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To work with John Lord O'Brien was to serve an apprenticeship in responsibility under a master who taught by example and by anecdote rather than by precept. To him, responsibility was not the unwelcome or burdensome concomitant of authority. Rather, it was the measure and definition of work to be done. If he found gratification and joy in professional and official life, as he did in abundance, it was in the knowledge that he had devoted his understanding and his abilities, graced as they were with his unfailing charm and wit, to the rewarding discharge of the responsibilities he had assumed. Responsibility was the unspoken theme that ran subtly through his inexhaustible stock of stories and anecdotes. Told with the smile and wit that gave lightness and charm to the telling, with no apparent trace of moralizing or didacticism, the stories nevertheless paid graceful and approving tribute to men who had assumed and discharged responsibility. Or if they took another turn, and suggested responsibility unacknowledged or avoided, there was the same gaiety, with perhaps more amusement in the telling, accompanied by an incredulous astonishment that carried its message of tolerant reproof.

Every lawyer knows that when he appears in court as advocate, he appears also as an officer of the court—or so he has been told. To Mr. O'Brien this latter responsibility was no meaningless or empty title. His responsibility to his client was equalled by his responsibility to the court. And, as he demonstrated, there was no conflict in his responsibilities. It was his awareness of his dual responsibility that made him the great and effective advocate that he was. When, with his superb gift of narrative, he set forth a case with painstaking and scrupulous care and accuracy, the clarity and fairness of his statement would disarm an aggressive adversary. With no apparent emphasis on his part, the significant weaknesses of his opponent's case somehow crept into view, as did the perhaps understated strengths of his own. His acceptance of responsibility had brought with it the reward of trust and reliance.

Few advocates can have received the tribute that came to Mr. O'Brien in one of the great and highly publicized cases that came to trial in Buffalo in the 1930's. The events that gave rise to the litigation were part of the financial collapse of the early years of the decade, and were both dramatic and complex. A number of leading figures in the life of Buffalo were represented by Mr. O'Brien.*

* Member, Massachusetts and New York Bars. A.B., Princeton University, 1927; LL.B., Harvard University, 1931.
O'Brien. Opposing counsel was a major figure of the trial bar from elsewhere in the state. After months of preparation, the day of trial arrived and counsel made their opening statements. When Mr. O'Brian's was completed, his opponent asked and was granted a brief recess. The recess completed, opposing counsel stated to the court that he had heard and considered Mr. O'Brian's opening statement. Having considered it, he asked the court's permission to withdraw from the case. Permission was granted.

The Legal Staff of the War Production Board was a law office that can have had few equals. And one can be confident that no member of that extraordinary staff completed his service without an awareness that he had gained from Mr. O'Brian new understanding of the responsibilities of government and of government officials. Indeed, with the almost unrestricted sweep of the statutory authority of the War Production Board within an area stated in broad terms, the questions before the legal staff were seldom questions of what could or could not be done. They were rather questions of what should be done, and how it should be done. The restraints were largely self-imposed, and much of the work of the legal staff was in fashioning and maintaining those restraints according to standards of governmental responsibility that were Mr. O'Brian's constant concern.

Almost any day's work of the legal staff would furnish incidents that would illustrate how Mr. O'Brian's values shaped official action. Perhaps two incidents will suffice, one small and tactical, the other large and strategic, each in its fashion illuminating.

In late 1941 and early 1942 there were disturbing indications that most of the major steel companies were laggard in complying with the requirements of the priorities system that had been established by the War Production Board. It appeared that the companies were leaving rated orders unfilled while continuing to supply increasingly scarce steel to regular customers engaged in production of no significance to the defense, and then the war, effort. A preliminary investigation, followed by a more thoroughgoing and comprehensive one, led to the decision that suits to enjoin noncompliance must be instituted. The War Production Board was not authorized to conduct its own litigation, but was required to call upon the Antitrust Division of the Department of Justice, then headed by an Assistant Attorney General much given to what he deemed sophisticated litigation tactics. According to his tactical canon, the suits should be instituted far from the centers of steel production, in districts where the influence of the major steel companies was likely to be less pervasive than in western Pennsylvania. To Mr. O'Brian, such tactics were unworthy of government. Its cause was just and compelling, and should be presented not in some remote district where jurisdiction might by chance be obtained, but in the very communities that produced and controlled the steel upon which the nation was dependent. A tactical compromise was reached, and some suits were instituted where Mr. O'Brian would have them, others elsewhere. In the first and decisive suit—it
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became unnecessary to pursue the others—Mr. O'Brian was authorized to appear representing the United States in the United States District Court in Pittsburgh.

The War Production Board’s power to control the flow and allocation of materials was a power of life and death over much of American industry. To some other wartime agencies, the Congress had steadfastly refused to grant effective sanctions, and their powers were largely hortatory. Great pressures were put upon the War Production Board to employ its powers to support and achieve the ends of the less potent agencies. Mr. O'Brian resisted with all the unyielding steadfastness that lay beneath his quiet and smiling manner. Collateral sanctions were instruments of oppression, forbidden to responsible government. Great power had been given to the War Production Board for great and vital purposes. The Board, its General Counsel, and its Legal Staff were responsible to the Congress and to the people it represented that that power be used only for the purposes for which it was granted.

It was an apprenticeship unequalled, served under a great master.