Eve of an Unprecedented Inauguration (1941)

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On Sunday evening, January 19, 1941, more than 1,500 people gathered for dinner at Washington, D.C.'s Mayflower Hotel. The occasion was an official dinner for 1940's five hundred and thirty-one presidential and vice presidential electors. They were leading citizens from each of the forty-eight States, gathered patriotically to attend the coming inauguration. They were joined at dinner by the members of President Franklin D. Roosevelt's Cabinet, most Members of Congress, State governors, and many others.[1]

The Democratic Party and reelected President Roosevelt's White House planned the dinner program. The scheduled speakers included Democratic Party chairman Edward Flynn, U.S. Ambassador to Mexico (and former Wilson administration Cabinet veteran) Josephus Daniels, and the Attorney General of the United States, Robert H. Jackson. The Democratic Party planned to feature Jackson before this large, particularly significant national political audience because he was one of its brightest and younger (age 48) stars and a leading presidential prospect for 1944.

The dinner featured many speakers as it built toward Jackson's keynote speech. Following the invocation, First Lady Eleanor Roosevelt spoke briefly.

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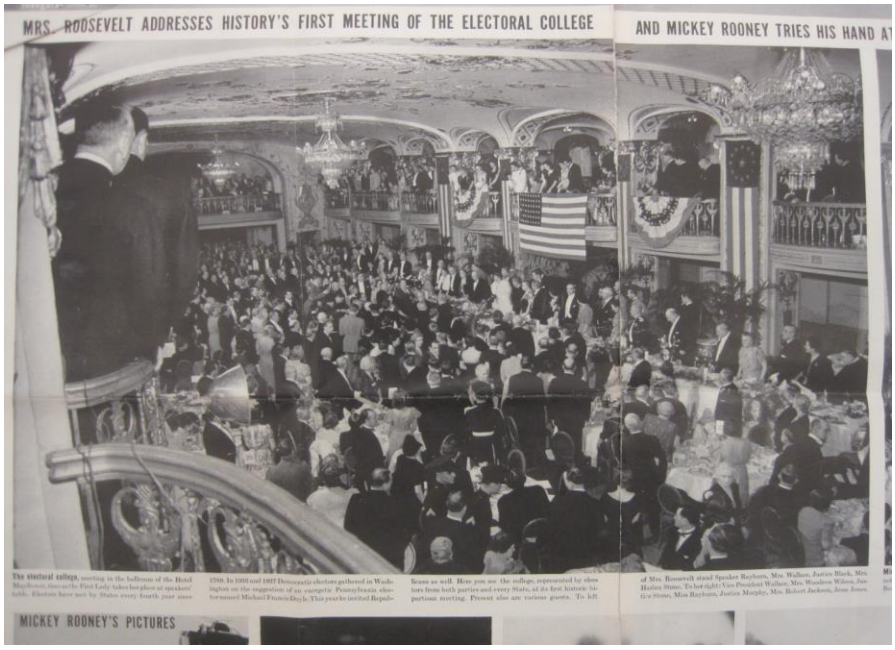
[1] *See generally President States Faith in Democracy*, N.Y. TIMES, Jan. 20, 1941, at 8; CONG. RECORD, Feb. 19, 1941, *reprinted as* MEETING OF PRESIDENTIAL ELECTORS, JANUARY 19, 1941 (Government Printing Office pamphlet), *in* Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C. ("RHJ LOC"), Box 41.



The president of the Electoral College then supervised as each State reported the votes of its electors (which actually had been cast in the state capitals in December and then certified in a joint session of Congress earlier in January). The electoral votes totaled 449 for President Roosevelt, 82 for Republican presidential nominee Wendell Willkie, 449 for Secretary of Agriculture Henry A. Wallace as the Democratic Party's vice presidential nominee, and 82 for Willkie's running mate Senator Charles L. McNary (R.-OR). At the Mayflower dinner, "449" flashed in electric lights on the stage curtain.

After the electoral vote ceremony, the speeches began in earnest. Former Attorney General Homer S. Cummings, chairman of Connecticut's electors, read a letter from President Roosevelt (who was not present) and then toasted him and Vice President-elect Wallace. Wallace himself spoke next. Then Daniels delivered a long, reminiscing speech entitled "God Bless Franklin Roosevelt." Flynn and others also had podium turns. Various speakers were interrupted by applause and whistling. Speaker of the House Sam Rayburn (D.-TX), reportedly quite drunk, repeatedly pounded the

table for order. The audience also was treated to musical recitals and performances, including a duet.

The program finally reached Jackson's keynote speaking slot around midnight. Alas, he was not present. He was home in his Wardman Park apartment, seriously ill and confined to bed.

Democratic Party officials had been informed of Jackson's illness a day earlier, so they had arranged for his friend and colleague, Solicitor General Francis Biddle, to read the text that Jackson had written for this occasion.[2]

May 23, 1940: Solicitor General Biddle and Attorney General Jackson

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[2] *See* Letter from Francis Biddle to Robert H. Jackson, Jan. 22, 1941, *in* RHJ LOC, Box 41.

Jackson's manuscript, entitled "Progressive Democracy—Onward and Forward," began with comments both humorous and serious about the role played by presidential electors. The speech then turned to the significance of the election just completed and the unprecedented inauguration to come:

> The present function of Presidential electors as the people's proxy is a formal one. But those of 1940 have performed this formal duty with consciousness of its historical significance that is uncommon. You have cast the constitutional ballots which institute the only third term in the nation's life. The Constitution makes it clear that the President, to borrow the language of Hamilton, "is to be elected for *four* years; and is to be reëligible as often as the people of the United States shall think him worthy of their confidence."[3] However, not half of our Presidents have had a second term, and it has been reserved to you to name as the original third-term President, Franklin Delano Roosevelt.
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> Tomorrow's inauguration is significant not merely as a departure from one hundred and fifty years of practice, but chiefly because of the kind of leadership that has won this triple vote of confidence. It is the spiritual quality of President Roosevelt's aggressive conviction that democracy is sound and is to survive that earns for him the instinctive support of masses of men. In troubled times they do not profess to know what is wise, but they do know what is right. It is his ability to interpret what is in the hearts of his fellow-men which invests the President's leadership with its moral authority. The most secularly minded among us will acknowledge, even if only in deference to the somber prospect ahead, that no generation ever had a greater need for faith—for fighting faith—in a moral order in the universe.

[3] Publius, *The Real Character of the Executive*, N.Y. PACKET, Mar. 14, 1788 (italics in original) (The Federalist, Paper No. 69).

In that early 1941 moment, the United States was not yet fighting in the wars of Europe and Asia. Jackson's speech addressed directly, however, the international ideological competition with which the U.S. was very much contending. He rebutted any claimed superiority of German Nazi fascism and militarism by explaining the democratic and peaceful accomplishments of FDR's first two terms—the New Deal that FDR and the Congress, representing the people, had brought into effect:

> …[W]e in this country are successfully reasserting the rights of the community without resort to revolution. It is probably true that our own tendency during the nineteenth century was too far in the direction of an irresponsible individualism. Exploitation of manpower and of resources, reckless speculation by a few at the expense of the commonwealth, and ruthless amassing of great fortunes was the order of the day and wrote its own queer code of morals into our law, quite as definitely as it did in that of Germany, Italy, or any other country.
>
> Every person who knows the trend and direction of American jurisprudence knows that peacefully and by democratic control our whole society has for some years been solving the problem of better protection of the community against individual anti-social action. Cities and towns have adopted zoning ordinances, vocational and health regulations. State governments have established regulation of public utility rates and practices and control of many enterprises that bear on the public interest. The federal government, too, has taken up regulation of rates and practices of railroads, stockyards, interstate utilities and holding companies, security issues and a score of other subjects, each designed to protect the community against ruthless exploitation.
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> We have spilled tons of printers' ink on these things, but no blood. A progressive

> democracy had tackled and at least partially solved this problem long before Hitler began to destroy the peace of the world.
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> …
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> …[T]here is not one item of th[e] Nazi promise to German workers that this country has not already begun for American workers. Some of these measures need extension and improvement, but the point is that processes of democracy are bringing them here to American workers sooner than marching armies can bring them to German workers.

Jackson's text closed by looking across past progress and optimistically to the future of American democracy. His manuscript addressed his own time and the imminent future. Perhaps his text also addressed more distant United States and world futures—futures that he could not imagine in detail, but futures that now, in our time, might be more visible and attainable:

> We of the democracies of the earth can stand forth and say that no nation by violence, by confiscation, by dictatorship has ever yet attained such standards of living, such economic security or social justice as we have done by democratic processes, guided by free public opinion. The record on this continent is one of steady, orderly progress. The claim of the dictator propagandists that the powerful never concede anything and the humble never win anything under democracy is a falsehood by the record.
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> Even we Americans are too often forgetful of the strides made on our soil, in a stumbling way, perhaps, but with a sure direction toward a more just order. In our early days the fight was made and peacefully won to abolish the law of primogeniture by which all property descended to the first-born

male. Then our constitutional Bill of Rights summed up and established the most advanced doctrines of human liberty of the eighteenth century. But we did not stop. We moved on to abolish imprisonment for debt—which reform many said would undermine the whole structure of property, but it didn't. Then we gradually abolished property qualifications for voting and for holding office and extended the franchise to women. We moved into the field of free education for classes to whom it had never before been available and adopted compensation for industrial accidents and regulation of property used in utility services. Now, under the administration of President Roosevelt, we have brought to reality plans for compensation during forced unemployment, support for dependent old age, wider programs of training for youth, vast projects for new housing, for betterment of farm opportunity, for protection of labor by real collective bargaining, and for higher standards of living and protection against depression.

Of course progress is slow. Of course it is accompanied by what at times seems an unnecessary amount of strife and resistance. But the strife under our system is one of conflicting arguments, not conflicting armies; its weapons are reason, not force. And no regime of dictators or monarchs can show so long, so consistent, or so successful a record of gains by the humble and concessions by the powerful as our democratic system has accomplished in peace and order.

It is not wise so to overstate our case for democracy as to discredit it. We have not, of course, nor has any other nation or system, eliminated all injustice, oppression, and discrimination. We have not yet brought to the individual the degree of security and plenty that science and technology make possible. We have not

yet full protection against the cycles and caprices of our economic system.

As you know, I have never hesitated to criticize our existing laws and practice or to strive for their modernization and improvement. I believe in reforming to save. Wise repairs are necessary to protect our structure. But let us not in our criticism overlook the fact that nowhere in the world can comparable opportunity for men be found nor comparable dignity and power in citizenship be seen. When we look at what others have accomplished we may feel our own country to be quite exemplary. It is only when we compare our existing situation with our boundless possibilities, that we are critical.

Progressive democracy is the genius of our people. We have become both great and free by holding both to liberty and to order. We cannot retreat if we would. The instinct that submits its grievances and hopes to public opinion, the sportsmanship that accepts the results of elections, is bred in our blood and bone.

…

So, tonight I toast "A Progressive Democracy," not in a partisan sense, though I am proud that my party and the party of my fathers has contributed more to it than any other. I toast a progressive democracy rather as the genius and achievement of our people. It is not perfection and it has not brought perfection. Indeed, that ideal will probably always retreat as we approach it. I toast democracy not alone for what it is, but chiefly for what it may become; not merely for what it has done, but also for what it makes possible for us and our children to do. Its road to the future leads through discussion, reasoning, persuasion, experiment, trial and error. Progressive democracy

> does not lead through violence, revolts, or armed coercion. It leaves our destiny with no limitations except those which our own minds impose and no pitfalls except those that might be dug by a failing faith.
>
> It is our heritage and our hope—and we mean to keep it.

* * *

Thanks to Solicitor General Biddle standing in and reading Jackson's speech for him, his words reached his intended, if tired and perhaps too-lubricated, audience.

A few days later, Biddle wrote to the still-ailing Jackson. He reported that it "really was a very fine speech, which was delivered under trying circumstances, but received deep attention, and a good deal of applause. Any number of people came up afterwards and said they wanted copies; said it was the best speech they had heard for a long while, and that you had gone to the bottom of the whole essence of the American tradition."[4] (For the full text of Jackson's speech, click here.)

On Inauguration Day 2021, the United States continued in our democratic tradition.

This is our heritage and, still, our hope.

[4] *See* Letter from Francis Biddle to Robert H. Jackson, *supra* note 2.

January 20, 1941: Chief Justice of the United States Charles Evans Hughes, President Roosevelt, and Vice President Wallace