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March 10, 1937.

Mr. Ben Reese,  
St. Louis Post-Dispatch.  
St. Louis,  
Missouri.

Bear Ben:

Just to pay you back for many favors. I have dashed off a few items about Judge Merrill E. Otis. Sooner or later you will be wanting to give him a special write-up and I think some of the material I am sending is of general interest.

Excuse the hasty manner in which it is written, and don't tack my name to it.

With every good wish,

Yours as always,

JWB/CH

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Who is Merrill E. Otis? How did he get on the Federal Bench? That story, like his present utterances, is full of interest and significance. Born in a little country town called Hopkins in Nodaway County, he went to the State University at Columbia and established a reputation for leadership as well as scholastic ability. All of his honors, however, came unsought. His own desire seemed to be for obscurity and self-effacement. All of his classmates predicted for him a brilliant future. Otis sent from law school to St. Joseph and quietly began the practice of law. He was always ready to take a hand in civic movements and public enterprises, but sought nothing for himself. He made a reputation as a profound student of the law, but the passing of the years brought no temptation to him to seek wider public recognition.

When Jesse W. Barrett became Attorney General of Missouri in 1921, he sent for Otis and asked him to take appointment as first Assistant Attorney General. The salary of the office was then \$2,500.00 a year. Otis thanked Barrett for the confidence, but said that he could not possibly accept. Barrett urged him. Otis said, "It is unthinkable. I am supporting a wife and daughter and contributing to the support of her parents and mine, and I am paying as much in life insurance premiums alone as the salary of the job you are offering. I could not possibly accept. Barrett said, "Do you owe anything to the State of Missouri?" Otis replied, "All that I have I owe to the State of Missouri, of course. It is

the State of my birth. I was educated in her public schools and University. I admit my debt". Barrett said, "Then, should you not pay that debt on the State's demand? Do you not see that if the \$2,500.00 a year is to be the yardstick for measuring the caliber of the men in the Attorney General's office, we are foredoomed to failure? It is necessary that we assemble in that important office the best brains of the State, and every man fit for the job is, of course, making far more in his private practice than the salary Missouri provides. It is your duty to accept". Otis grew thoughtful and said, "Then, I shall be selfish if I refuse?" Barrett said, "Yes". Otis said, "Give me twenty-four hours more for my reply," and the next

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day he wired to Barrett that he would take the place.

Former Attorneys General had not permitted the names of Assistants to be published in connection with the opinions they prepared. Barrett reversed this and gave the fullest credit to each of his men for whatever they did. It was not long until the opinions written by Otis began attracting statewide attention. It was obvious that he had a profound knowledge of constitutional law and a clarity of reasoning which few could equal. The work of the Attorney General's office during that period was heavier than at any time before or since, and office hours ran into the night. Holidays, likewise, were used for the work. The story is told that on one Sunday evening Barrett left Otis after a long conference regarding a brief which was to be finished and filed the next day. The following day Barrett went to Otis' room and asked him if he would be sure to be there after supper for a conference on another matter. Otis said yes, but something in his manner attracted Barrett's attention. The Attorney General said, "Did you have some other plan?" Otis smiled and said, "I thought I would catch up in sleep". Barrett said, "By the way, how long did you work last night after I left you?" Otis replied, "I have not been home. I worked all night long." Barrett said, "Why, then, did you show up for work today?" Otis said, "I had my Monday's work to do". He had found at the close of the Sunday's efforts that there was some point of law which had been overlooked and pursuing it to its conclusion took all the rest of the night.

Because of that fidelity to his task and the heaviness of the burdens, Otis\* health was threatened, and Attorney General Barrett found that he had dropped his life insurance. Barrett thought that was too much of a sacrifice for anyone to make, so, through Governor Hyde, it was arranged that Otis be transferred to the Chairmanship of the State Public Service Commission, where the work was lighter and the salary considerably more.

Otis found much pleasure in the new office, but confided to friends that his chief ambition in life before returning to his private

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practice was to have the opportunity to argue a number of cases before the United States Supreme Court.

It was then the year 1924. President Coolidge was in office, and the Attorney General was Harlan Stone, now Associate Justice of the United States Supreme Court. Attorney General Barrett said to Attorney General Stone, "I have a friend in Missouri who could be of such help to you that if you should appoint him to office, you would be everlastingly grateful to me thereafter for having made the suggestion". Without more ado, and without any political arrangement whatever, Attorney General Stone appointed Otis as Assistant Solicitor General of the United States. Otis spent more than a year in Washington, and in that time presented an unusual number of cases to the United States Supreme Court.

It is not the custom for the Supreme Court to criticise those who appear before it. In a much more tactful way they secure the help they want by saying to the Attorney General that certain Assistants are particularly helpful in the way they present their cases. That hint is enough to tell the Attorney General that those Assistants should be frequently used. Otis was one they preferred and they gave his arguments the keenest attention.

One day Solicitor General James M. Beck said at the beginning of an argument, "I crave the Court's indulgence. I am ill. I do not know that I have the strength to make a proper presentation of this important case, but I shall do my best". Then he proceeded, "The Government's argument rests on three points", and he proceeded to outline the first point with much care. Suddenly he stopped and he said, "If Your Honors, please, I can go no farther. I am ill. With your permission, Mr. Otis will continue with the case". Otis quietly moved to the speaker's stand and said, "May it please the Court, the second point of the Government's argument is as follows," and proceeded on to the conclusion of the case.

At that time came the vacancy on the District Bench at Kansas City. Numerous Kansas City lawyers, some of high standing and considerable reputation, made vigorous efforts to secure the appointment. Otis,

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true to his custom, did nothing whatever in his own behalf. None of his honors have ever come by self-seeking. His friends, however, were alert and they presented his name for the consideration of President Coolidge. The appointment was strongly urged by Attorney General Stone. The Justices of the Supreme Court added their own advice and told President Coolidge that Otis was in every way qualified. Perhaps no District Judge ever came to the bench with finer endorsements. And that was how Merrill E. Otis became United States District Judge at Kansas City.