The Federal Civil Service for Lawyers

Ralph F. Fuchs

Indiana University School of Law

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The Federal Civil Service for Lawyers

By RALPH F. FUCHS *

I

The comprehensive civil service system which now exists with respect to substantially all of the legal positions in the Federal Government commenced operation slightly more than two years ago. Some of its features are of interest primarily from the standpoint of public personnel administration; but others have significant implications for legal education; and the examining methods which have been employed relate closely to the problems of bar examining. I shall stress the latter aspects of the legal civil service in this talk; but it is necessary to begin by sketching briefly the history and general outlines of the scheme that has been established.

The enlightened thought of individuals and groups in the legal profession, as expressed by the American Bar Association and other organizations, has for a good many years advocated the establishment of the merit system for legal positions at all three levels of government in the United States, national, state, and local. In 1937 the President’s Committee on Administrative Management recommended that those legal positions in the Federal Government which were then excluded from the competitive civil service, together with other excepted positions which were also excluded, should be brought under an enlarged and improved merit system. As a result, the President on June 24, 1938, issued an Executive Order which brought these positions into the competitive civil service as of February 1, 1939. Objections arose, however, from agencies employing approximately 72 per cent of the Government’s lawyers, to the inclusion of their legal positions within the competitive civil service if this meant the application of then-existing civil service methods to the selection of legal personnel.

In deference to this opposition and in recognition of the need

* Executive Secretary, Committee on Legal Personnel, and Chief, Legal Examining Section, United States Civil Service Commission. Address given before the Section on Legal Education of the American Bar Association and the National Conference of Bar Examiners, Chicago, Illinois, August 24, 1943.
of special attention to the problems of civil service administra-

tion in relation to professional and higher-grade administrative

positions generally, the President issued another Executive

Order on January 31, 1939, suspending the previous Executive

Order with respect to approximately 4,500 positions of this

character, of which some 2,500 were legal. The Order also

established the President's Committee on Civil Service Im-

provement, which was charged with making a comprehensive

study of civil service methods for the positions to which the

Order related. The Chairman of the Committee was Mr. Jus-

tice Stanley Reed and it had as its other members Mr. Justice

Frankfurter, Attorney General Murphy, Mr. Gano Dunn, Mr.

William H. McReynolds, Dr. Leonard D. White, and General

Robert E. Wood. Later, when the present Mr. Justice Jackson

became Attorney General, he was added to the Committee.

The "Reed Committee," as it came to be known, rendered its

report in February, 1941, making separate recommendations

with respect to the several classes of positions with which the

Committee's studies had been concerned. The Committee was

divided in its recommendations with regard to legal positions;

but four of its members, Mr. Justice Reed, Mr. Justice Frank-

furter, Attorney General Jackson, and Mr. Wood, joined in

recommending the plan which has been given effect in the

present system. This plan was adopted in Executive Order No.

8743 of April 23, 1941, which again brought numerous ex-

cepted positions into the competitive civil service and made

specific provision for the administration of the civil service as

applied to legal positions, including both some 936 positions

which had previously been under civil service for varying

lengths of time and approximately 4,500 positions newly

brought in. Included in the latter group were both those whose

inclusion had been delayed pending the "Reed Committee"

report and an additional number which had previously been

excepted by statute but which the so-called "Ramspeck Act" of

November 26, 1940 had in the meanwhile empowered the

President to bring into the competitive civil service. The As-

sistant United States Attorneyships and positions in the Federal

Bureau of Investigation and the Tennessee Valley Authority

are the principal ones still excluded from the system.
Mr. Justice Reed and his associates who drew up the plan which was adopted felt that "close contact with the profession and the needs of the law offices of the Government" were "necessary for effective selection of legal personnel," since the "experience and wisdom of both the [Civil Service] Commission and the legal profession" would be needed to solve the theretofore unanswered problem of satisfactory personnel administration in the legal field. For the purpose of establishing this desirable professional contact and participation, the plan included a recommendation for a Committee on Government Lawyers, composed of high-ranking Government law officers, law school representatives, and private practitioners, which should have power in conjunction with the Civil Service Commission to administer the examination for legal positions. It was stated in the plan that "The precise composition of the Committee, its specific functions, and its relations to the Civil Service Commission . . . should be the result of several years' experimentation."

Responding to this recommendation, the Executive Order established the Board of Legal Examiners in the Civil Service Commission, "to promote the development of a merit system" in respect to civil service attorney positions and to determine, "in consultation with the Civil Service Commission" the "regulations and procedures . . . governing the recruitment and examination of applicants for attorney positions, and the selection, appointment, promotion, and transfer of attorneys" in the competitive civil service. The Board was given a membership of eleven, including the Solicitor General and the Principal Legal Examiner of the Civil Service Commission ex officio, five other members drawn from the Government, two law teachers, and two attorneys engaged in private practice. Solicitor General Biddle was the first Chairman of the Board, when he became Attorney General he was succeeded as Chairman by Solicitor General Fahy, who had been a member of the Board from the beginning. By an amendment to the Executive Order in July, 1942, the number of Government members on the Board was decreased by one and the number of private practitioners was correspondingly increased. The vacancy left by the Attorney General was then filled by the appointment of Mr.
Walter P. Armstrong, the retiring President of the American Bar Association, who had displayed great interest in the work of the Board and who then became an active and valued member. The other members, who have served continuously from the beginning, have been Mr. Marion Smith of Atlanta, Georgia, Mr. Philip J. Wickser of Buffalo, who has for many years has been Secretary to the New York State Board of Bar Examiners, Dean M. T. Van Hecke of the University of North Carolina, Professor Paul Hays of Columbia University, Under Secretary of the Interior Abe Fortas, Commissioner Clifford J. Durr of the Federal Communications Commission, Mr. Gerard D. Reilly of the National Labor Relations Board, Mr. John Q. Cannon of the Civil Service Commission, and Lieutenant Colonel Edward H. Foley, formerly General Counsel to the Treasury Department.

A recent change in the organization of the legal civil service has been occasioned by difficulties surrounding the provision of funds for its work. Feeling that so important an innovation in civil service administration should receive full legislative consideration, the House of Representatives in June, 1942, took the position in a statement by the House members of a conference committee that the provision of funds for the Board of Legal Examiners after June 30, 1943 should be dependent upon passage by the Congress of substantive legislation authorizing such a Board. Such legislation is pending and has been since last January; but its failure of adoption prior to July 1 left the Board without means of carrying on its work. On that date the President, pending final action in Congress upon the bill to authorize the Board, transferred the Board's functions to the Civil Service Commission. As an interim measure the Commission has continued the Board's regulations in effect and has established a Committee on Legal Personnel, advisory to the Commission, upon which the members of the Board have consented to serve. The Commission has also established a Legal Examining Section in its Examining Division, which carries on the actual work of administration. The Executive Secretary to the Committee is Chief of the Section.

In administering the legal civil service system the Board of Legal Examiners and the Civil Service Commission, whatever
the merits or defects of the specific methods employed, have accomplished that union of the experience and wisdom of the Commission and of the legal profession which the Reed Committee envisaged. The Commission's entire organization and accumulated knowledge of examining and personnel methods have been available in the conduct of the work and have been drawn upon. At the same time the judgment of representative members of the profession has entered into all of the determination of policy and into the appraisals of the qualifications of applicants for legal positions and of the incumbents of such positions, which have had to be made in numerous instances. This result has been possible only because of the abundant professional interest and public spirit of members of the bar, which has led them in great number to contribute thought and effort and days of time to the enterprise. The members of the Board itself have served without compensation, attending many meetings in furtherance of the work. More than 300 lawyers, judges, and law teachers throughout the country have served on permanent State examining boards without other reward than the interest of the work and, I hope, a feeling that a worth while contribution has been made. Several hundred others within and without the Government, in cities all over the country, have participated as volunteers from time to time in non-competitive examinations. It is impossible to make adequate knowledge of this aid and support from the profession; but it is safe to say that the Government may rely as fully as it wishes in the future upon the response of members of the legal profession to requests for their responsible participation in civil service administration affecting legal positions.

II

The examining phase of the legal civil service administration has arisen in four different types of operations, namely (1) the authorization of new appointments not made from previously-established registers, or lists of eligibles, (2) the establishment of the first attorney register under the new plan, (3) the determination of the qualifications of incumbents whose positions have been newly brought into the competitive civil service, and (4) the special consideration recently given to proposals for rapid promotions.
Originally it was planned to have the first general competitive examination, leading to the establishment of a register of eligibles for appointment to lower-grade legal positions, take place in April, 1942, so that the register might be available at the beginning of the next fiscal year on the first of the following July. In this way immediate consideration could have been given to the prospective June graduates of law schools, and approximately 1,500 war-time appointments, which it later became necessary to authorize in the absence of a register, would have been made from the eligible list. Uncertainty concerning funds, however, caused the postponement of the register examination until September. In the meanwhile it was necessary to continue for all grades of positions the method of passing upon proposed appointments by means of non-competitive examinations, which had been instituted in the beginning to take care of immediate needs.

During the two-year period prior to July 1 of this year the Board of Legal Examiners authorized 5,363 new appointments to Federal legal positions. Because of a sharp decline in the rate of appointments since the first of the calendar year, only 196 of these appointments during the final five months of the period came from the attorney register after its establishment in February. Approximately 50 such appointments each month are currently being made. The remainder of the appointments just mentioned were authorized after the qualifications of nominees had been appraised by means of non-competitive examinations, given to the individuals selected by the appointing agencies.

All of the appointments authorized since March 15, 1942, have been limited to the duration of the war and six months thereafter, instead of carrying the indefinite tenure which is usual in normal times. Slightly over 4,000 have been of this character. With respect to these it has been possible under the regulations to limit the examination to an appraisal of the individual's record as set forth in the exhaustive application which is required and to a character inquiry, provided the record showed at least five years of substantial professional experience and satisfied an examining committee. This has been done with respect to approximately 60 per cent of the
durational appointments. In other instances, including all appointments made prior to March 15, 1942 except relatively few to the highest-ranking positions, the non-competitive examination has included either the Board's written test of last September, given in lieu of an oral interview, or more typically, an oral examination by a committee of three lawyers. Approximately 1,600 such oral examinations were given during the two-year period in question.

The magnitude of the examining task, indeed the entire scale of operations of the legal civil service system, was enormously enhanced by the war emergency. The number of positions coming under the jurisdiction of the system was increased by about 3,000 to approximately 8,500, and turnover occasioned by the entrance of incumbents into military service added further to the number of appointments. The total of well over 5,000 appointments during the two-year period contrasts with the Reed Committee's estimate that there would probably be around 300 appointments a year to the beginning grades, plus a relatively small number to higher-grade positions. Under war conditions the appointments have been numerous in all grades, and it has become necessary for the examining machinery to provide for the rapid determination of the qualifications of applicants of all ages and degrees of experience. Oral examinations, where necessary, have proven to be an effective instrument for this purpose.

In planning the type of oral examination to be given, the attempt was made from the beginning to test for professional competence, or proficiency, rather than for knowledge of rules of law either in general or in relation to the position for which the individual might be proposed. The appointing agency may be trusted to judge adequately with regard to any special qualifications that are needed in connection with a particular ap-

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[ 57 ]
pointment; and, as a matter of fact, it is the exceptional instance in which a specialist, rather than a competent lawyer who can take 'hold of an assignment, is sought. The purpose of a civil service examination is to gauge the individual's qualifications for positions of a given grade generally, rather than for a particular position in a given agency of Government. It is recognized, of course, that an individual may qualify by reason of his possession of only one of a range of abilities which rarely co-exist in the same person and that he may be fit for some jobs and not for others; but still it is necessary to appraise skills of wide application, whether in trial work, negotiation, or research, rather than knowledge of subject matter. In contrast to bar examinations, which are designed in part to test the adequacy of professional training just completed, the civil service examination is intended as a test of the ability to utilize professional skills, often many years after such legal subject matter has faded from memory through disuse.

In accordance with this theory, the examining committees that have conducted oral examinations have sought to ascertain the proficiency of applicants in legal analysis, their ability in oral discourse, and their effectiveness in achieving professional objectives, rather than their acquaintance with random fields of knowledge. The view has been followed that the degree of the applicants' possession of the foregoing qualifications may be ascertained by questioning them with regard to legal problems which have arisen fairly recently in the course of their professional experience—the cases or projects that have been of greatest interest, the term paper or law review note that has demanded the greatest effort, and so on. It seems evident that a lawyer's competence can be most convincingly demonstrated by the ability with which he expounds a problem upon which he has used his skills and the effectiveness with which he assumes and defends a position in regard to it. Conversely, incompetence emerges most clearly when a lawyer is unable to handle adequately a problem with which he claims familiarity. It follows from what has been said that an oral examination is inadequate if it is limited to producing a recital of the mere facts of professional experience, particularly when these have already been recorded in a written application. The applica-
tion, it may be noted, is always placed in the hands of the examining committee, so that its members may have the individual's background in mind when the questioning begins.

The standard that has been applied in deciding whether an applicant may be approved for appointment has been simply whether he measures up to a reasonably adequate minimum for the grade of position for which he has been proposed, bearing in mind the degree of responsibility and the amount of compensation involved. It has turned out to be both unnecessary and impossible to state the standard more specifically. Rarely do the members of an examining committee disagree upon the proper result. In addition, to prevent injustice and undue variation from committee to committee, the individual who has been disapproved has been permitted to appeal to the Board or Committee in Washington, which usually has the benefit of a stenographic transcript of the original examination. Outright reversals almost never occur, but reexaminations are not infrequently granted.

The number of final rejections in non-competitive oral examinations has been very close to ten per cent of the number examined; but the effectiveness of the system of examinations is not adequately indicated by that figure. The knowledge that nominees may be required to appear for oral examination must have operated in an undetermined number of instances to forestall the proposal of unqualified individuals for appointment. Most of the appointing officers, moreover, have themselves served as examiners on one or more occasions, with the result that knowledge of the requirements which are given effect in the oral examinations has become widespread among Government law officers. In a very real sense the Government lawyers who choose professional personnel have applied civil service standards, as well as their own, in making selections for appointment.

I need scarcely attempt to make more explicit, in the light of the account of the oral examinations that has just been given, how dependent the system is upon the cooperation of the lawyers, judges, and law teachers, both within and without the Government, who have volunteered their time for the purpose of conducting these interviews. In every large city in the country,
as well as in Washington, there are members of the profession upon whom we can and do call and who always respond cheerfully. Undoubtedly there are many more who would gladly do so if we happened to be in contact with them.

III

The Reed Committee report recommended that appointments to the lower grades of the Federal legal service be made from registers of eligibles to be established each year by means of a nationwide competitive examination. The examination was to be given in the spring, with prospective June law school graduates as well as younger members of the bar eligible to participate. The resulting register of eligibles was to be determined in size by the probable number of appointments to be made from it and was to be "unranked," so that all who were listed would be available for appointment from the beginning. There would be no certification in order of rank; but by the end of the year the greater portion of the entire group, constituting the top layer of those who had taken the examination, would have received appointment, after both they and the appointing agencies had been accorded the greatest possible range of choice with regard to the position that each was to fill. The examination itself was to consist of three parts: a written test, which should operate as a "screen," an evaluation of the records of those who could be considered further, and an oral examination of the group from which the final list of eligibles should be selected. For the purpose of making the oral examinations accessible to the applicants the Committee recommended the creation of regional boards of examiners, composed of members of the legal profession, who should examine the candidates from their regions.

This plan was prescribed in the Executive Order establishing the new system and has been placed in effect. An addition was made in an amendatory Executive Order, to require explicitly that the eligibles upon the register be apportioned among the States upon the basis of population, so far as practicable and consistent with good administration. It was also provided that selections from the register should be so regulated as to produce a similar apportionment of appointments so far as possible.
As in the case of the volume of new appointments, the conduct of the competitive examination and the character of the register were greatly affected by the defense and war emergencies. The need to be met by the register became quantitatively greater, so that an eligible list of 2,000 was fixed upon as the goal. Instead of law school students and younger lawyers, most of whom were entering the armed services, older lawyers became the bulk of those whom the Government must seek for legal positions. The war at the same time rendered the idea of public service more attractive to this group.

Accordingly when the register examination was announced it was opened to prospective law school graduates and members of the bar without restrictions as to age. Over 26,000 registered for the examination and more than 13,000 actually took the written test. More than 5,000 secured the minimum qualifying grade or better upon this test, but so many of these were concentrated in a few States that it would have been largely futile to examine all of them orally. Accordingly higher qualifying marks were established in these States, so as to send to the oral examinations twice as many candidates as there were places in the States' quotas upon the register. In some of the other States fewer candidates qualified in the written test than the quotas of these States would have accommodated, even with the addition of some who came within five per cent of the passing mark and whose records gave ground for believing that they might ultimately be included upon the register. All grades of veterans were calculated with the addition of the usual civil service percentage credits. All in all approximately 3,000 were afforded an opportunity to be examined orally. Ultimately 1,856 were listed upon the register; but some who entered the armed forces after the oral examinations may be listed on this or a subsequent register following their return. Others, who left before the oral examination could be given to them, may be examined later.

Because of the numbers involved, it was necessary to devise a written test which could be graded mechanically. Undoubtedly the test that was given represents an enormously significant development in legal examining techniques. It was entirely of the "objective" or "short answer" type, in which the answers
can be recorded by means of pencil marks in printed rectangles upon an answer sheet. Each rectangle represents an alternative answer to a particular question, or "item." Both the item and the alternative answers are printed in the examination sheets with which the candidates are supplied. The candidate demonstrates by his choice of answers whether he has analyzed correctly the material presented or is capable of applying it properly in the solution of a stated problem or is able to identify or relate correctly certain ideas or concepts or facts with which he is confronted.

Probably no one realized how much could be done in the way of testing legal competence by means of devices of this sort, prior to the development of this test. Some experiments along the same line had been conducted by law teachers, following the lead of testing experts in other areas. Indeed, the items upon the attorney examination were largely suggested by law teachers who had worked them out wholly or in part and who supplied them in response to a request. Bar examinations in some states, notably New York, had also made use of similar devices. All of this experience, including especially that of the Civil Service Commission in its testing work, was drawn upon in framing the legal examination. However, the scope of this examination and the richness of its content, as well as the extreme care with which the soundness of each item was checked, were unique; and the resulting product has met with the unstinted praise of almost all who have seen it, including many who participated in the register examination. The only adverse comment has come from some who failed to qualify and who felt quite sincerely that the test called unduly upon the participants' powers of analysis and ability to reason logically under pressure.

The test was composed of 249 "multiple choice" items, contained in four parts. The second and third parts were the legal portion and were of the nature just described. Four hours' examining time was allotted to them. Again, as the case of the oral examinations described earlier, this test was designed to test professional competence rather than knowledge. All of the information required in answering was set forth in the printed questions, and the applicant was required to analyze,
interpret, or marshal it in arriving at his answers. I cannot take
time, nor is oral expression the best medium, for conveying
some of the questions and giving you a more definite idea of
the nature of the test. It will, however, be fully explained in
forthcoming articles by Mr. Henry Weihofen who was in charge
of constructing it, including a brief article in "The Bar Ex-
aminer." Suffice it to say here that, typically, the items required
the application of statutory provisions or precedents to stated
problems.

The first and fourth parts of the written test were each al-
otted one hour of examining time. The first part was a stand-
ard intelligence test containing vocabulary and logic items. The
fourth part had to do with history and current information re-
lating to public affairs. Both of these parts, of course, required
the applicant to possess knowledge as distinguished from profi-
ciency; but only such knowledge as a capable lawyer is reason-
ably certain to acquire in the world of today. It was not thought
that anyone should be able to make a perfect score upon these
parts, but that the ability to make a creditable showing would
be a proper criterion to apply.

The results of the test in distribution of scores led to the
establishment of a minimum grade of 270 out of a possible
409, or slightly over 66 per cent, for determining which candi-
dates should be considered further. In New York the grade
which was used was 331, and in certain other states fell between
these two marks. Obviously the principle of geographical ap-
portionment operated to the disadvantage of candidates in the
States in which the higher qualifying marks were used—a result
which must be justified in terms of a policy of drawing Federal
personnel so far as possible from all parts of the country in
proportion to population.

In order to conduct the oral examinations of those who
survived the written test 98 of the oral examining boards pre-
viously mentioned were established in the several States. The
332 members of the boards include 39 Federal judges and 26
judges of State courts. The remaining members are law teach-
ers and practicing lawyers, a number of whom have been state
judges in the past. Great care was exercised in their selection,
and it is believed that a more representative group of members
of the legal profession could hardly be brought together. They have served devotedly and willingly, sometimes in the fact of annoying delays by the central office in the handling of correspondence with them, which were occasioned by shortage of staff at the time of the greatest load of work.

The oral examinations for the register were conducted in much the same manner as the non-competitive orals previously described, except that means had to be employed for reaching and recording comparative judgments among applicants. To this end a rating chart for each applicant was provided, upon which his written examination grade (augmented in the case of a veteran by the proper percentage credit) was recorded. The oral examining board was asked to rate qualitatively the individual's past achievement as reflected in his application, in a space provided for that purpose, recording whether it was outstanding, excellent, good, fair, or poor for one of his age, opportunity, and length of experience. For this estimate, particularly it was desirable to have the judgment of a local board, familiar with the conditions under which the individual had worked. The board was requested also to evaluate in similar terms the individual's manner, oral expression, and technical proficiency as reflected in the oral interview. Space was provided for comments, and an over-all rating of the individual as a lawyer was requested in the same terms, as well as a specific recommendation with regard to his inclusion or non-inclusion upon the eligible list.

Such an evaluation obviously requires time and care. The several examining boards undertook to examine from four to fifty candidates apiece, depending upon the numbers in their areas. In the populous centers it was necessary to have several boards; elsewhere the members typically lived in different parts of the State and travelled to the meetings. Where this was the case the meetings were often of several days' duration; in the cities it was usual for the meetings to occur intermittently in the afternoons or evenings. The ratings and recommendations, accompanied in many instances by illuminating comments, were supplied in all cases.

On the basis of the recommendations the eligible list was
compiled in Washington. The recommendations were followed except where quota restrictions had not been observed or some special factor led to supplementary correspondence with an examining board. All ratings were checked, however, and the responsibility for the decisions rests upon the authorities in Washington.

Much might be said about the character of the register which was produced under war conditions, but time does not permit my going into that subject except to say that the eligible list is now the exclusive source of appointments to the lower grades of the Federal legal service, carrying wartime entering salaries as high as $3,800; that many of the individuals included are of high caliber; that the list has produced good results in many instances; and that the eligibles possess every conceivable type of education and background. Many of the eligibles have turned out not to be available for appointment at the salaries which prevail in the register grades; but it is also true that roughly one-fourth of the appointments of register eligibles have been to positions in the higher grades, for which the appointing agencies are still free to propose appointments from any source.

IV

I shall not take time to discuss the examinations which have been incident to determining the qualifications of the incumbents of positions brought into the competitive civil service by executive order, or those which have been held in connection with proposed rapid promotions, except to say that they have been of the non-competitive committee type, attended when necessary by oral interviews. The Executive Order which established the Board of Legal Examiners and enlarged the competitive civil service in the manner stated earlier, required also that incumbents should complete non-competitive examinations as a condition of their approval for "civil service status." These examinations have been conducted with the same care as the others. A number of State board chairmen and members have come to Washington at our request as a further contribution to the legal examining work, in order to participate and lend their judgment to this operation.
All of us, and particularly those who are law teachers, are of course interested to a large extent in the implications of the new Federal legal civil service for the work of the legal profession in the future and particularly for the opportunities which will be presented to the oncoming generations of lawyers. Primarily the importance of Government legal work in relation to the other work of the profession will depend upon the extent of governmental functions in the future economic and political order. I cannot prophesy in relation to that, except to state my personal view that, whether we will it or not, the size of the Government legal service is not likely to shrink very greatly after the war. New functions probably will arise as former ones are discontinued. The wartime expansion in regulatory and managerial personnel in the Federal Government has been by no means as great as that of even the civilian personnel engaged in actually fighting the war and in physical production for it; and the contraction in the number of lawyers and others who engage primarily in regulation and control will be correspondingly less. It may be offset entirely, at least over a relatively short span of years, by the creation and expansion of agencies through legislation, carrying forward the same tendencies which prevailed prior to the war.

In the future, therefore, lawyers will look to a considerable extent to Government service as a possible career. If the legal civil service stands and develops along the lines which have been started, the opportunity to enter such a career in the Federal Government will be much more widely and equitably distributed than heretofore, and conditions will prevail in the service which are likely to prove attractive to lawyers of a high type. It should become a central concern of the civil service authorities to stimulate professional esprit de corps throughout the Government and to promote transfers of personnel among agencies which will avoid undue specialization and narrowness of outlook on the part of Government lawyers. The Reed Committee envisaged such a program, but the war has rendered it unnecessary as well as difficult of inauguration at the present time. By means of in-service training methods and of collabora-
tion among Government counsel under the auspices of the civil service system, much can be done in the future.

There has been a good deal of talk in recent years about the possible desirability of specialized legal education for prospective Government lawyers. The legal examining work as well as, I think, the logic of the situation does not point in this direction. The Government needs to draw its attorneys from every geographical and educational source and to judge the qualifications of candidates according to what they can do as lawyers rather than according to what they may have had an opportunity to learn in the way of specific subject matter. This is not to say that legal education should not be changed and improved to meet new needs; but there are needs in every field, not less than in government, which call for improved legal education. The knowledge of government and of the contemporary non-governmental agencies and affairs that are of concern to the government, which the government attorney needs, is needed also by the professional colleague with whom he deals as the representative of individuals and groups. Little purpose would be served and much harm might be done by setting up an artificial distinction between lawyers in government, as well as law students who think they may want to enter government service, and their brethren who are differently circumstanced or have a slightly different turn of mind. Different approaches to some or all of a law school curriculum may be desirable for different individuals; but the knowledge and the skills and the professional values to be mastered are the same. They should relate more largely to government than has been the case in most law schools; but that is true for all students who must live and function in the contemporary world.

Indeed, the work of the Federal civil service system for lawyers is the most heartening demonstration I have seen of the essential unity of the legal profession. There is no need of a cleavage between Government lawyers and private lawyers. The same individual often is both at different times. Whichever he is at a given time, the professional bond which unites him to the lawyer who is differently situated should be, and often is, stronger than the differences between the immediate interests which they serve. It is possible for lawyers with different
backgrounds and affiliations to work together objectively and with the same long-range purposes in the solution of particular problems, whether in judging the professional qualifications of an applicant for a civil service position or in some other matter which arises in the course of professional work. That, after all, is the function of lawyers as the chief catalytic agent in a diverse society which must still provide a common life so long as the ideals of individual worth and of brotherhood among men persist.

### Law Schools Represented on the Federal Attorney Register

**July 1, 1943**

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