

## Government Of and By People

THE FICTION will not die that there can be a government of laws, independent of men. The implied idea is that laws in and of themselves regulate affairs, that they automatically do so. That is why it is a fiction.

David Lawrence in *The United States News*—a publication which is all for making laws, including laws to regulate labor—bewails the tendency toward government by decrees dictated by office-holders. The cause for this outcry is a recent decision of the Supreme Court.

The case concerned a ruling of the National Labor Relations Board that an employer cannot refuse to hire men because they belong to a union, and that if he did so he must reinstate them even if they had obtained jobs in the interim. Application for a job would seem to give a union member a sort of vested interest in it.

In the decision the Court declares that Congress could not possibly anticipate all the complications arising from the Wagner Act and that therefore the adaptation of the law to particular cases must be left to the "empiric process of administration," that is, to the decrees of the NLRB.

Mr. Lawrence asserts that this amounts to government by bureaucracy. He reasons that laws should be made by Congress and not by Supreme Court justices who are not subject to the will of the people because they hold office for life. And he contends that the Court has no right to supply what Congress omits. Says Mr. Lawrence's editorial:

"This new Court is controlled by five men, a majority, all of whom came not from the bench but from the small clique of class-minded officials and advisers who developed the New Deal."

So, that's the rub. The Court is New Dealish. Well, the whole country is. More than twenty-seven million people last November made it unanimous. Among them were laborites, WPA workers, relievers, "class-minded" people on and off the public payrolls who wanted the New Deal and all it stands for.

Would you have, Mr. Lawrence, a New Deal government without a New Deal Supreme Court? That would be defeating the will of the voters, quite contrary to the American system you are so solicitous about. When they elected the present office-holders they declared for men who would make, abolish, change and interpret laws according to the stated and implied philosophy of the New Deal. These men are doing just that.

If you don't like it, Mr. Lawrence, why don't you find out why the people demanded, and still want, class-minded administrators and judges? Maybe ten years of unemployment, of harrowing poverty, of sheer hopelessness drove them to an acceptance of something you describe as un-American. And let us not forget that the opposition political party understandingly offered nothing else; its promises were similarly class-minded.



Government always was and always will be by and of men. There is nothing either sacrosanct or transcendent about law. It is the congealed opinion and will of men. That will and that opinion are the product of their environment. From a long endured poverty-privilege environment the demand will come for class-minded laws and administration. If that does not fit in with the American tradition, it soon will.