Committee on Administrative Procedure under the able chairmanship of Dean Acheson.²³ The report was one of the results of the interest Attorney General Cummings took in improving procedural aspects of the law during his long tenure in office.²⁴ It will be recalled that Mr. Cummings also took an active part in securing the legislation authorizing the adoption of the Federal Rules of Civil Procedure.²⁵ These improvements are outstanding examples of the part a government lawyer can play in the improvement of the functioning of the procedural phases of government.

The government lawyer, once admitted to the service on whatever level and in whatever agency, will begin to think as to whether he will make government service a lifetime career or a period of further preparation for the legal service—industry, politics, or the judiciary. One sees all types. Those who sedulously devote themselves to the work at hand will find a satisfactory career in government service, with retirement benefits of about the same amount as their brother lawyers on salary. Quite possibly offers will come to them from outside. If consideration is to be given to openings in established private firms, it is well to remember that as the years go on such entry is more difficult. This is because a firm hesitates to take in an outsider ahead of its own established personnel.

Chiefs of the legal divisions of the various agencies are keenly aware of the problems of recruitment and permanency for their staffs. Only one out of some thirty voiced the view that the dilution of quality by inaptitude was serious. The annual turnover of legal personnel in the Government does not seem to me excessive. The Department of State has the lowest of which I know, about 4%. The average appears to be about 10%.

A legal division might do a better job if it were entirely independent. If the chief could hire, pay and fire legal personnel like a private firm, the result might be beneficial but I do not think so. The legal division does not have that ultimate check on its operations that puts a final test on the private firm—is it a profitable enterprise? It is an instrument of public service and can effectually carry out its reason for existence only as it cooperates efficiently in government. It approaches more closely the legal division of large companies—insurance, banks, railroads. Constant adjustments must be made.

Over 20 years ago, President Roosevelt appointed a Committee on Civil Service Improvement. While its major interest was the lawyer in government, its work covered recruitment and promotion in general. The President wrote the Committee explaining its purpose thus:

“The growing complexities of modern Government require the development of a trained personnel of men and women of outstanding ability, resourcefulness, method of mind, character, willing to devote themselves, their lives to public service. Upon the development of such a personnel the future of our democracy may to no small measure depend.”²⁶

These “growing complexities” had already called forth in England the book *The New Despotism* by Lord Hewart stressing the danger of leaving the development of law to agency rather than parliamentary rule. Time has added in our country more of the regulatory and administrative agencies.

So far as the selection of the government lawyer is concerned the President's Civil Service Committee suggested an unwritten examination with evaluation of the candidate's law school record, and one unranked register for all agencies.²⁷ This plan was adopted by Executive Order No. 8743 in 1941.²⁸ The plan functioned reasonably well.²⁹ However, Congress reached the conclusion that a general register for applicants after such screening was unwise and terminated it for the present methods in 1944.³⁰

The administrative process will continue to change but always good lawyers will be needed. The training from a recognized law school, the class record of achievement that is thus available, the granting of a degree, and the admission to the Bar in States with the requirement of an adequate examination give reasonable assurance of preparation for government work. A six-months temporary appointment before making the connection permanent might well follow the evaluation of personality and legal qualification by the head of the legal division or his board of selection.

To avoid the inconvenience of centering procedure in Washington, I have heard no better suggestion than the method used by the Board of Law Examiners in the examination of applicants for the Lawyers Register following the Report on Civil Service Improvement referred to above. That was as follows. There were 26,000 applicants, some 13,000 actually took the examinations for the lower grades:

“The register results from a Nation-wide competitive examination. The examination has consisted of a written test which was taken by 13,282 lawyers on September 26, 1942, followed by oral interviews which have been accorded to those whose grades upon the written test were sufficiently high. These interviews have been given in the several States by examining boards composed of representative members of the profession who, because of their interest in the

Government and in the legal profession, have served as volunteers at the request of the Board. By this means the opportunity to participate fully in the examination has been made available to lawyers everywhere with a minimum of travel on their part, and the final selection of those to be included upon the register has turned largely upon the judgment of carefully chosen lawyers in the applicants' own States.”³¹

There may be an opportunity to return to some similar system of selection for the lower ranks of federal attorneys. A bill is pending in the present Congress, S. 600, for the establishment of a Legal Career Service which provides for uniform procedures for examinations and a general register. It has the approval of the American Bar Association.

The Commission on Organization of the Executive Branch of the Government supports this.

“An Office of Legal Services and Procedure in the Department of Justice should administer the legal career service. That Office should conduct recruitment of applicants for appointment to the lowest attorney grade classification for all departments and independent establishments. Substantial economies can be gained by eliminating recruitment of attorneys by each agency. The names of attorneys found qualified for appointment to the legal career service should be entered in a register maintained by the Office of Legal Services and Procedure. Appointments at the entry level should be made exclusively from that register. Appointments to grade classifications above the entry level may be made by agencies by promotion of their own attorney personnel, by hiring attorneys from other agencies through the Office of Legal Services and Procedure, and by direct employment from the register maintained by the Office of Legal Services and Procedure.”³²

It is only through the maintenance of a capable corps of government attorneys that we can maintain at high efficiency the complex modern governments with their problems not only of maintaining order in the criminal field, but also orderly functioning in the administrative field, regulatory and punitive. The delays in the judicial system are recognized. Steps are being taken by the Judicial Conference of the United States, presided over by Chief Justice Warren and working through the Administrative Office of the United States Courts, to improve judicial efficiency. This extends also to agency procedures. Week before last, September 24, 1959, in speaking to the Annual Convention of the Federal Bar Association, the Chief Justice announced that the Judicial Conference of the United States, in their 1959 meeting, had approved the proposal for a Conference on Administrative Procedure "to promote efficiency and economy in the administrative process." This action emphasizes that Conference's continued and increasing interest in improvement of judicial and administrative procedure.³³

All of us know that this same delay exists in Hearings before the administrative agencies, state and federal. It was called sharply to the attention of the ABA at Miami recently by Member Hector of the Civil Aeronautics Board, and he followed up his analysis of current delays by a memorandum of suggestions to the President. If clear-cut policymaking by the Boards with sharp separation of the adjudicatory functions could be accomplished, the success of such plans will depend upon the interest and capacity of government lawyers.³⁴

There will always be ways to improve the service government lawyers perform. One General Counsel of a large Department thinks:

"There is a great need for a central personnel office in the Government, not to dictate to the Chief Legal Office whose duties are to hire and fire, but to help the Chief Legal Officer recruit as a service to them;

and also to advise job seekers where to go and to facilitate the filling out of personnel forms. This Central Personnel office can only work on the theory of service to the Chief Legal Officer. It would never work if it tried to dictate to a Chief Legal Officer whom he should hire and how.”

Several maintain their own “register.” One or two want more freedom in promotion. They feel promotions should depend on the judgment of the general counsels, not the Civil Service Commission or even the heads of their own agency. For example, one legal head says, “It is a fundamentally difficult situation to have a layman evaluate the work of a lawyer.” Another wants competitive Civil Service examinations. Another would like to have larger representation from the South in its legal division. But the most frequent recommendation is to increase the salaries. This also has the support of the Hoover Commission.

“There are only 75 supergrade attorney positions now available for the more than 5,000 lawyers in the executive branch, exclusive of the Department of Defense. Except for these 75 positions, the highest salary that a lawyer can look forward to is \$11,800 a year. Highly qualified attorneys are deterred from entering and remaining in Government service by so low an economic ceiling.

“. . . The task force believes that, while financial rewards to attorneys at the lower levels of Government service may be adequate, there must be substantial increases in salaries at the higher levels.”³⁵

It may well be that increased salaries will draw into and keep in the service of the United States better lawyers. Salaries that will allow a family health, recreation, education of children, and a pleasant home are essential. But government salaries for lawyers will not reach such heights as to rival the earnings of successful corporate counsel or

general practitioners in metropolitan areas. Lawyers of that quality and experience in government work must get a part of their reward from the inner satisfaction of service to the Nation.

“If the various agencies of government—in state and nation—could command a few years of the lives of the best of our profession, great progress in the art of government and in an understanding of the problems of government by the bar would be made.”³⁶

The lawyer with an ambition to serve his country receives recognition from the public. There is a distinction in government work that has always drawn fine and able men of the Bar. As long as service to others remains the ideal of humanity, we shall have an adequate supply of competent lawyers interested in performing their obligation to their generation on the rolls of government lawyers.

FOOTNOTES

¹ See *McCollum v. Board of Education*, 333 U. S. 203; *Zorach v. Clauson*, 343 U. S. 306; *Kedroff v. Saint Nicholas Cathedral*, 344 U. S. 94.

² Government Lawyer, 18 Federal Bar Journal 24; Personal Ambitions of Judges, 34 ABA Jour. 656, 747.

³ Council of State Governments, The Office of Attorney General—Personnel and Financing (1956), p. 18.

⁴ 5 U. S. C. § 1113.

⁵ See Public Law No. 382, 86th Cong., 1st Sess.

⁶ 36 Survey of Current Business (December 1956), p. 26.

⁷ Ford, The Government Lawyer (Prentice-Hall, 1952), pp. 19–20.

⁸ Quoted in “The Young Men go to Washington,” Law and Politics by Felix Frankfurter, p. 248.

⁹ Larkin, Why I Became an Army Lawyer, The Student Lawyer Journal, October 1958, pp. 6, 25.

¹⁰ See Bransdorfer, The Attorney General’s Honor Program, 45 ABA Jour. 58.

¹¹ Swisher, Federal Organization of Legal Functions, 33 American Political Science Review 973.

¹² 5 CFR § 6.101 (d) (Supp. 1959).

¹³ See Critchley, The Civil Service Today (1951) 45; Monck, How the Civil Service Works (1952) 39–40; Wade and Phillips, Constitutional Law (5th ed. 1955) 173, 177, 244.

¹⁴ See Schwartz, French Administrative Law and the Common Law World (1954) 56-57; Abraham, Courts and Judges (1959) 9.

¹⁵ Notes et Etudes Documentaires, No. 2.527, 2 Avril 1959, La Reforme de la Justice Francaise de 1958, p. 8.

¹⁶ On the French selective process, see Ecole Nationale d'Administration, Recruitment and training for the higher civil service in France (1956); Chapman, The Profession of Government (1959) c. 2.

¹⁷ See Chapman, The Profession of Government (1959) 92-94, 124.

¹⁸ See The Office of Attorney General, *supra*, Table 4.

¹⁹ Pages 37-38 of the study.

²⁰ 5 CFR § 6.101(d) (Supp. 1959).

²¹ 60 Stat. 244; 5 U. S. C. § 1010.

²² 5 CFR, pt. 34 (Supp. 1958).

²³ Final Report, January 22, 1941, p. 196.

²⁴ Final Report, Appendix A.

²⁵ Swisher, Selected Papers of Homer Cummings, p. 181 *et seq.*

²⁶ Quoted by Mr. Justice Frankfurter at the Annual Dinner of the Federal Bar Assn., September 21, 1957. Stenographic transcript, Ace Reporting Co., Washington, D. C.

²⁷ President's Committee on Civil Service Improvement, H. R. Doc. No. 118, 77th Cong., 1st Sess., p. 35 *et seq.*

²⁸ 6 Fed. Reg. 2117.

²⁹ See H. R. Rep. No. 206, 78th Cong., 1st Sess., on H. R. 1025, and particularly the testimony of Solicitor General Fahy, the Chairman of the Board.

³⁰ 90 Cong. Rec. 2659-2662.

³¹ H. R. Rep. No. 206, 78th Cong., 1st Sess., p. 3.

³² Commission on Organization of the Executive Branch of the Government (Hoover Commission), Task Force Report on Legal Services and Procedure (March 1955), pp. 13-14; Hoover Commission Report to the Congress (March 1955), pp. 18-19.

³³ See Procedure in Anti-Trust and other Protracted Cases, a Report adopted by the Judicial Conference of the United States, September 26, 1951; Report of the Committee on Practice and Procedure in the Trial of Anti-Trust Cases, ABA, May 1, 1954, with bibliography; Trial by Agency, E. Barrett Prettyman, Va. Law Review Assn., 1959.

³⁴ See The New Critique of the Regulatory Agency, Remarks to Administrative Law Section, ABA, Miami, Florida, August 25, 1959; Memorandum to the President on Problems of the CAB and Independent Regulatory Commissions, both by Louis J. Hector.

³⁵ Task Force Report, *supra*, pp. 12-13; Hoover Comm'n Report, pp. 21-22.

³⁶ This was a suggestion of Mr. Justice Douglas to the Texas Bar Association in 1940. 26 ABA Jour. 633, 635. See Kendall, The Lawyer in Politics and Government, 6 Fed. Bar News 274.