

CLASS OF SERVICE

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WESTERN UNION

JOSEPH L. EGAN
PRESIDENT

1201

SYMBOLS

DL = Day Letter

NL = Night Letter

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Ship Radiogram

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WZ111 PD=DETROIT MICH 3 1252P

CHIEF JUSTICE FRED VINSON=

UNITED STATES SUPREME CT=

1948 APR 3 PM 1 26

DEAR CHIEF I OUGHT NOT BE SEPARATED FROM MY BROTHER
GEORGE AT THIS TIME IF AGREEABLE WITH YOU PLEASE HAVE
JUSTICE RUTLEDGE ANNOUNCE MY OPINION ON MONDAY. WITH
EVERY GOOD WISH=

FRANK MURPHY.

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

NOTE

APR 30 1949

F.M.V.
RECEIVED

APR 31 9 14 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

C O P Y

Alhambra, California
1514 S. Olive Avenue.
April 26, 1949

Hon. Frank Murphy,
Associate Justice
of the Supreme Court,
Washington, D. C.

Dear Sir.

The biweekly news magazine Pathfinder of April 20 states that President Truman and Chief Justice Vinson have made several attempts to induce you to resign, to make a place for Senator J. Howard McGrath. I would be glad to learn that the story is untrue, but IF IT IS TRUE I hope your reported resistance to the plan continues. The scheme would be as reprehensible as Roosevelt's attempt to pack the court, which an indignant public promptly squelched. The highest of the Nation's courts should always be completely free from partisan political meddling.

Sincerely yours,

H.E. Brownson

CLASS OF SERVICE

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WESTERN UNION

W. P. MARSHALL, PRESIDENT

1201

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Ship Radiogram

(24)

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WZ344 PD=CT WASHINGTON DC 20 546P=

1949 JUL 20 PM 6 26

CHIEF JUSTICE VINSON=
SUPREME COURT

=00034 I HAVE LEARNED WITH MUCH GRIEF HE SUDDEN AND GREAT
LOSS SUFFERED BY THE SUPREME COURT IN THE PERSON OF JUSTICE
MURPHY WHO DEVOTED HIS LIFE TO THE SERVICE OF HIS BELOVED
COUNTRY I WISH TO EXPRESS MY DEEP FEELING OF SYMPATHY AND TO
ASSURE YOU THAT I ASSOCIATE MYSELF TO YOUR BEREAVEMENT=
HENRI BONNET=

THE COMPANY WILL APPRECIATE SU

00034

FROM ITS PATRONS CONCERNING ITS SERVICE

CLASS OF SERVICE

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WESTERN UNION

W. P. MARSHALL, PRESIDENT

1201

SYMBOLS

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NLT = Cable Night Letter

Ship Radiogram

(43)

1949 JUL 20 PM 4 48

The filing time shown in the date line on telegrams and day letters is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

WZ329 PD=CAMDEN NJER 20 332P=

FRED VINSON CHIEF JUSTICE US SUPREME COURT=

IN BEHALF OF THE IUMSWA CIO I WISH TO EXPRESS OUR DEEPEST SYMPATHY AT THE UNTIMELY DEATH OF JUSTICE MURPHY TO HIS ASSOCIATE JUSTICES AND TO HIS FAMILY HE WAS AN OUTSTANDING AMERICAN AND HE HONORED ALL OF US BY HIS UNDERSTANDING FRIENDLINESS AND HIS SPIRIT OF FAIR PLAY=

JOHN GREEN PRESIDENT IUMSWA CIO=

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

WESTERN UNION (29)

1201

SYMBOLS

DL=Day Letter

NL=Night Letter

LC=Deferred Cable

NLT=Cable Night Letter

Ship Radiogram

W. P. MARSHALL, PRESIDENT

The filing time shown in the date line on telegrams and day letters is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination.

WB226 PD=ZV WASHINGTON DC 19 304P=

1949 JUL 19 PM 3 31

THE CHIEF JUSTICE OF THE SUPREME COURT=

U S SUPREME COURT OF JUSTICE=

I WAS DEEPLY SHOCKED WHEN I LEARNED OF MR JUSTICE MURPHY'S
UNTIMELY DEPARTURE STOP PLEASE ACCEPT THE EXPRESSIONS OF MY
MOST SINCERE SYMPATHY AND WOULD APPRECIATE YOUR EXTENDING
THEM ON MY BEHALF TO THE MEMBERS OF HIS FAMILY=

RAFAEL DE LA COLINA AMBASSADOR OF MEXICO=

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

Dear chief:

You will receive
many blows for your
covenant cases. But allow
me to say that with time
the cases will make you
immortal. It took not
only wisdom about the law
but also vast courage for
a chief justice from Kentucky
to hold fast to his beliefs.

And you delivered
the opinions in lofty
eloquence.

Murphy J.

C. J. .

Supreme Court of the United States

Memorandum

_____, 194____

Dear Chief,

Your opinions
this morning are
as important as the
dred Scott and other
epoch making
decisions. I hope you
will take your time.
Tru

C. J.

Dear Chief:

I have been
in opposition to nearly
every thing we have done
here today.

But I must say
that you have ^{lead} the discussions
with a fine sense of fairness
and with patience that
many would not exercise.

J. M.

10/11/48

June 24, 1947

Dear Frank:

Thank you for your nice note. I appreciate it very much, indeed. You are very gracious.

It will be a pleasure to conform with your request in regard to the autographed photograph. It will be an honor, indeed, for it to hang amongst the Murphys.

Your Friend,

Honorable Frank Murphy,
Associate Justice,
Supreme Court of the United States,
Washington, D.C.

FMV:McH

Supreme Court of the United States

Memorandum

_____, 194__

Dear Chief:

I do not like
to leave this bench without
the knowledge and permission
of the chief justice.

A while ago Saturday
I stayed too long at conference
and then got sick all over
again.

While I feel fine now
I am under Doctor's orders
not to remain too long
in court for a few days.

Supreme Court of the United States

Memorandum

-----, 194---

Accordingly I would
like to leave when I begin
to feel fatigue.

Murphy J.

Chief Justice -

RECEIVED

JAN 7 4 47 PM '48

CHAMBERS OF THE
CHIEF JUSTICE
JUSTICE FRANK MURPHY

Supreme Court of the United States
Washington 13, D. C.

NOTED

JAN 7 - 1948

F.M.V.

January 7

To the Chief Justice:

In talking with Justice Murphy today I was asked to convey this message to you: he is carefully reading the briefs and records in the cases being argued, and feels well equipped to write opinions thereon. The four opinions already assigned to him are under control, so that he would welcome further assignments, should you care to make them.

Sincerely,

L. Tolan
Law Clerk

Supreme Court of the United States.

Memorandum.

1948

-----, 194

Dear Chief.

To keep a speaking engagement I would like to leave the Bench at 4 p.m. today. You will have a quorum without me. I return at midnight.

Wm. J. F.

C. J.

[1948]

C.J.

We took three
days in argument
in the movie cases.

I suggest that -
Monday bring a very light
day, two cases come down -
that we meet fresh on
Monday morning -
Jm.

2 3 4
1 2 3 4
3 4 5

[1948]

Supreme Court of the United States

Memorandum

_____, 194__

C.J.

I believe we
ought to have a
brief from the
Wage & Hour division

J. L. P.
Caucus. W. T. P.

Ching Fustine

Supreme Court of the United States
Washington 13, D. C.

MAR 31 10 45 AM '48

CHAMBERS OF
JUSTICE FRANK MURPHY

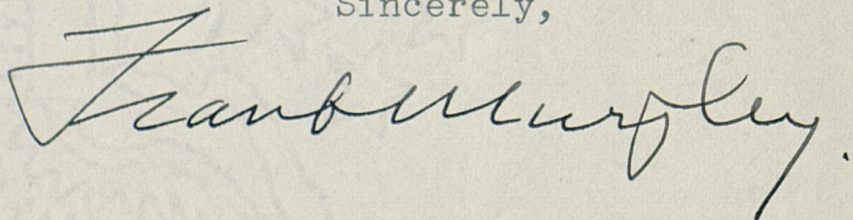
CHAMBERS OF THE
CHIEF JUSTICE

March 31, 1948

Dear Chief,

I deeply regret that I must miss the session today in memory of the late Chief Justice and Justice McReynolds. But the continued illness of my brother George has called me home to Detroit again. Fortunately, I am able to leave with Justice Rutledge all my votes for Friday's conference. And since I expect to return next week, I will be able to take on any additional work you may see fit to give to me.

Sincerely,

A handwritten signature in dark ink, reading "Frank Murphy". The signature is written in a cursive, flowing style with a large initial "F" and a long, sweeping underline.

Mr. Chief Justice Vinson

[TELEGRAM]

WESTERN UNION

(PHoned 3pm

Washington Apr. 3rd 1948

TO JUSTICE MURPHY,
DETROIT MICHIGAN

DEAR FRANK YOUR REQUEST WILL BE CARRIED
OUT STOP HOPE AND PRAY THAT THE CONDITION OF
YOUR BROTHER WILL IMPROVE. SINCERELY

FRED M VINSON

Chief Justice

Memorandum.

Supreme Court of the United States.

, 194

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

May 15, 1948

RECEIVED

MAY 17 9 12 AM '48

CHAMBERS OF THE
CHIEF JUSTICE

My dear Chief:

News has just reached me that brother George is not in good condition so I must hasten home.

I will keep in touch with you.

Tomorrow morning have Wiley vote for me in No. 512 - my vote is for a response or in absence for a grant. Also I want my vote noted. Wiley will announce my Price opinion.

You have been very kind to me and I hope you will allow me this one more indulgence because of George.

I will be with you in a few days.

With every good wish,

Sincerely,

Frank Murphy.

Supreme Court of the United States
Memorandum

_____, 194__

Frank

will 489

come
down

CJ

C.J. Wilby wanted more
time on 489.

Fun.

murphy

[1948]

James K. Watkins
a Rhodes Scholar
Detroit

Michigan

or

as a class twin
tops in his
class at Harvard

Boys from Detroit

(1948)

Supreme Court of the United States

Memorandum

_____, 194__

Dear C.J.

I have to take
a plane at 4:30

I never dreamed
we would take this
time in announcing
opinions. Myself

C.J.

My address
during the
summer

Frank Murphy
Harbor Beach
Michigan

Please call or
write to me if I
can do any
business for you.
Thank you.

*For
next conference
F. M. J.*

October 13, 1948

Sir:

Justice Murphy writes that he no longer wishes the following cases held: No. 67 Misc., CAVALLUCCI v. BURKE; and ROBERTS v. CALIFORNIA, No. 73 Misc. The latter case was on the special list, and the Justice feels it can stay there and be denied. You may record his vote as deny with a question mark if you so desire, although that is not necessary. In Cavallucci, the vote for denial was 7-2, with Justice Murphy listed as voting to grant with a question mark. That is correct.

In neither case does the Justice wish to have his vote publicly noted.

I have not heard re his vote on No. 86 Misc, ROBERTS V. MEMPHIS STREET RY. CO., so I would suggest that the case be continued on the "held" list until I do.

You have, I take it, been informed that the Justice votes to grant cert. in No. 117, RICE v. RICE, making four votes to grant.

I have informed Justice Rutledge of all contained in this memorandum, and have also asked him to cast Justice Murphy's vote to grant cert. in No. 149 Misc., WILLIAMS v. DUFFY, at the special conference this afternoon.

T.L. Tolan, Jr.
T.L. Tolan, Jr.
Law Clerk

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

File

RECEIVED

OCT 25 10 20 AM '48

CHAMBERS OF THE
CHIEF JUSTICE

October 25, 1948

Sir:

I have word this morning that Justice Murphy wishes the question mark removed from his vote in No. 11, DOUBLEDAY v. NEW YORK, and that he now votes for reversal without qualification.

I understand that no votes will be noted in the public record.

T. L. Tolan
Law Clerk

Supreme Court of the United States

Memorandum

_____, 194__

Dear Chief: I
am very
grateful for the
true interesting
and important
cases you assigned
to me.

J. M. Hughes

C. 8.

Memorandum
of the Committee on the
Education of the Deaf

Supreme Court of the United States.

Memorandum.

-----, 194

Dear chief Justice:

I am grateful for
your fine leadership
and also for your
unflinching kindness.

I would appreciate
it very much if you
would autograph a
picture of yourself for
my home in Michigan.
Sincerely,
Muirhead.

C. J.

Supreme Court of the United States.

Memorandum.

-----, 194

Dear Chief:

In order
to cut down the
dissents - when the
case is close - I am
going to withdraw
my dissent and join
Hugo in the *Trainer*
case. J. M.

dear chief:

I promise
not to blow
up today -
Jim

[1948]

Dear Ching:

I believe you
~~ought~~ should ask
for time to figure
this out.

This case can
be minor for the
court -

Jim.

noted file

CHAMBERS OF
JUSTICE FRANK MURPHY

Supreme Court of the United States
Washington, D. C.

RECEIVED

Nov 6 12 37 PM '48

November 6, 1948
CHAMBERS OF THE
CHIEF JUSTICE

My dear Chief:

I am extremely disappointed about not being with you at conference tomorrow and that the doctors will not allow me to return to Court for Monday.

The news is good and I expect to return in a few days and then I shall bend to the task.

In the meantime, I have asked my Brother, Wiley Rutledge, to cast my votes for me in the November sixth conference.

I trust you are happy and well as you may guess I am, too.

With every good wish,

Sincerely,

Frank Murphy

Supreme Court of the United States

Washington 13, D. C. RECEIVED

CHAMBERS OF
JUSTICE FRANK MURPHY

DEC 29 3 48 PM '48

CHAMBERS OF THE 1948
CHIEF JUSTICE

To the Chief Justice:

Sir:

After discussing the Mahaffey case
(No. 290 Misc., this term) with my boss,
I'm authorized to say that he votes
to deny the petition for certiorari.

L. Tolan
Law Clerk

NOTED

DEC 29 1948

F.M.V.

Supreme Court of the United States
Washington 13, D. C.

RECEIVED

MAR 10 2 45 PM '49

CHAMBERS OF
JUSTICE FRANK MURPHY

March 10, 1949
CHAMBERS OF THE
CHIEF JUSTICE

Dear Mr. Chief Justice:

Despite the fact that I was feeling shipshape, I was required to return to Detroit after the Conference on Tuesday. My tests of yesterday turned out better than expected, and I am hopeful for the same results today.

Unless you have some objection, I will ask my Brother Rutledge to tell you the status of my cases that are now circulating: No. 83, Commissioner v. Phipps; No. 355, California v. Zook; and No. 417, Griffin v. U. S.

You may depend upon it that I will return to the capital on Saturday, in order to be present at Monday's session of the Court, when I hope to be able to read my three opinions. I am especially anxious to be there, since you mentioned that you expect to be absent yourself, and I know you would like us all to be present. You may count on it.

In the event that work is available, I should be obliged if you give me as much as possible.

I hope your own vacation is a pleasant and restful one, as you richly deserve.

With every good wish,

F. M.

(Dictated by Justice Murphy this morning. JRD.)

Supreme Court of the United States

Memorandum

_____, 194____

Dear chief - The
only time the
hospital can take
me today for my
deep heat treatment
is during our recess
period. I may have
to go a few minutes
before two so as to
back without delay.
Yours

Supreme Court of the United States

Memorandum

-----, 194---

Dear Chief:

Please excuse
me while I hasten
to Walter Reed & return.
Yours,
Jm.

Supreme Court of the United States

Memorandum

_____, 194____

Dear Chief:

In order that
you may assign
the case and avoid
delay in the
writing of the opinion,
I join your views
in 330 and vote
to approve.

Truingly J.

cd.

October 12, 1948

Dr. Frank J. Sladen,
Physician-in-Chief,
Henry Ford Hospital,
Detroit 2, Michigan.

Dear Dr. Sladen:

Thank you very much for your letter of October 7th, relative to Honorable Frank Murphy.

I was happy to learn that he is responding to treatment satisfactorily. I agree wholeheartedly with you that everything possible should be done to forestall a recurrence, and know that you will not consent to his return to the Court until he is completely recovered.

With thanks again for writing me and kind regards, I am

Sincerely,

(Signed) Fred E. Vinson

RECEIVED

OCT 9 9 24 AM '48

Henry Ford Hospital

CHAMBERS OF THE
CHIEF JUSTICE

DETROIT 2, MICHIGAN

Honorable Fred M. Vinson,
Chief Justice,
United States Supreme Court,
Washington, D. C.

October
7th
1948

Dear Justice Vinson:

Justice Frank Murphy has asked me to acquaint you with his present condition. We here in his home area have been accustomed to seeing him and checking him each summer at the end of his year of work for many years.

This year he was being bothered with a sciatic neuralgia, the type of ailment which can be so distressing and so obstinately persistent. However, he has responded to treatment satisfactorily and is about ready to return to his Court duties. We are anxious to have him in such good condition that there will be no recurrence, and we will advise you as soon as this is accomplished.

I am making Justice Murphy aware of the details of this letter to you.

Respectfully yours,

HENRY FORD HOSPITAL

Frank J. Sladen.
FRANK J. SLADEN

Physician-in-Chief

FJS/IJK

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

RECEIVED

Oct 2 10 13 AM '48

CHAMBERS OF THE
CHIEF JUSTICE

My dear chief:

Despite reports to the contrary I am in splendid health altho I am confined to a bed in Ford Hospital.

During the summer months, while at home at Harbor Beach, I developed a distressing condition in my legs. Perhaps two swims a day in Lake Huron's cold waters were mine altho I am informed that the real cause of the minor inflammation had done its work some time ago. Anyway I entered the hospital, was advised that I ^{should} cancel my scheduled trip to Manila and now while I am almost well that I will be unable to attend the opening of the court. I have been obliged to remain off my feet while tests, X-rays and

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

Treatment have been administered. The source of the trouble has been located and ~~now~~ I am strong again and my legs are greatly improved. We want to avoid a recurrence.

I have asked Brother Rutledge to cast my vote in conference. I have managed to keep abreast of most of the certs. I would appear on the 4th — and will still do so if you wire that I am needed — but the doctors advise strongly against it.

as far as we know I will be out in not too many days and I will then hasten to the Court where I am determined to do more work for you than ever. This is written and my other plans are made to meet my duties to you and the Court in an orderly manner.

affectionate regards
Frank Murphy.

October 12, 1948

Dear Frank:

I have received your letter of September 30th, and also a letter from Dr. Sladen reporting on your condition.

While I regret very much, indeed, your indisposition, I trust that it is nothing serious and that you will soon be back in the groove. I think you are following the wise and proper course in extending your stay so that the doctors will really have an opportunity to get you back in good shape.

Things are moving along in rather good shape, but we miss you, and look forward to your being with us in the very near future.

With personal regards, I am

Sincerely,

(Signed) Fred L. Winson

Honorable Frank Murphy,
Henry Ford Hospital,
Detroit, Michigan.

PLK:McH

Supreme Court of the United States

Memorandum

_____, 194____
Dear Chief.

I have a
majority of
the court in
Brooks but it
will not come down
until next opinion
day -
Framingham

Supreme Court of the United States

Memorandum

_____, 194---

Dear Chief:

I will be
in the office each
now and I am
prepared to take
on any work you
choose to assign to
me.

Fleming.

Supreme Court of the United States

Memorandum

_____, 194...

dear thing - I
can sit through
this case if my
vote is needed.
But I would
feel better
disqualifying
myself because of
my one time activity
against this litigant. In

Supreme Court of the United States

Memorandum

-----, 194-----

Dear chaps
are you not
happy about Rice?
Lam.

Jm.

Supreme Court of the United States

Memorandum

_____, 194__

Dear Chief:

I am glad
about the views
you expressed
to me in Rice.
Your opinion is
Solid.

Tru.

Supreme Court of the United States

Memorandum

_____, 194__

Dear chief.

would I

be excused for

just a few

minutes.

Wm.

Supreme Court of the United States

Memorandum

Branching _____, 194__

My Morgantown
case is also done
and will be
circulated tomorrow

JH

Supreme Court of the United States
Memorandum

_____, 194____

Dear Chief.

She was
lovely.

Many thanks.

Jim

Supreme Court of the United States

Memorandum

-----, 194---

Chief: Perhaps some-
one asking to the
High Court looked it
up.

The fact of it is that
while in good health I
really love my work. And
I want to do lots of it.

I do not need to tell
you I have both admiration
and affection for you. For

Supreme Court of the United States

Memorandum

_____, 194__

Dear Chief:

This sort of thing is not unknown. It is a looked up job. However whom is doing it is doing an injustice to the President, to you and myself. Good things have come. Tr.

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

RECEIVED
JAN 14 4 28 PM '49
CHAMBERS OF THE
CHIEF JUSTICE

January 14, 1949

To the Chief Justice

Sir:

Justice Murphy asks me to give you the following message: If you, or if the Conference believes it is wiser for the Justice not to vote in cases where he has not heard oral argument, he has no objection. As you know, he has felt that it was for the Court's benefit that he participate -- a matter of expediency to dispose of the mountain of material before the Court. He retains the view that it is for the benefit of the Court that he vote in this way when he is forced to remain out of town, but if the Court takes a different view he will, of course, understand.

Sincerely yours,

T. L. Tolson, Jr.
Law Clerk

The

Chief Justice

344 - misc

RECEIVED

JAN 29 11 54 AM '49

January 29, 1949

CHAMBERS OF THE
CHIEF JUSTICE

MEMORANDUM TO THE CONFERENCE

RE: No. 344 Misc., Watts v. Indiana

On January 24, this petitioner filed a motion for stay of execution, which the Office of the Clerk has referred to me. The petitioner recites that he was convicted of the crime of murder while attempting rape, that the conviction has been affirmed and a petition for rehearing denied. He is sentenced to die on February first.

He requests a stay in order to prepare and file a petition for certiorari in this Court. The grounds for his petition will be systematic exclusion of Negroes from the grand jury that indicted him, and the forcing from him of a confession.

The motion for stay is itself ineffectively drawn. We are aided by a similar motion filed on behalf of petitioner by Mr. Thurgood Marshall. I understand also that the Governor of Indiana is concerned about the case.

Petitioner requests a stay of sixty days. Since there was time to do so, I preferred to refer the case to the Conference, with my recommendation that a stay be granted, of sixty days, or if a petition for certiorari be filed within that time, until the final disposition of the case.

F. M.

Dear ching:

4-22-49

I am also
disqualified in
the next case, the
W. J. R. radio station.
It is a Detroit station
and the owner is
a close friend I have
advised some years
back.

I will remain
in chambers working
on opinions. So please
call on me to do anything
you want done - Frank Murphy

CD

Supreme Court of the United States
Washington, D. C.

RECEIVED
APR 30 5 28 PM '49
CHAMBERS OF THE
CHIEF JUSTICE

CHAMBERS OF
JUSTICE FRANK MURPHY

April 29, 1949

Dear Chief:

I trust it is agreeable with you if I remain in Detroit over the weekend and Monday for necessary checks and pictures on my condition of last fall.

I have a Court in Brooks, Nos. 388 & 389 (Justices Black, Reed, Jackson, Rutledge, and Burton). City of Morgantown, No. 396, is being circulated this afternoon. I understand that a dissent is being written in Brooks, so I would not expect it to come down.

I am deep in the writing of my other two cases, and am in daily contact with my work. You know that I am embarrassed at my absence from the Court, and that I always want to be there when I can. Conditions make it improvident for me to be there Saturday or Monday. I will therefore ask Justice Rutledge to represent me at Conference.

With every good wish,

Sincerely,

F.M.

FM:tlt

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

RECEIVED

MAY 6 1948 PM 3:46

Dear Chief:

CHAMBERS OF THE
CHIEF JUSTICE

I want to thank you for your endless kindnesses to me, and ask you to excuse me again from Saturday's conference. My Brother Rutledge will again represent me. If need be, I can return to Washington Sunday night for Monday's session, but I should also like to be excused then. I understand that there is little likelihood that any of my cases will be coming down, and I will have to be in Detroit Tuesday and Wednesday for further tests.

In No. 296, City of Morgantown, I have the votes of Justices Reed, Frankfurter, and Jackson. Justices Burton and Rutledge have asked me to note dissent, citing Enelow and Ettleson. In No. 388, Brooks, I have Justices Black, Reed, Jackson, Rutledge and Burton. I understand that one of the brethren is preparing a dissent.

Justice Frankfurter's opinion in your Larson case was very impressive. His exhaustive study of the cases will be of great value to the profession and students throughout the land. But I believe you are correct in the result, and that your opinion adequately and convincingly disposes of F.F.'s points, as I indicated in my note yesterday.

My very best wishes to you.

Sincerely,

F.M.

FM:tlt

MAY 6, 1949

DAY LETTER

Honorable Frank Murphy,
The Whittier Hotel,
415 Burns Drive,
Detroit, Michigan.

There is no urgency for your presence here Monday so stay in Detroit for your tests on Tuesday and Wednesday STOP Just sent in my concurrences in two cases referred to in your letter STOP I thought each of them was a good job STOP I miss you but certainly do not want you to neglect yourself STOP With Cordial regards

Fred M. Vinson

Supreme Court of the United States
Washington 13, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

May 14, 1949

My dear Chief:

I am returning to Washington tomorrow, and will be with you Monday morning, ready to go down the home stretch in fine style.

F. M.

CHAMBERS OF
JUSTICE FRANK MURPHY

Supreme Court of the United States
Washington, D. C.

RECEIVED
JUN 10 9 13 AM '49
CHAMBERS OF THE
CHIEF JUSTICE

June 9, 1949

My Dear Chief:

I am in the hospital again but thank the Lord not because of any distress. The routine checks were due again this week and I was obliged to return to Detroit for a few days. So if you will excuse me, I shall not be present at the Conference tomorrow.

You will be interested to know that the most serious of the tests indicate that I am almost in the clear, and well on the way to the rugged health I wish to enjoy.

My last assigned opinion, No. 528, Christoffel v. U. S., will be printed tomorrow and should circulate by Monday. I believe I am not holding up the work of any of my Brethren, and if needed I can be easily reached by telephone through my office.

I am asking my Brother Rutledge to represent me at the Conference.

I have dictated a separate memorandum to you, outlining my position in the Eisler case. Justice Rutledge has a copy of it.

With every good wish,

Sincerely,

F. M.

FM/JRD

Supreme Court of the United States
Washington, D.C.

CHAMBERS OF
JUSTICE FRANK MURPHY

June 23, 1949

RECEIVED
JUN 23 5 27 PM '49
CHAMBERS OF THE
CHIEF JUSTICE

Dear Chief:

I want to thank you again for indulg-
me in the troubles I have been having of late.
The Doctors suggest that would be best to spend
the week-end in Detroit, and I feel I must
follow their advice. Should you want to reach
me, however, at any time, I am at the Ford
Hospital, and can most easily be reached at
Trinity 2-8982, a telephone booth near my room--
B 206. I have asked Justice Rutledge to rep-
resent me in conference again.

I will return Monday to read my opinion
in the Christoffel case, which I assume will be
ready to come down. Justices Black, Frankfurter,
Douglas and Rutledge have signed my opinion. I
have three concurring opinions of Justice Douglas
to handle in his absence, but I will simply ask
the writer of the Court's opinion to announce that
they have been filed.

As you know, the Christoffel opinion fin-
ishes my court work for the Term, and I am not
holding up any of my Brothers' opinions. I also
have two dissents -- in No. 255, Eisler and No.
17, Wolf v. Colorado. I may have a few concurring
paragraphs in the Lustig case, No. 1389 of the
1947 Term. But all will be ready by Monday.

I want to add that whether you believe it
or not, I am not going to the ball game this
afternoon, although you know how much the prospect
tempts me.

With every good wish,

Sincerely,

F.M.

FM/tlt

Supreme Court of the United States

Memorandum

_____, 194____

Dear Chief: Will
you please excuse
me? I am
having a slight
numbness of
my diffiniting
Franklin

C. H. Lee

Mrs ~~Leah~~ ^{Peckham} Feb

Whittier Apartment

415 Burns Drive

Detroit Mich

STATEMENT BY CHIEF JUSTICE VINSON -

July 19th, 1949.

A courageous fight comes to an end. For months, Justice Murphy walked in the great shadow -- unafraid. Even so, his death is a severe shock to me.

An outstanding career, climaxed with service on the Court, may be noted as an example for the youth of our country. His definitive philosophy in respect of the rights of his fellows was never deterred by criticism either past or prospective.

His kindness of heart and spirituality of soul will never be effaced from the memory of his friends. Missing the warmth of his friendship will be a deep personal loss.

STATEMENT BY CHIEF JUSTICE VINSON -

July 19th, 1949.

I HAVE JUST ISSUED THE FOLLOWING STATEMENT QUOTE

A courageous fight comes to an end. For months, Justice Murphy walked in the great shadow --- unafraid. Even so, his death is a severe shock to me.

An outstanding career, climaxed with service on the Court, may be noted as an example for the youth of our country. His definitive philosophy in respect of the rights of his fellows was never deterred by criticism either past or prospective.

His kindness of heart and spirituality of soul will never be effaced from the memory of his friends. Missing the warmth of his friendship will be a deep personal loss.

UNQUOTE. MRS. VINSON JOINS WITH ME IN EXTENDING TO YOU AND THE FAMILY OUR HEARTFELT SYMPATHY IN THIS YOUR HOUR OF BEREAVEMENT.

FRED M. VINSON

Sent via Wellman to
Hon George Murphy
Whittier Apartments
415 Burns Drive
Detroit, Mich

July 19th 49

REPUBLIC OF THE PHILIPPINES
CITY OF ILOILO

EXCERPT FROM THE MINUTES OF THE EXTRAORDINARY SESSION
OF THE MUNICIPAL BOARD OF THE CITY OF ILOILO, PHILIP-
PINES, HELD AT THE SESSION HALL, CITY HALL, ON THURS-
DAY, JULY 21, 1949.

RECEIVED
JUL 22 1949
CHIEF JUSTICE

PRESENT:

Hon. Vicente R. Ybiernas, Mayor	Chairman
Hon. Dominador Jover, Vice Mayor	Member
Dr. Antonio Sanagustin	"
Dr. Manuel Hechanova	"
Atty. Fortunato R. Ybiernas	"
Atty. Felix V. Macalalag	"
Atty. Joaquin Abanilla	"
Atty. Pascual Espinosa	"
Atty. Simplicia Magahum Offemaria	"
Atty. Felipe Escarrilla	"
Mr. Crispino Melocoton	"

ABSENT:

N o n e .

RESOLUTION NO. 752
EXPRESSING CONDOLENCE OVER THE UNTIMELY
DEATH OF THE LATE JUSTICE FRANK MURPHY
OF THE UNITED STATES SUPREME COURT.

WHEREAS, the Honorable Frank Murphy, Associate Justice of the United States Supreme Court, and erstwhile the last Governor-General and the first United States High Commissioner to the Philippines, has been summoned to live eternally in his final resting place in the Life Hereafter;

WHEREAS, the news of the unexpected death of the afore-said deceased has shocked the Filipino people who have always considered him a loyal and worthy friend and a great sympathizer and collaborator in their national aspiration to become free and independent;

WHEREAS, the untimely death of Justice Frank Murphy is indeed a great loss, not only to the American people of a devoted and exemplary public official, but also to the Republic of the Philippines of a true friend and a great champion of individual rights of men especially the poor and the weak;

NOW, THEREFORE, in recognition of his distinguished services to the Philippines, and as a simple expression of the deep sympathy and bereavement of the Filipino people, the Municipal Board of the City of Iloilo,

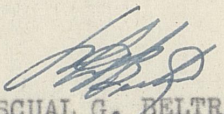
On motion of member Atty. Simplicia Magahum Offemaria, seconded by member Atty. Joaquin Abanilla, has unanimously

RESOLVED, to express and to convey, through the Honorable Chief Justice of the United States Supreme Court, to the nearest relatives of the deceased particularly his sisters, Mrs. Marguerete Teahan and Miss Irene Murphy, the profound grief and deep sympathy of each and every member of this Body over the untimely death of the late Justice Frank Murphy with the prayer for the peaceful repose of his soul;

RESOLVED, FURTHER, to furnish, through His Honor, the Chief Justice of the U. S. Supreme Court, copies of this resolution to the interested parties for their respective information.

Unanimously approved.

I hereby certify to the correctness of the above-quoted resolution.


PASCUAL G. BELTRAN
Secretary

/aaa

REPUBLIC OF THE PHILIPPINES
CITY OF ILOILO
EXCERPT FROM THE MINUTES OF THE EXTRAORDINARY SESSION
OF THE MUNICIPAL BOARD OF THE CITY OF ILOILO, PHILIP-
PINES, HELD AT THE SESSION HALL, CITY HALL, ON THURS-
DAY, JULY 21, 1949.

PRESENT:

Hon. Vicente R. Ybiernas, Mayor	Chairman
Hon. Dominador Jover, Vice Mayor	Member
Dr. Antonio Sanagustin	"
Dr. Manuel Hechanova	"
Atty. Fortunato R. Ybiernas	"
Atty. Felix V. Macalalag	"
Atty. Joaquin Abanilla	"
Atty. Pascual Espinosa	"
Atty. Simplicia Magahum Offemaria	"
Atty. Felipe Escarrilla	"
Mr. Crispino Melocoton	"

ABSENT:

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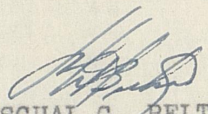
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Unanimously approved.

I hereby certify to the correctness of the above-quoted resolution.



PASCUAL G. BELTRAN
Secretary

/aaa

REPUBLIC OF THE PHILIPPINES
CITY OF ILOILO
EXCERPT FROM THE MINUTES OF THE EXTRAORDINARY SESSION
OF THE MUNICIPAL BOARD OF THE CITY OF ILOILO, PHILIP-
PINES, HELD AT THE SESSION HALL, CITY HALL, ON THURS-
DAY, JULY 21, 1949.

PRESENT:

Hon. Vicente R. Ybiernas, Mayor	Chairman
Hon. Dominador Jover, Vice Mayor	Member
Dr. Antonio Sanagustin	"
Dr. Manuel Hechanova	"
Atty. Fortunato R. Ybiernas	"
Atty. Felix V. Macalalag	"
Atty. Joaquin Abanilla	"
Atty. Pascual Espinosa	"
Atty. Simplicia Magahum Offemaria	"
Atty. Felipe Escarrilla	"
Mr. Crispino Melocoton	"

ABSENT:

N o n e .

RESOLUTION NO. 752
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WHEREAS, the Honorable Frank Murphy, Associate Justice of the United States Supreme Court, and erstwhile the last Governor-General and the first United States High Commissioner to the Philippines, has been summoned to live eternally in his final resting place in the Life Hereafter;

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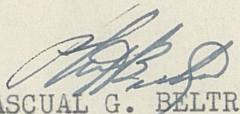
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RESOLVED, FURTHER, to furnish, through His Honor, the Chief Justice of the U. S. Supreme Court, copies of this resolution to the interested parties for their respective information.

Unanimously approved.

I hereby certify to the correctness of the above-quoted resolution.



PASCUAL G. BELTRAN
Secretary

/aaa

af

EDWIN B. MEISSNER
8000 NORTH BROADWAY
ST. LOUIS 15, MO.

July 20, 1949.

Dear Mr. Justice Vinson:-

My sympathy goes out to you and your Supreme Court Associates in the loss of our mutual friend, Mr. Justice Frank Murphy. We were close friends for over a quarter of a century, and I know how much his great ability will be missed.

Sincerely yours,

Edwin B. Meissner

Mr. Chief Justice Fred M. Vinson,
c/o U. S. Supreme Court,
Washington, D. C.

Supreme Court of the United States

Memorandum

_____, 194____

My dear Chief: You
have been so considerate
of me during this
distressing year, which
by the way is coming
to a happy ending for
my health is about
restored, that I am not
gifted enough to
adequately thank you.
But I am grateful
more so than you

Supreme Court of the United States

Memorandum

_____, 194____

shall ever know.

During the
Summer I will be
at my home
Horton Beach Michigan
in the town of North
Father and the home
and state I have.
I want you to feel
free to call on

Supreme Court of the United States

Memorandum

_____, 194____

me for any errand
I may do for you. In
fact if I could do
some work for you
during the summer
my ~~conscience~~ would
have some little
appeasement.

I trust that
both Mrs. Vinson
and you will have a
happy summer. J. M.

Ralph R. Roberts
Clerk

Office of the Clerk
House of Representatives
Washington, D. C.

file for Murphy

July 21, 1949

The Honorable
The Chief Justice
Supreme Court of the United States
Washington, D. C.

Sir:

In obedience to the requirement of House Resolution
287, adopted by the House of Representatives on July 19, 1949,
the Clerk transmits a signed engrossed copy thereof.

Very truly yours,

Ralph R. Roberts
RALPH R. ROBERTS
Clerk of the House of Representatives

H. Res. 287

In the House of Representatives, U. S.,

July 19, 1949.

Resolved, That the House has heard with profound sorrow of the death of the Honorable Frank Murphy, Associate Justice of the Supreme Court of the United States.

Resolved, That a committee of four Members of the House be appointed to attend the funeral and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and to the Supreme Court and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

Attest:

Ralph R. Roberts

Clerk.

file

July 28,
1949
Chicago, Ill.

To Chief Justice of U.S.
Supreme Court.

Washington, D.C.

Dear Sir:

I want to express to you my deep
sorrow over the death of Frank Murphy
associate Justice of U.S. Supreme Court.
The Country as a whole and the State
of Michigan have lost a great patriot
and a devoted public servant.
His name will not be forsaken by our
people.

Very truly yours,
Dr. Benjamin Chapman

my address is:

Dr. B. Chapman

1234 S. Kedzie Ave

Chicago 23, Ill.

~~(Signed) Fred M. Vinson~~

August 5, 1949

My dear Mr. Ambassador:

On behalf of the Court, I wish to thank you for your kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

His Excellency,
Honorable Henri Bonnet,
Ambassador of France,
2221 Kalorama Road, N.W.,
Washington, D.C.

August 5, 1949

My dear Mr. Ambassador:

On behalf of the Court, I wish to thank you for your kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

With kind regards,

Sincerely,

(Signed) Fred H. Vinson

His Excellency,
Honorable Oscar Gans,
Ambassador of Cuba,
2630 Sixteenth Street, N.W.,
Washington, D.C.

August 5, 1949

Dear Mr. Gonzalez:

On behalf of the Court, I wish to thank you and the Federal Bar Association of Puerto Rico for the kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

With kind regards,

Sincerely,

(Signed) Fred L. Winson

Mr. Jose G. Gonzalez,
President,
Federal Bar Association of Puerto Rico,
San Juan, Puerto Rico.

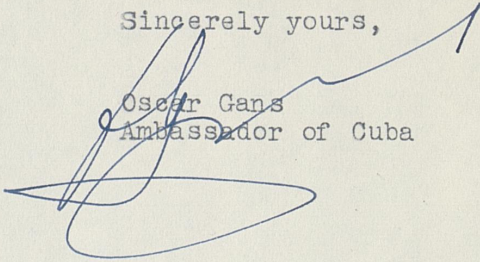
EMBAJADA DE CUBA
WASHINGTON, D. C.

July 20, 1949.

Dear Mr. Justice Vinson:

It was with the deepest regret that I learned of the death of Justice Frank Murphy, and I wish to convey to you and to the other members of the Supreme Court of the United States, my deepest sympathy in the untimely loss of this distinguished public servant.

Sincerely yours,



Oscar Gans
Ambassador of Cuba

The Honorable Fred M. Vinson
Chief Justice of the Supreme Court
of the United States of America,
Washington, D. C.

FAST



DIRECT



RADIOGRAM
RCA COMMUNICATIONS, INC.

A SERVICE OF RADIO CORPORATION OF AMERICA

TO ALL THE WORLD

TO SHIPS AT SEA

RECEIVED AT 1112 CONNECTICUT AVE., WASHINGTON 6, D. C., AT _____ STANDARD TIME

YWC504 PO 294 ORD SANJUANPR 40 20 1438 VIARCA *Via RCA*

CHIEF JUSTICE OF US

1949 JUL 20 PM 2 13

WASHINGTONDC

IN BEHALF OF THE FEDERAL BAR ASSOCIATION OF PUERTO RICO I WISH
TO EXPRESS TO YOU AND THE OTHER JUSTICES OUR DEEPEST SYMPATHY
ON THE PASSING OF THE HONORABLE FRANK MURPHY

JOSE G GONZALEZ

PRESIDENT

Telephone: National 2600
Form 112 WN 15-7

To secure prompt action on inquiries, this original RADIOGRAM should be presented at the office of
RCA COMMUNICATIONS, Inc. In telephone inquiries quote the number preceding the place of origin.

August 5, 1949

Mr. John Green,
President IUMSWA CIO,
Camden, New Jersey.

Dear Mr. Green:

On behalf of the Court, I wish to thank you for your kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

Sincerely,

(Signed) Fred M. Vinson

August 5, 1949

My dear Mr. Ambassador:

On behalf of the Court, I wish to thank you for your kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

His Excellency,
Honorable Rafael de la Colina,
Ambassador of Mexico,
2829 Sixteenth Street, N.W.,
Washington, D.C.

August 5, 1949

My dear President Perez:

On behalf of the Supreme Court of the United States, I wish to thank you and the other members of the Supreme Court of Justice of the Argentine Republic for the kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

Sincerely,

(Signed) Fred M. Vinson

Honorable Felipe Santiago Perez,
President of the Supreme Court
of Justice of the Nation,
Buenos Aires, Argentina.

FAST



DIRECT



RADIOGRAM
RCA COMMUNICATIONS, INC.

A SERVICE OF RADIO CORPORATION OF AMERICA

TO ALL THE WORLD

TO SHIPS AT SEA

RECEIVED AT 1112 CONNECTICUT AVE., WASHINGTON 6, D. C., AT 1949 JUL 20 PM 4 45 STANDARD TIME

YW520 BAC341 BUENOSAIRE/PO 53 20 1447

Via RCA

LC SENOR PRESIDENTE DE LA CORTE SUPREMA DE JUSTICIA

DE LOS ESTADOS UNIDOS DE AMERICA SR FRED M VINSON WASHINGTON

CORTE SUPREMA DE JUSTICIA DE LA REPUBLICA ARGENTINA PRESENTA

most heart-felt
LAS MAS SENTIDAS CONDOLENCIAS CON MOTIVO SENSIBLE FALLECIMIENTO

MINISTRO FRANK MURPHY

FELIPE SANTIAGO PEREZ PRESIDENTE DE LA CORTE SUPREMA

DE JUSTICIA DE LA NACION

EXX

Telephone: National 2600

Form 112 WN 15-7

To secure prompt action on inquiries, this original RADIOGRAM should be presented at the office of RCA COMMUNICATIONS, Inc. In telephone inquiries quote the number preceding the place of origin.

TRANSLATIONS OF RADIOGRAMS.

(1)

Caracas, Venezuela
July 20, 1949.

Honorable President of the Supreme Court of the U. S. of
North America, Washington.

The Federal and Cassation Court (Corte Federal y de
Casacion) of the U. S. of Venezuela sends to the judges of
your high court heart-felt condolences on the occasion of
the lamentable demise of the Honorable Justice Frank Murphy.

Sincerely,

Alberto Diaz, President.

(2)

Buenos Aires, Argentina
July 20, 1949.

Honorable Fred M. Vinson, President
Supreme Court of Justice, U. S. A.
Washington.

The Supreme Court of Justice of the Argentine Republic
sends its most sincere condolences on the occasion of the
~~great~~ grievous loss of Justice Frank Murphy.

Felipe Santiago Perez
President of the Supreme Court
of Justice of the Nation.

August 5, 1949

Dear President Diaz:

On behalf of the Supreme Court of the United States, I wish to thank you and the other members of the Federal and Cassation Court of the United States of Venezuela for the kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy.

We are transmitting a copy of your wire to his relatives.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

Honorable Alberto Diaz,
President,
The Federal and Cassation Court of
the United States of Venezuela,
Caracas, Venezuela.

August 5, 1949

Dear Mr. Paredes:

On behalf of the Court, I wish to thank you for your kind expressions of sympathy concerning the loss of our colleague, Mr. Justice Murphy. We are transmitting a copy of your letter to his relatives.

Sincerely,
(Signed) Fred M. Vinson

Mr. Cirilo Paredes,
Suite 507 Wilson Building,
Manila, Philippines.

FAST



DIRECT



RADIOGRAM
RCA COMMUNICATIONS, INC.

A SERVICE OF RADIO CORPORATION OF AMERICA

TO ALL THE WORLD

TO SHIPS AT SEA

RECEIVED AT 1112 CONNECTICUT AVE., WASHINGTON 6, D. C., AT 1949 JUL 20 PM 4:56 STANDARD TIME

YW525 YWS/VZS 841 CARACAS 50 20 1650

Via RCA

VENEZGOVT

EXCELENTISIMO PRESIDENTE DE LA CORTE SUPREMA DE LOS ESTADOS UNIDOS DE
NORTE AMERICA WASHINGTON

LA CORTE FEDERAL Y DE CASACION DE LOS ESTADOS UNIDOS DE VENEZUELA
EXPRESA A LOS JUECES DE ESE ALTO TRIBUNAL ^{heart-felt} SENTIDA CONDOLENCIA ^{for} CON MOTIVO
LAMENTABLE FALLECIMIENTO DEL HONORABLE JUEZ PRESIDENTE FRANK MURPHY
ATENTAMENTE

ALBERTO DIAZ PRESIDENTE

Telephone: National 2600
Form 112 WN 15-7

To secure prompt action on inquiries, this original RADIOGRAM should be presented at the office of
RCA COMMUNICATIONS, Inc. In telephone inquiries quote the number preceding the place of origin.

ASST. ATTORNEYS:
CORNELIO ANTIQUERA
MIGUEL MANIAGO
BEATRIZ TALAVERA
CONSUELO CARAAN
LILY GAMO
FELIX PALISOC
JOSE C. PAYAWAL

CIRILO PAREDES
LAW OFFICE
SUITE 507 WILSON BUILDING
MANILA, PHILIPPINES

TEL. 2-71-72

CABLE ADDRESS:
"CIRPA"

RECEIVED

JUL 32 9 32 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

July 25, 1949

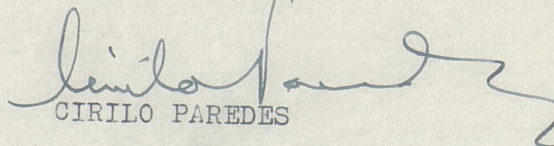
Dear Sir:

May I express through your good offices, my sincere condolence on the passing away of our former Governor General, Associate Justice Frank Murphy. The late Justice Murphy had won the admiration of each and every Filipino for whom he had dearly worked in the preparation of our present independent government. In view of this, the untimely death of the late Justice Frank Murphy is not only an irreparable loss to the American people, but to the Filipinos just as well.

As guest of Justice Frank Murphy during my recent visit to the United States Supreme Court in session last May, I had just received the beautiful group picture of the members of the Justices of the United States Supreme Court, which perhaps is the latest gift and souvenir he had sent to his Filipino friend in the Philippines.

The members of my Law office staff join me in expressing my condolence upon the irreparable death of the most beloved, former Governor General Frank Murphy of the Philippines.

Sincerely yours,


CIRILO PAREDES

To:
The Chief Justice,
United States Supreme Court
Washington D.C.
U. S. A.

' *Supreme Court of the United States*

Memorandum

____ August 15th _____, 194__⁹

Mr. C. J. —

Miss Baumgardner requested
that the enclosed be forwarded
to you.

.....k

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

August 15, 1949

Dear Mr. Chief Justice:

I write in the hope that you may give what help you can, with propriety, in the appointment of Edward G. Kemp as a Federal District Judge in the District of Columbia.

You know, I am sure, how dear Mr. Kemp was to the Justice. They shared an apartment from the time the Justice came to Washington. I have often heard my Chief say that no man in the Capital was of finer judicial timber than Ed Kemp and that he knew no one with a better legal mind.

I attach a brief career sheet, and a copy of an unusual letter the Justice sent President Roosevelt on the occasion of a vacancy in the District Court in Detroit. These may give you some idea of the man and of Justice Murphy's devotion to him.

I have talked with the Attorney General, Mr. Tom Clark last week about Mr. Kemp. My Chief also spoke to him about it early in June. I know that any word of encouragement you might have would be in the interests of a finer judiciary here in Washington.

My Chief wanted to return to the Capital late in June to assist in steering this appointment. It was uppermost in his mind.

With every good wish,

Sincerely,

Eleanor Bunting
Personal Secretary

Hon. Fred M. Vinson
The Chief Justice
U. S. Supreme Court
Washington, D. C.

copy

Supreme Court of the United States
Washington, D.C.

CHAMBERS OF
JUSTICE FRANK MURPHY

December 7, 1944

PRIVATE & IMPORTANT

Dear Mr. President:

I trust there is no impropriety in this letter - certainly none is intended. The suggestion that you appoint Edward G. Kemp United States Judge for the Eastern District of Michigan is made only that you may consider his name with others and in the firm belief that his appointment would be in the nation's best interest and thereby reflect credit on you.

While I was Attorney General of the United States I believe twenty-five or twenty-nine United States Judges were appointed on my recommendation. As a public servant in many positions I took pride in appointing the best men available to serve with competence and integrity all the people. You have been kind enough to tell me that those I suggested or recommended for judicial office were of singularly fine timber. In my effort to set lofty standards I wanted you to have the high place in history you deserve relative to our judicial system.

At present Edward Kemp is General Counsel for the Bureau of the Budget. He is modest and able and for twelve years he has served you and the government with fidelity and distinction.

The Dean of the Law School at the University of Michigan has told me that Mr. Kemp's mind and character he would place among a handful graduated from that great law college in a quarter of a century.

When World War I broke, he volunteered his services at once and became a captain of artillery in France.

Mr. Kemp assisted in solving, but not in an official way, the grave problems of unemployment when I was Mayor of Detroit during the days of the dark depression. He was Hall Roosevelt's close friend and legal adviser too during the time when Hall was at his prime and I cannot refrain from telling you that Hall in possession of his full gifts was an able, a really outstanding public servant when associated with me as Mayor of Detroit. Please note the attached letter I sent to the Detroit press at the time of Hall's death.

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
JUSTICE FRANK MURPHY

- 2 -

Ed Kemp has been legal adviser to the last Governor-General of the Philippine Islands and the First High Commissioner. He was legal adviser to the Governor of Michigan during the days of industrial strife, the magnitude of which history did not know before. His calm, wisdom and fairness helped bring the great conflicts to an unbloody and reasonable conclusion. When I became Attorney General you appointed Mr. Kemp 'The Assistant to the Attorney General'. During that very much alive year, he contributed mightily to our fine appointments, our struggle against corrupt judges and wicked political machines in Louisiana and Missouri. In addition when the European War flared up he, more than anyone in the Department, hastened the careful preparation of orders to meet the crisis.

His intellectual quality in my view is unmatched in the Capital. He is a profound lawyer, a highly cultivated citizen and is as pure a character as this Capital knows.

Twice I have been Mayor of Detroit and I have been Governor of my State. I know Detroit and Michigan rather well. Ed Kemp is respected in every segment of the State's family.

Incidentally you will be interested to know that Detroit produces more in War machines than all of Japan and Germany combined and one-eighth of the war production effort of our nation comes from Michigan.

The Federal Bench will need a competent and prepared lawyer like Ed Kemp to succeed Judge Tuttle who died last Sunday. It is my sincere belief that you could not possibly make a better appointment than that of Ed Kemp.

Because he has earned promotion by his faithfulness to you, his good works and because his appointment would be a credit to you I have brought his name to the attention of Francis Biddle. The Attorney General assured me that he would give careful consideration to Mr. Kemp's name and I believe he will.

I do hope you will return from your rest resplendent in health and spirit so that the nation will have the superb and inspiring leadership during the war-torn days ahead that you gave our country when our impoverished citizens looked to you - and not in vain - during the days of the depression.

With affectionate regards,

The President
The White House
Washington, D. C.

original signed by Frank Murphy

RE - EDWARD G. KEMP

Mr. Kemp was born and attended school in St. Clair, Michigan. His college and professional education was obtained at the University of Michigan, where he received degrees of Bachelor of Arts and Juris Doctor. He was an associate editor of the Michigan daily and the Michigan Law Review, and was elected to membership in Phi Beta Kappa, and the Order of Coif. He also pursued special studies at Lincoln's Inn and Oxford University.

After being admitted to the Bar of the State of Michigan in 1914, he engaged in the practice of law in Detroit. During the World War he was a commissioned officer of the United States Army and served overseas as lieutenant and later captain of artillery, participating in the engagements at San Mihiel and in the Meuse-Argonne.

In 1933 he was appointed Legal Adviser to Governor-General Frank Murphy in the Philippine Islands continuing to act in the same capacity when Murphy was appointed United States High Commissioner. In the Philippines he was also Vice Chairman and Director of the Philippine National Bank.

EDWARD G. KEMP - page 2

Returning to Michigan in 1936, when Murphy became a candidate for the office of Governor, he then became Legal Adviser to the Governor and Assistant Attorney General of the State of Michigan during 1937-38. In January of 1939, he was appointed Special Assistant in the Department of Justice, and in August of last year was appointed Assistant to the Attorney General which post he is now leaving to become Counsel of the Bureau of the Budget.

Mr. Kemp is unmarried and lives at the Washington Hotel.



GEORGE MURPHY
JUDGE

The Recorder's Court

OF THE CITY OF DETROIT

Sept. 12, 1949

RECEIVED

SEP 14 9 25 AM '49

CHAMBERS OF THE
CHIEF JUSTICE

Dear Justice Vinson:

File
My sister Marguerite and I are grateful for the efforts you made in coming to Harbor Beach as a final token of respect to the memory of our brother Frank. Your sacrifice in this respect was in keeping with the high esteem, admiration and affection in which you were held by Frank.

Very, very often Frank would tell me, with joy, of your acts and words of kindness and understanding; and how you represented, as Chief Justice, the finest ideals of American life.

Sincerely,

George Murphy

Honorable Fred M. Vinson,
Chief Justice, United States Supreme Court,
Washington, D. C.

September 30, 1949

Mr. Arthur G. Silverman,
Executive Secretary,
National Lawyers Guild,
1050 Avenue of the Americas,
New York 18, New York.

Dear Mr. Silverman:

I have your letter of September 28th, with which you enclosed certified copy of a Resolution adopted by your Guild on September 21, 1949.

We are transmitting your letter and the Resolution to the Solicitor General, who will arrange for the Memorial Meeting of the Bar.

Sincerely,

[Signed] Fred M. Winson

FMV:McH

Copy to: Honorable Philip B. Perlman,
Solicitor General of the
United States,
Washington, D.C.

File



GEORGE MURPHY
JUDGE

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Oct 11 3 07 PM '49
CHAMBERS OF THE
CHIEF JUSTICE

The Recorder's Court
OF THE CITY OF DETROIT

Oct. 6, 1949.

Hon. Fred M. Vinson, Chief Justice,
U. S. Supreme Court,
Washington, D. C.

Dear Justice Vinson:

My sister, Marguerite, and I
are grateful to you and the Associate Justices of
the United States Supreme Court for your thoughtfulness
in sending flowers in memory of our brother, Frank.

Sincerely,

George Murphy.

The Passing of Justice Murphy--

The Conscience of a Court

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CHIEF JUSTICE



by

ALFRED L. SCANLAN



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THE NOTRE DAME LAWYER
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CHAMBERS
CHIEF JUSTICE

THE PASSING OF JUSTICE MURPHY—THE CONSCIENCE OF A COURT

On July 19, 1949, death ended the brilliant career of Justice Frank Murphy, member of the Supreme Court of the United States from February, 1940, till the day of his unfortunate and premature demise. The loss which the nation suffered in the passing of this liberal,¹ idealistic judge was great; just how great must await the belated verdict of an objective posterity. However, if this short, posthumous appraisal of his philosophy and the contributions made by him to our jurisprudence and to our constitutional development serves, in the slightest, to reveal his judicial philosophy and his real moral fiber, then the writer will be more than satisfied. In a sense this effort is a memorial, even a eulogy, if you will, to the late Justice Murphy. Nevertheless, its basic purpose is not so much to praise, but to appraise the place of Frank Murphy as he departs from the passing scene.

In general, his death was much lamented by the responsible press² and the enlightened commentators of the nation.³ Their sorrow and their appreciation of Justice Murphy's character and abilities was shared, in general, by many persons of stature and achievement.⁴ On the other

¹ The writer anticipates that he will be accused of free and easy use of the word "liberal." It is a term admittedly of indefinite content. The writer, however, feels like the Englishman who, when asked to define an elephant, said that he couldn't, "but damn-well recognized one when he saw it." Justice Murphy's deep concern for minority rights and his protection of them against periodic oppressions by the majority, plus his high regard for the dignity of the individual and the basic political freedoms that should be accorded the individual, entitle him, in the opinion of the writer, to be classified properly as a "liberal."

² See, e.g., the laudatory editorial in the N. Y. Times, July 20, 1949, p. 24, col. 3.

³ Doris Fleenon, in her syndicated column, indicated that she felt Murphy had "kept the faith." Chi. Daily News, July 23, 1949, p. 5, col. 3. Even more sympathetic in its appraisal of Justice Murphy's career on the bench was an editorial written by Michael Straight. New Republic, Aug. 1, 1949, p. 4.

⁴ See, e.g., the comments of Chief Justice Vinson, Justice Tom Clark, Justice Reed, Justice Burton, Phillip Murray, John L. Lewis and others in the N. Y. Times, July 20, 1949, p. 26, col. 2.

hand, the pathological bias of some of Justice Murphy's journalistic traducers was unrestrained even in the hour of his death. To be a humanitarian is a sin, which in the eyes of some, warrants a stigma and a cross which must be carried even beyond the grave.⁵

However, the contrasting sorrows and satisfactions voiced at Justice Murphy's death are, perhaps, appropriate, because most of his adult political life was a role which allowed of little mixed feeling toward him. He was either loved and admired, or ridiculed and hated. Therefore, let the chips fall where they may when this writer ventures to assert that cases and events make it very clear that Frank Murphy was "the conscience of the Supreme Court" on matters of civil liberty, individual freedom, and the right to dissent. In addition, it is believed that the record of his performance on the high bench warrants the judgment that he grasped, as few high judges have, the correct scope of the judicial function in a constitutional democracy. Those are high accomplishments to claim for any man. Let us see if the record substantiates the claim.

While his early education need not concern us long, it is interesting to note that after graduating from Michigan Law School Frank Murphy did graduate work at Lincoln's Inn, London, and at Trinity College, Dublin. Perhaps this early study in a foreign country helped to shape his broad, catholic approach to the law, and assisted in formulating his firm belief in the universal dignity of the human personality. We quickly pass over Justice Murphy's military service in World War I, although it is possible that his military experience then, plus his later army service in 1940, played a part in establishing his strong conviction concerning the supremacy of the civil authority over the military. At least

⁵ A thinly concealed dislike for Justice Murphy pervaded the editorial of a local paper. *South Bend Trib.*, July 20, 1949, p. 8, col. 2. Its undisguised relief that there was one less "liberal" on the Court prompted this writer to a reply, which was published therein. *South Bend Trib.*, July 23, 1949, p. 4, col. 7.

it is interesting to note that the Roosevelt appointee with the most military service was the most adamant in resisting military encroachment of civil jurisdiction.

However, it is with his service as a judge of the municipal court of Detroit that we begin to find unmistakable evidence of the humanitarian philosophy which he was later to bring with him to the Supreme Court. In the trial of Dr. Ossian Sweet and his family (Negroes) for murder of a ruffian member of a white mob which had attempted to break in and destroy the house which the defendants had purchased in what had been regarded as a "white" neighborhood, Frank Murphy was the presiding judge. His conduct of that trial, in a courtroom pulsating with unmasked racial hatred and ominous with threats of possible violence, led Walter White to remark: "Never had a trial been conducted with more scrupulous fairness than it was by Judge Frank Murphy" ⁶

Thus, early in his career, and on the comparatively obscure level of the municipal bench, Murphy was already demonstrating his scrupulous concern for the substantive and procedural rights of minority groups, especially those who were the objects of deep prejudice and the victims of the oppressions and social passions of a temporary majority, or an alleged "anthropological elite." With his rapid ascension into high places and great councils, that feeling for oppressed minorities was to grow in intensity and in the eloquence of expression through which it was publicly manifested.

Another interesting period in the pre-Supreme Court career of Justice Murphy was the term he served as Governor-General and first High-Commissioner of the Philippines. In that role he was called upon to guide the people of the Philippines through the birth pangs of their newly acquired semi-independence. His gentle understanding of the prob-

⁶ WHITE, A MAN CALLED WHITE 77 (1948).

lems to be faced during this transition from a semi-backward colony to the beginnings of an independent state, earned for him the respect and affection of that people, and prompted the present Philippine Ambassador to the United States to comment, upon learning of Justice Murphy's death, that he was "one of the most highly respected and best-loved Americans ever to serve" in the islands.⁷

We can only surmise that Justice Murphy's experience in the Philippines helped to fashion the broad, ecumenical attitude displayed on the bench toward aliens and foreign petitioners for judicial redress, even if they were the hated generals of our defeated enemies.⁸ Frank Murphy was no parochialist; and it seems certain that his tenure in the Philippines contributed in a good measure to his firm belief in the universality with which justice should be dispensed.

Recalled by President Roosevelt to run for Governor in the crucial state of Michigan, Frank Murphy was elected and served one term. It was during this time that he first received great national publicity, for it was his destiny to serve as Governor during the days of the crucial "sit-down" strikes in the automobile industry. It was at this time that he displayed a humanitarianism which refused to indorse the use of violence, the bayonet, tear-gas, and death in order to demonstrate the undeniable property rights of the General Motors Corporation. Firmly refusing force, he used persuasion to induce the "sit-down" strikers to leave the plants and finally settle the strike. It was a courageous decision. In making it he brought down upon his head an avalanche of diatribe from the conservative press and those who would place the abstraction of "property rights" over and above the human issues involved in a tense and danger-

⁷ N. Y. Times, July 20, 1949, p. 26, col. 2.

⁸ See, e.g., his dissent in *Application of Yamashita*, 327 U. S. 1, 66 S. Ct. 340, 90 L. Ed. 499 (1946). In addition, Justice Murphy was the sole dissenter in the Court's refusal to interfere with the execution of the Japanese war criminals by the Tokyo Tribunal. However, he wrote no dissenting opinion. *Kido v. MacArthur*, 335 U. S. 906, 69 S. Ct. 197 (1949).

ous situation. It perhaps cost him his re-election as Governor, but if the auto workers needed to be taught a lesson that lesson did not need to be written in blood.⁹ He thus placed principle above political advantage in a brave display of his humane philosophy in which the dry formalisms of a legal "right" were not allowed to obfuscate the fundamental moral and human values at stake. From this philosophy he never departed and, as examination of his judicial opinions will reveal, it was one of Justice Murphy's outstanding traits. Like St. Paul he believed in the maxim: "The letter killeth, but the spirit giveth life." The sit-down strike affair was thus the first real public demonstration of the sincere understanding with which Justice Murphy was to view the problems of labor and which was later to reveal itself in the pages of his opinions.

After his defeat for re-election as Governor of Michigan, President Roosevelt appointed Murphy as Attorney General of the United States. While in that office he successfully presented charges of graft and corruption against the infamous Pendergast machine in Kansas City. He was successful also in securing the conviction of Federal Circuit Court Judge Manton for "selling" justice. In addition, he supported to the full the efforts of his able assistant attorney general, Thurman Arnold, in his many famous anti-trust suits. However, illustrative as these events are in revealing Justice Murphy's distaste for political corruption and economic monopoly, his proudest achievement as Attorney General was the creation of a Civil Rights Section in the Department of Justice.¹⁰ In his annual report for 1939, Murphy referred to this activity in the following statement: ¹¹

⁹ Doris Fleeson comments: "During tense weeks, by sheer moral force, he held willful men in conference—John L. Lewis, who has built an enduring union on the blood of martyrs, and attorneys for General Motors, one a du Pont son-in-law, who knew the strike was legally wrong and thought that a show of violence would put the public on their side. Few politicians have the intestinal fortitude to outlast such men." *Chi. Daily News*, July 23, 1949, p. 5, col. 3.

¹⁰ KONVITZ, *THE CONSTITUTION AND CIVIL RIGHTS* 64 (1947). It is unfortunate that his successors have adopted a policy of self-limitation on the Justice

The maintenance of civil liberties of the individual is one of the mainstays and bulwarks of democracy. It is fundamental that in the United States certain civil rights are guaranteed by the state governments, while others are assured by the Federal Government. In respect to the latter group the Department of Justice has an important function to perform. With that end in view, I caused to be organized a Civil Liberties Unit in the Criminal Division of the Department. One of the functions of this unit is to study complaints of violations of the Civil Rights Act and to supervise prosecutions under those statutes.

This concrete manifestation of the responsibility which Murphy felt the Federal Government owed to its citizens in the protection of their civil rights brought many appreciative acknowledgements and honors from various minority groups.¹² But more important, this manifestation serves to indicate that the judicial preference for human rights over "states' rights," which Murphy later exhibited on the bench, was part of the core of his philosophy of life, and not a conclusion first drawn in the Olympian detachment of his Supreme Court office. If further evidence of Justice Murphy's pre-judicial convictions on the point are needed, we can recall the words of one of his speeches wherein he said:¹³

... this task of protecting civil liberties [is] ... made twice burdensome by the fact that there is little pleasure in enforcing liberty for those who would deny liberty to others if they were in power. It is not easy to detest an extremist philosophy and yet insist on the right of a man to advocate it freely. Yet, apparently we must do just this if we are to practice our faith in democracy ... We must never forget that the democratic way is not to crush the alien view but to let it be heard and to defeat it by demonstrating that our way of living contributes the most to human happiness.

Department which has left the Civil Rights Section at the point of impotency. *Id.* at 65.

¹¹ REP. ATT'Y GEN. 2 (1939). See also, PRITCHETT, *THE ROOSEVELT COURT* 149 (1948); Scanlan, Book Review, 24 NOTRE DAME LAWYER 142 (1948).

¹² WHITE, *op. cit. supra* note 6, at 175.

¹³ Speech delivered over N.B.C., March 27, 1939, as quoted by Barnett, *Mr. Justice Murphy, Civil Liberties and the Holmes Tradition*, 32 CORN. L. Q. 177, 181 (1946).

What confidence in, and understanding of, the democratic process those words reveal! Democracy can only triumph by accenting the affirmative moral worth of its own attractive ideal; when it descends to the level of its totalitarian seducers, it risks its own suicide. Frank Murphy knew that, and, as we shall see, kept it always in mind during his tenure on the Supreme Court.

Thus, on the eve of his appointment to the Supreme Court, the events, deeds, and utterances in which he had participated up to that time would seem to entitle us to say that Justice Murphy was affected with a deep passion for the freedom of the individual, and that he possessed an acute sensitivity in his solicitude for the legal rights of unpopular minorities. Moreover, he seemed to accept the community of man and the universality of human nature. But above all, he appeared to be a man to whom the law was a concept second in importance to justice. Just what he conceived to be the permissible scope and function of the governmental power in the non-civil liberties fields, such as government regulation of business activity, perhaps we could not appraise too confidently. However, in at least one public utterance he indicated his personal realization that in the evolving industrial economy of our day, the power of government is not to be restricted to a limited and negative public power, but must be used positively as an instrument for human betterment.¹⁴ Indeed, even before his elevation to the Supreme Court, Murphy had made public his opinion that:¹⁵

... the whole people shall enjoy equal opportunity for economic security and the immeasurable benefits of civil and political freedom.

However, the real story of Frank Murphy lies in the evaluation of his judicial work as a member of the Supreme Court of the United States from 1940 to 1949. To sum-

¹⁴ N. Y. Times, Jan. 5, 1940, p. 10, col. 2.

¹⁵ Murphy, *The Courts—A National Bulwark*, 5 VITAL SPEECHES OF THE DAY 435, 436 (1939).

marize at the outset some of the characteristics which he demonstrated while serving as Associate Justice, we must say that he was a hard working judge, ranking second only to Justices Black and Douglas in the production of written opinions.¹⁶ As might have been expected, he specialized, in a sense, in writing the opinions in civil liberty cases and cases arising under the Federal Employers' Liability Act, the Fair Labor Standards Act, and similar statutes enacted in response to the growing demand for a minimum of economic security for the American worker. Political freedom and economic security were two themes which could always interest Frank Murphy. It must be admitted, however, that the intensity of his feeling, especially in civil liberty cases, sometimes resulted in opinions which were, in a large measure, appeals to emotion.¹⁷ However, his offenses in this regard, if indeed they were offenses, were the sins of the warm-hearted, and the emotions appealed to were always noble ones. To be a conscience, even of our highest judicial body, one must be permitted occasional resort to emotion and intuition with which to make more appetizing the often dry provender of logic. As Murphy himself put it, "as a judge I have no loftier duty or responsibility than to uphold . . . spiritual freedom to its farthest reaches."¹⁸ Such a function could not adequately be executed if confined to the sometimes limited and arid instruments of precedent and logic.

Murphy's position in the alignment of the Court on various issues is not hard to point out. He was part of the liberal wing composed of Justices Black, Douglas, the late Justice

¹⁶ Frank, *The United States Supreme Court 1948-1949*, 16 U. OF CHI. L. REV. 1 (1948).

¹⁷ See, e.g., his opinion in *Bridges v. Wixon*, 326 U. S. 135, 65 S. Ct. 1443, 89 L. Ed. 2103 (1945). Professor Pritchett comments that Justice Murphy's hypersensitive concern sometimes led him into "ventures little short of quixotic." PRITCHETT, *op. cit. supra* note 11, at 285.

¹⁸ *West Virginia State Board of Education v. Barnette*, 319 U. S. 624, 63 S. Ct. 1178, 87 L. Ed. 1600 (1943).

Rutledge,¹⁹ and himself. This wing of the Court accepted, along with the conservative wing headed by Justices Frankfurter, Jackson, Burton, and Chief Justice Vinson, the Holmesian concept of the proper function of the judge, i.e., that a judge should not substitute his concepts of public policy for that embodied in the collective mandate of the representatives of the people, and thus be led to frequent and unjustifiable rulings in favor of the unconstitutionality of statutes. Unlike the conservative wing, however, the Black, Douglas, Murphy, Rutledge alignment did not carry over this attitude of judicial "self-restraint," but on the contrary became very "activistic," when examining state or national action which injected itself into the field of civil liberties.²⁰ Leaving aside the merits of this difference of judicial approach for a while, we can say that Justice Murphy was the most firm of the liberal four in his adherence to their mixed philosophy of judicial "activism" and judicial "self-restraint." His record in upholding civil liberties since 1941 was one hundred per cent, while his support of the Government's power to regulate business activity was as regular as that of his three liberal brothers, and, in addition, his pro-labor position has been characterized as "the most extreme on the Court."²¹

Having identified Justice Murphy as the left wing member of the liberal branch of the Court, it should be fruitful to examine in more detail the application of his philosophy to the specific types of constitutional questions which have been presented to the Court for decision. Since the writer

¹⁹ Justice Rutledge died not long after Justice Murphy. He passed away on September 10, 1949. His loss to the Court and to the country was great indeed. The writer is profoundly sorry that the limitations of time and space do not permit further eulogy of that great judge.

²⁰ Schlesinger, *The Supreme Court: 1947*, Fortune, January, 1947, p. 73. Professor Schlesinger, loyal Harvard man that he is, gives the Frankfurter view a bit the best of it. When he calls the latter "a beloved teacher," he gives himself away. Felix Frankfurter was a great teacher. Whether he was "beloved" is another story.

²¹ PRITCHETT, *op. cit. supra* note 11, at 259. See also, CURTIS, *LIONS UNDER THE THRONE* 204 (1947).

has asserted, and it has been conceded in many quarters, that Murphy was the "conscience of the Court" on matters of civil liberties, more extended discussions of that phase of Justice Murphy's judicial career should be permissible. We have commented earlier on the paradox demonstrated by the liberal wing of the Court in being judicially "self-restrained," save on matters of civil liberty where, in direct contradiction, they became very cautious and inquisitive in passing upon the constitutionality of governmental action which might jeopardize the fundamental political freedoms of the citizen. One author has labeled this phenomenon as the "paradox in the Holmes tradition,"²² since Justice Holmes had demonstrated the same apparent lack of consistency in dealing with questions of personal liberty, as opposed to those involving the constitutionality of legislative regulation of economic activities.

Correctly appraised the paradox is easy to resolve, and the judges who adhere to it, like Murphy and Holmes, must be absolved of inconsistency. After all, when judges refuse to substitute their concepts of public policy for those of the people by promiscuously overturning duly enacted measures of the state or national legislatures, they are assuming that the legislature, the body composed of the elected representatives of the people, is entitled to govern according to the rules of democracy. However, when those same representatives of the majority pass legislation which attempts to restrict minority groups in the exercise of their rights, they are cutting at the basic root of democratic government, which is nothing else than the right to dissent.²³ We defer to legislative supremacy only because we assume they have proved their right to it by their victory in the competitive market place of contesting political theories, parties, and

²² Barnett, *Mr. Justice Murphy, Civil Liberties and the Holmes Tradition*, 32 CORN. L. Q. 177 (1946).

²³ SPITZ, *PATTERNS OF ANTI-DEMOCRATIC THOUGHT* 6 (1949). See also, for an excellent book review of this stimulating work, *Saturday Review of Literature*, July 16, 1949, p. 13.

groups. When they curtail or restrict the competitive nature of the arena of the political struggle by attempted restraints on free speech, press, assembly, or the practice of religion, they erase the major premise of democratic government from which all else flows. Some have said that this special judicial safeguarding of our civil liberties and the political rights embraced in the Bill of Rights is an aristocratic, as opposed to a democratic, function.²⁴ Correctly understood, it seems valid to say that it is the *sine qua non* of democracy to protect the free competition of ideas, lest in restricting that we forfeit all.

Justice Murphy was possessed of that philosophy. He was willing to afford a wide scope to federal and state powers of regulation. In the *American Power and Light* case,²⁵ involving the question of the constitutionality of the "death sentence" provision of the Public Utility Holding Company Act, he indicated the permissible sweep of at least one important federal power when he said: "... the federal commerce power is as broad as the economic needs of the nation."²⁶

Moreover, like his colleagues Black and Douglas, Justice Murphy took a tolerant attitude in regard to state taxation and regulation of economic enterprise, and usually could be found siding with those Justices who would sustain state action along these lines.²⁷ But while Murphy was willing to give the Commerce Clause "the most liberal interpretation . . . since John Marshall,"²⁸ and while, along with Justice Black, he was a "complete and consistent supporter of

²⁴ See VIERECK, *CONSERVATISM REVISITED* (1949). The eminent poet, Mr. Viereck, is not disapproving of this hyper-solicitude for the Bill of Rights. He merely is using the word aristocratic in a broader sense than is usually afforded it—that is, in the sense of preserving and conserving political freedom rather than economic and financial power.

²⁵ *American Power and Light Co. v. S. E. C.*, 329 U. S. 90, 67 S. Ct. 133, 91 L. Ed. 103 (1946).

²⁶ 329 U. S. at 104.

²⁷ PRITCHETT, *op. cit. supra* note 11, at 89.

²⁸ *New Republic*, August 1, 1949, p. 5, col. 1.

state power,"²⁹ nevertheless, his devotion to the canon of legislative supremacy did not unduly influence him in his approach to the problem of civil liberties. As has been said of Holmes, Justice Murphy believed that there were:³⁰

... some manifestations of the human spirit ... so precious that in specific instances he found no justification for legislative restrictions, tolerant though he was of the legislative judgment.

Justice Murphy balked when the power of regulation was the thinly concealed disguise for the hand of oppression.

For instance, to Frank Murphy, unrestricted freedom of speech and press was of paramount importance in the hierarchy of constitutional values. He recognized that the way to refute noxious doctrines is to expose them and argue them down. In that way only can we preserve unimpaired the avenues of thought-exchange which are the necessary sinews of the democratic state. Thus he supported the doctrine that peaceful picketing was free speech;³¹ that a semi-Fascist, defrocked priest had the right to utter his diatribes of racial hatred in the face of a hostile crowd;³² that newspaper editors are not to be found guilty of contempt for articles critical of a court;³³ that unions are not to be prohibited from supporting candidates for election via the medium of the press and the pamphlet.³⁴ There are other less extreme examples of Murphy's devotion to the principle of free speech and of a free press. All illustrate his unshakeable faith that democracy is built upon the full and peaceful interchange of competing ideas. To allow freedom even for speech that

²⁹ FRANK, MR. JUSTICE BLACK: The Man and His Opinions 154 (1949); see also, Scanlan, Book Review, 25 NOTRE DAME LAWYER (1949).

³⁰ FRANKFURTER, MR. JUSTICE HOLMES AND THE SUPREME COURT 49 (1938). It is interesting to note that this comment is made of his hero by Justice Frankfurter, and yet the gentleman often forgets that same creed in his rigid adherence to the doctrine of legislative supremacy, even if it means intrusion into the broad sphere of civil liberties.

³¹ *Thornhill v. Alabama*, 310 U. S. 88, 60 S. Ct. 736, 84 L. Ed. 1093 (1940).

³² *Terminiello v. Chicago*, U. S., 69 S. Ct. 894 (1949); see also, Rodell, *Freedom For Speech We Loathe*, The Progressive, July 1949, p. 9, col. 2.

³³ *Craig v. Harney*, 331 U. S. 367, 67 S. Ct. 1249, 91 L. Ed. 1546 (1947).

³⁴ *United States v. C.I.O.*, 335 U. S. 106, 68 S. Ct. 1349, 92 L. Ed. 1849 (1948).

is loathsome to us is the true test of the sincerity of our democratic convictions. Justice Murphy met that test.

This faith in the competition of ideas as the indispensable cornerstone of our democracy was exemplified by Justice Murphy when he approached the problem of legislative action and the constitutional principle of freedom of religion. Frank Murphy had enough faith in his religion and in Christianity in general, to know that it could withstand the challenge of error, heresy, and totalitarian slavery. Truth in religion, like democracy in politics, will prevail in the market place of ideas, unless its defenders forfeit it by the failure to stand up and speak for it, or take the equally fatal alternative of persecuting those who challenge it. In the blood of martyrs grows the seed of a church, be it Christian or Communist. Frank Murphy was not one to forget it. In a concurring opinion in *Martin v. Struthers*,³⁵ wherein the Court struck down a city ordinance which made it unlawful for anyone distributing literature to ring a doorbell or knock on a door, he said:³⁶

I believe that nothing enjoys a higher estate in our society than the right given by the First and Fourteenth Amendments freely to practice and proclaim one's religious convictions . . . The right extends to the aggressive and disputatious as well as to the meek and acquiescent. The lesson of experience is that—with the passage of time and the interchange of ideas—organizations, once turbulent, perfervid and intolerant in their origin, mellow into tolerance and acceptance by the community, or else sink into oblivion.

Thus, Justice Murphy, himself a deeply religious and pious man, never lost his patient tolerance even of the most bitter attackers of his own faith, such as were the Jehovah's Witnesses, whose right to speak, practice, and propagandize their unorthodox religion he defended to the last.³⁷

³⁵ *Martin v. City of Struthers*, 319 U. S. 141, 63 S. Ct. 862, 87 L. Ed. 1313 (1943).

³⁶ 319 U. S. at 149.

³⁷ See *Prince v. Massachusetts*, 321 U. S. 158, 64 S. Ct. 438, 88 L. Ed. 645 (1944). In a lone dissent Justice Murphy condemned a statute which made it a misdemeanor for an adult to permit a child to sell religious literature. An

His religion was deep enough, his faith strong enough to tolerate and protect the opponents of that faith. He understood that Catholicism, and Christianity in general, have withstood the vicissitudes of time and events not because they were the popularly held beliefs of strong, but temporary majorities, but because, possessing the hard kernel of Divine Truth, the bleatings of the harmless fanatics or the terrifying blows of the determined totalitarian enslavers of Man and Nature, fell equally impotent against an indestructible idea. With such a philosophy it is easy to see why Justice Murphy could not approve legislation which prevented people from ringing door bells in the sincere propagation of their religious views; or legislation which taxed the sale of religious literature; or which forced children to salute a flag when their view of God told them not to; or which required a license for the distribution of religious reading matter. Neither could a man of such convictions feel compelled to object when a majority of his brothers on the Court said the First Amendment prevents the teaching of religion in public schools on school time.³⁸ Perhaps, in the latter case, Frank Murphy knew in his heart that the truant officer never can be an adequate substitute for the spirit of the Lord. We may not approve of the *McColum* decision, but it shouldn't be hard to trace the premises on which Frank Murphy's assent to it rested.

It is not surprising, in view of Justice Murphy's faith that Christianity and democracy will prevail by the sheer, inexorable force of their own truth and virtues, that he became the special protector of various minority groups whose views and status have, from time to time, incurred the oppressive condemnation of a temporary majority. We have mentioned his special solicitude for the vexatious

extreme position—nevertheless, it is another example of Justice Murphy's passionate regard for religious liberty.

³⁸ *McColum v. Board of Education*, 333 U. S. 203, 68 S. Ct. 461, 92 L. Ed. 649 (1948).

Jehovah's Witnesses. Equally the objects of his judicial custody were American Negroes. His defense of their rights flowed from his faith in democracy, of course. But even more catalytic here was his concept of the equality of human dignity as the basis of our Christian civilization. Thus, he dissented from the majority holding in *Akins v. Texas*³⁹ that the intentional limitation of one Negro to a jury satisfied the requirements of the Fourteenth Amendment. He disagreed also from the holding in *Screws v. United States*,⁴⁰ which limited the criminal provisions of the federal civil rights laws. He saw clearly that the semantically appealing slogan of "states' rights" was too often used as a facade behind which "human rights" were obliterated. Deference to the legislative will of a geographical minority is misplaced when it violates the letter and spirit of the fundamental law of the national majority—the Constitution. As he himself put it:⁴¹

Too often unpopular minorities, such as Negroes, are unable to find effective refuge from the cruelties of bigoted and ruthless authority. States are undoubtedly capable of punishing their officers who commit such outrages. But where, as here, the states are unwilling for some reason to prosecute such crimes the federal government must step in unless constitutional guarantees are to become atrophied.

We mentioned before the fact that Justice Murphy usually lent a sympathetic ear when labor's right to organize or bargain collectively was the issue before the Court. Yet even here, when labor unions also attempted to discriminate, Murphy was quick to challenge them. His pro-labor bias did not lead him into the hypocrisy of sanctioning racial bigotry. So, in *Steele v. Louisville & Nashville R. R. Co.*,⁴² he concurred in a unanimous opinion of the Supreme Court which struck down attempts by the Railroad Brother-

³⁹ *Akins v. Texas*, 325 U. S. 398, 65 S. Ct. 1276, 89 L. Ed. 1692 (1945).

⁴⁰ *Screws v. United States*, 325 U. S. 91, 65 S. Ct. 1031, 89 L. Ed. 1495 (1945).

⁴¹ 325 U. S. at 138.

⁴² *Steele v. Louisville and Nashville R. R.*, 323 U. S. 192, 65 S. Ct. 226, 89 L. Ed. 173 (1944).

hood to exclude Negroes. The Court held that the union, the exclusive bargaining agent under the Railway Labor Act, must represent all members of the trade or craft without hostile discrimination. Justice Murphy was not content to rest the decision, as the remainder of the Justices did, on grounds of statutory interpretation alone, but went further in a reminder that grave constitutional issues were raised, saying:⁴³

The Constitution voices its disapproval whenever economic discrimination is applied under authority of law against any race, creed or color. A sound democracy cannot allow such discrimination to go unchallenged. Racism is far too virulent today to permit the slightest refusal, in the light of a Constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation.

An appeal to the emotions? Perhaps the emotionalism, let us say, of a man whose democratic instincts flowed from the deep wells of his Christianity. When we remember that discrimination against the civil liberties or the economic opportunities of any legitimate minority is the opening wedge against liberty itself, we can discern the hard substance of long range logic and reason deep in the bottom of the cup of emotionalism that Frank Murphy often raised.

One further indication of Justice Murphy's proclivity for piercing the protective veil of arid legalisms, when on the trail of those who would restrict the American Negro to the status of the "half-citizen," can be found in the second *Sipuel* case.⁴⁴ Here the Supreme Court held that by ordering the regents to admit a qualified Negro applicant to the University of Oklahoma Law School where she was to remain until a separate law school was established and ready to function, the Oklahoma county court did not depart from the Supreme Court's mandate in the first *Sipuel* case,⁴⁵ wherein it had been decided that a Negro applicant

⁴³ 323 U. S. at 209.

⁴⁴ *Fisher v. Hurst*, 333 U. S. 147, 68 S. Ct. 389, 92 L. Ed. 604 (1948).

⁴⁵ *Sipuel v. Board of Regents of the University of Oklahoma*, 332 U. S. 631, 68 S. Ct. 299, 92 L. Ed. 247 (1948).

to a professional school could not be discriminated against and denied admission solely because of color. Frank Murphy joined informally with his close colleague, the late Justice Rutledge, in a dissent which indicated that had both lived, further judicial perpetrations of the fallacious "separate but equal" maxim would have had at least two dissenters. When that fantastic fiction is finally wiped away,⁴⁶ Justice Murphy's spirit will, perhaps, rest easier.

No picture of Justice Murphy's deep concern over "racism" as a debilitating factor in the moral structure of our society could be complete without mentioning his defense of the much persecuted Japanese-American groups. For instance, while he concurred reluctantly in *Hirabayashi v. United States*,⁴⁷ upholding the Army curfew order applicable to all Americans of Japanese ancestry, he publicly proclaimed the prickings of his sensitive conscience and the uneasy apprehensions that must have possessed him, when he said:⁴⁸

Today is the first time, so far as I am aware, that we have sustained a substantial restriction of the personal liberty of citizens of the United States based upon the accident of race or ancestry. Under the curfew order here challenged no less than 70,000 American citizens have been placed under a special ban and deprived of their liberty because of their particular racial inheritance. In this sense it bears a melancholy resemblance to the treatment accorded to members of the Jewish race in Germany and in other parts of Europe. The result is the creation in this country of two classes of citizens for the purposes of a critical and perilous hour—to sanction discrimination between groups of United States citizens on the basis of ancestry. In my opinion, this goes to the very brink of constitutional power.

⁴⁶ For the true picture of how what is sometimes termed as constitutionally "separate but equal" proves to be sociologically, economically, professionally, and realistically "separate but grossly unequal," see SPRIGLE, IN THE LAND OF JIM CROW 50-55 (1949).

⁴⁷ *Hirabayashi v. United States*, 320 U. S. 81, 63 S. Ct. 1375, 87 L. Ed. 1774 (1943).

⁴⁸ 320 U. S. at 111.

Nor was it long before Justice Murphy's voice was again raised against the Court's relaxation of its vigilance toward executive and legislative action which might advance the ugly curse of racism. In *Korematsu v. United States*,⁴⁹ when the majority of the Court sustained the Army evacuation and exclusion order barring Japanese-Americans from the West Coast, Justice Murphy refused to go further along a road that very well might terminate in the twin disasters of military supremacy over civil authority and constitutionally permitted discrimination against any minority group, racial or religious, who might be the particular objects of hate of some future majority. Justice Murphy said that the order was not based on any demonstrated need, but upon:⁵⁰

. . . an accumulation of much of the misinformation, half-truths and insinuations that for years have been directed against Japanese Americans by people with racial and economic prejudices. . . .

The Court, in his opinion, had exceeded the "brink of constitutional power" and had fallen into the very ugly abyss of racism. While subsequent liberal and courageous decisions, such as the racial restrictive covenant rulings,⁵¹ have perhaps softened the fear in some quarters that the Court was tolerating damaging intrusions in the field of civil liberties, nevertheless, the chilling words of Justice Murphy's dissent in the *Korematsu* case should not be forgotten.

Further evidence of Justice Murphy's protective attitude toward minorities who are the unpopular targets of the transitory majority appears from examination of cases involving the rights of aliens. For instance, he took up the cause of the Japanese alien in *Oyama v. California*,⁵² where-

⁴⁹ 323 U. S. 214, 65 S. Ct. 193, 89 L. Ed. 194 (1944).

⁵⁰ 323 U. S. at 231.

⁵¹ *Shelley v. Kraemer*, 334 U. S. 1, 68 S. Ct. 836, 92 L. Ed. 1161 (1948), and *Hurd v. Hodge*, 334 U. S. 24, 68 S. Ct. 847, 92 L. Ed. 1187 (1948). This writer, among many others, has discussed these cases. Scanlan, *Racial Restrictions in Real Estate—Property Values Versus Human Values*, 24 NOTRE DAME LAWYER 157 (1949).

⁵² 332 U. S. 633, 68 S. Ct. 269, 92 L. Ed. 249 (1948).

in the Court struck down as unconstitutional a prima facie presumption under the California Alien Land Law that conveyances of title, where the consideration was paid by the agent ineligible for citizenship, were not gifts but were for the benefit of the alien. While the majority was content only to outlaw the presumption under the statute, Justice Murphy, along with Justice Rutledge, condemned the statute as outright racial discrimination and unconstitutional. Justice Murphy also raised the novel point that our international obligations were involved:⁵³

And so in origin, purpose, administration and effect, the Alien Land Law does violence to the high ideals of the Constitution of the United States and the Charter of the United Nations. It is an unhappy facsimile, a disheartening reminder, of the racial policy pursued by those forces of evil whose destruction recently necessitated a devastating war. It is racism in one of its most malignant forms.

Again in *Takahashi v. Fish and Game Commission*,⁵⁴ Justice Murphy went further than the majority in outlawing a California statute which denied fishing licenses to persons ineligible for citizenship, condemning it as discriminatory in intent as well as in effect.

Murphy's phobia for protection of minority rights carried over into other fields. In passing, we can recall his refusal to compound the attenuated judicial interpretations of the Mann Act to embrace unfortunate members of the Mormon sect that ran afoul of that congressional attempt to "purify interstate commerce."⁵⁵ Even more fundamental are his views toward unpopular political minorities, even those of the totalitarian mold. He wrote an opinion in the *Bridges* case,⁵⁶ wherein the Court refused to permit the deportation of the alien labor leader, Harry Bridges, for alleged membership in the Communist party. This opinion went further than the majority holding, which merely had decided the case on

⁵³ 332 U. S. at 673.

⁵⁴ 334 U. S. 410, 422, 68 S. Ct. 1138, 92 L. Ed. 1478 (1948).

⁵⁵ *Cleveland v. United States*, 329 U. S. 14, 67 S. Ct. 13, 91 L. Ed. 13 (1946).

⁵⁶ *Bridges v. Wixon*, 326 U. S. 135, 65 S. Ct. 1443, 89 L. Ed. 2103 (1945).

the grounds that the evidence of Bridges' affiliation with the Communist party was unsatisfactory. Murphy felt that the deportation statute was unconstitutional in denying due process and abridging the First Amendment. Extreme conclusions—yes; but the hysteria of a “witch-hunt” is extreme in its own good measure, and could violently provoke the democratic serenity of Murphy's philosophy.

Again, in *Schneiderman v. United States*,⁵⁷ Justice Murphy was vigorous in his defense of what he regarded as the political liberty of even an alien. In this denaturalization case, based on the charge that Schneiderman had been a Communist at the time of his admission to this country, Murphy pointed out that this was a proceeding to revoke citizenship after twelve years, and that the burden of proof was on the Government to prove the case “by . . . evidence which does not leave the issue in doubt.”⁵⁸ In other words, he would impose a test which is apparently identical with that of criminal law where a man's guilt must be proved beyond a reasonable doubt. When we recall that the loss to liberty, property, and economic and social opportunities is often equally as great in the case of deportation as in many criminal convictions, the similarity of the tests is not unjustifiable.

Recent evidence of Justice Murphy's defense of political minorities occurred in *MacDougal v. Green*⁵⁹ where the Court refused to strike down an Illinois election statute which required that a certain number of signatures on an election petition be from at least fifty different counties. The majority denied the “equal protection of the laws” argument of the petitioner, candidate for Governor of the State of Illinois on the ticket of Henry Wallace's Progressive Party. Justice Murphy joined Justices Douglas and Black in dissent as they pointed out the fact that merely because

⁵⁷ 320 U. S. 118, 63 S. Ct. 1333, 87 L. Ed. 1796 (1943).

⁵⁸ 320 U. S. at 135.

⁵⁹ 335 U. S. 281, 69 S. Ct. 1 (1948).

the federal Constitution sanctions some political disproportionate representation, there was no justification for allowing the states to create additional ones.⁶⁰

Departing from consideration of Justice Murphy and the problem of minority protection, and turning to the field of criminal law and procedure, we find a similar concern for individual rights exhibited by the Justice when appraising the fairness of criminal proceedings. And it is not surprising that one who was quick to preserve the rights of political, social, or religious dissenters and non-conformists should also demonstrate a solicitude for the rights of criminals. After all, fair procedure in a criminal trial is one of the essential features of the Bill of Rights. Its place in the tradition and political history of our nation is so well known that comment on it is unnecessary. Add to that the recent use by police states of the criminal law as a cruel and effective instrument for ferreting out and crushing the spirit of democratic opposition, and we can rejoice and applaud when our courts and judges go to extreme lengths in demanding fair criminal procedure, whether in the station house or in the court house.

Fundamental, of course, in ensuring fairness of trial in the criminal proceeding is the necessity of a democratic jury system. We find that Justice Murphy gave his assent to this proposition on several occasions. In *Fay v. New York*⁶¹ he dissented from a majority holding which sanctioned a New York "blue ribbon" jury panel under which women and laboring people were systematically excluded. In his dissent he decried a standard of jury selection which was "apparently of an economic or social nature, unjustified by the democratic principles of the jury system."⁶²

Turning to other phases of criminal law, we can point out additional examples of Justice Murphy's firmness in resisting

⁶⁰ 69 S. Ct. at 4.

⁶¹ 332 U. S. 261, 67 S. Ct. 1613, 91 L. Ed. 2043 (1947).

⁶² 332 U. S. at 299.

the slightest possible encroachment on the Anglo-Saxon ideal of fair criminal procedure. In a dissent in *Adams v. McCann*⁶³ he refused to recognize an accused's right to waive a jury trial in a federal court. In *Trupiano v. United States*⁶⁴ he joined the majority in giving a broad, protective interpretation to the Fourth Amendment's guarantee against unreasonable search and seizure. He argued similarly in a dissenting opinion in *Harris v. United States*,⁶⁵ and again in *Wolf v. Colorado*.⁶⁶ Moreover, it is interesting to note that, while Murphy deferred usually to administrative "expertise" when petitioners raised the claim of administrative action beyond the scope of their statutory authority,⁶⁷ nevertheless, when the administrative action seemed to him to have invaded the broad sphere of the Fourth Amendment, a different answer was reached. Thus, in *Oklahoma Press Publishing Company v. Walling*,⁶⁸ he dissented from a majority ruling that the Fair Labor Standards Act Administrator had the authority to issue subpoenas for the production of a newspaper's books and records. Justice Murphy's great concern for civil liberties could not permit him to sanction the use of non-judicial subpoenas by administrative agents.

Other incidental manifestations of Justice Murphy's devotion to the ideal of fair criminal procedure are found in his dissent in *Malinski v. New York*,⁶⁹ where he attacked the use of the third degree. His condemnation of wire-tapping was vigorous, as we see in *Goldman v. United States*;⁷⁰ his habit of strictly construing penal statutes is illustrated in *Chatwin v. United States*,⁷¹ where he construed the "Lind-

⁶³ 317 U. S. 269, 63 S. Ct. 236, 87 L. Ed. 268 (1942).

⁶⁴ 334 U. S. 699, 68 S. Ct. 1229, 92 L. Ed. 1673 (1948).

⁶⁵ 331 U. S. 145, 67 S. Ct. 1098, 91 L. Ed. 1399 (1947).

⁶⁶ U. S., 69 S. Ct. 1359 (1949).

⁶⁷ See, e.g., *S.E.C. v. Chenery Corp.*, 332 U. S. 194, 67 S. Ct. 1575, 91 L. Ed. 1995 (1947).

⁶⁸ 327 U. S. 186, 66 S. Ct. 494, 90 L. Ed. 614 (1946).

⁶⁹ 324 U. S. 401, 65 S. Ct. 781, 89 L. Ed. 1029 (1945).

⁷⁰ 316 U. S. 129, 62 S. Ct. 993, 86 L. Ed. 1322 (1942).

⁷¹ 326 U. S. 455, 66 S. Ct. 233, 90 L. Ed. 198 (1945).

bergh" federal kidnapping law narrowly so as not to have it encompass Mormons, who had taken a young girl without the consent of her parents across state lines for the purposes of a "celestial" marriage. Moreover, in refusing to apply the Mann Act to voluntary prostitution within the District of Columbia, he once again indicated his firm resistance to the extension of a general federal power to the point where local "affairs" became interstate crimes.⁷²

One final important case must be appraised before concluding the examination of Justice Murphy's concept of the relationship of the Bill of Rights and American criminal law. In *Adamson v. California*,⁷³ a five-Justice majority sustained a California statute which permitted comment by the prosecution upon the accused's failure to explain or deny the evidence against him. They felt that the Fourteenth Amendment did not embrace the self-incrimination provisions of the Fifth Amendment. Justice Murphy, with the remaining three judges, felt otherwise, and was of the opinion that all of the guarantees found in the Bill of Rights applied against the states by virtue of the Fourteenth Amendment. In fact, Justice Murphy, along with Justice Rutledge, wanted to go even further and, in addition to carrying over "the specific guarantees of the Bill of Rights" and applying them to the states via the Fourteenth Amendment, foresaw that:⁷⁴

Occasions may arise where a proceeding falls so far short of conforming to fundamental standards of procedure as to warrant constitutional condemnation in terms of a lack of due process despite the absence of a specific provision in the Bill of Rights.

A judge with Murphy's heedfulness of fair procedure is led inexorably to the conclusion that a double standard Bill of Rights is an anachronism in this democratic day. If the standards of restraint upon the powers of government in this area are valid when applied to the Federal Government,

⁷² *United States v. Beach*, 324 U. S. 193, 65 S. Ct. 602, 89 L. Ed. 865 (1944).

⁷³ 332 U. S. 46, 67 S. Ct. 1672, 91 L. Ed. 1903 (1947).

⁷⁴ 332 U. S. at 124.

they should be equally mandatory when reviewing transgressions of fair criminal procedure on the part of the states. Not only logic, but the legislative history of the Fourteenth Amendment re-enforce that judgment.⁷⁵ However, it must be admitted that Justice Murphy's desire to build even further on this base, while understandable from humanitarian considerations, would present further uncertainty and a greater possibility of a wave of certiorari petitions which would consume precious time which the Court can ill afford to spare. On the other hand, in the difficult field of criminal procedure the sympathies of even a liberal judge are often strained severely. Justice Black, normally a friend of individual liberty, strays from the reservation of freedom once in a while.⁷⁶ It is an area of the law which presents the difficult problem of whether we really can afford to the criminal dregs and cut-throats of our society the fairness of criminal procedure of which we boast. Justice Murphy would afford that fairness. Like Thurman Arnold he saw that a fair criminal trial is a consequence of a societal security in which men can tolerate contradictory social values.⁷⁷ When the criminal trial has become a mere form or relic of the tolerance of an earlier day, the goose-step and the commissar are the ideals of the hour. It is not always easy to keep the vision of such a nightmare in mind when its potentialities speak only through the petitions of murderous felons. Yet it must be done if the substance of our Bill of Rights is to be preserved unimpaired. Here Frank Murphy was a good preserver.

⁷⁵ FLACK, *THE ADOPTION OF THE FOURTEENTH AMENDMENT* (1908). And see the exhaustive appendix to Mr. Justice Black's dissenting opinion in *Adamson v. California*, 332 U. S. 46, 92, 67 S. Ct. 1672, 91 L. Ed. 1903 (1947).

⁷⁶ We observe this especially in Mr. Justice Black's tendency to support the government in the search and seizure cases. For example, see *Harris v. United States*, 331 U. S. 145, 67 S. Ct. 1098, 91 L. Ed. 1399 (1947). Undoubtedly, his experience as Senator in charge of more than one famous congressional investigation and the memory of the great difficulties in securing information necessary for the purposes of government, have played a part in shaping his attitude on this matter. See FRANK, *op. cit. supra*, note 29, at 63 *et seq.*

⁷⁷ ARNOLD, *THE SYMBOLS OF GOVERNMENT* 130 (1935).

One final broad category of cases completes examination of Justice Murphy's civil liberty philosophy. And it really is the field of "civil" liberty. The writer has reference to cases dealing with the exercise of jurisdiction by military authorities. The primacy of the civil authority over that of the military is a traditionally accepted political premise which lies deep at the roots of our democratic government. Furnishing one of the more popular dissatisfactions with British rule out of which came the American Revolution, it withstood even the terrible calamity of the Civil War. However, in our day some observers detect a weakening in the conviction with which it is asserted in certain quarters. The holdings in the Japanese exclusion cases *ante*,⁷⁸ the difficult struggle to preserve civilian control over the Atomic Energy Authority, the "hush-hush" military security bills which are rushed through Congress without open debate—all reflect a diminution in the devotion to the ideal of civil supremacy over our military authorities.

If this is so, Justice Murphy is not numbered among those who are losing faith in that ideal. In *Duncan v. Kahana-moku*,⁷⁹ he voiced fervent objections to the exercise of military jurisdiction over civilian offenders long after the danger of invasion of Hawaii had passed. While the majority reached the same result, they did so on grounds of the statutory interpretation of the Organic Act of Hawaii. Justice Murphy, rarely content to rest with statutory results when he believed fundamental constitutional principles were involved, claimed that the military trials:⁸⁰

... were forbidden by the Bill of Rights of the Constitution of the United States, which applies in both spirit and letter to Hawaii.

We have mentioned previously Justice Murphy's dissatisfaction with the Court's deference to the curfew and exclu-

⁷⁸ Notes 47 and 49 *supra*.

⁷⁹ 327 U. S. 304, 66 S. Ct. 606, 90 L. Ed. 688 (1946).

⁸⁰ 327 U. S. at 325.

sion orders of the military authorities on the West Coast. His distrust of military jurisdiction was not confined purely to domestic restrictions, however. For instance, in the *Application of Yamashita*,⁸¹ where a Japanese general brought habeas corpus to test the legality of his conviction before a military commission for violations of the "law" of war, Justice Murphy refused to join in the majority's opinion that the mode of military procedure in this case was not reviewable by the civil courts. Joining with Justice Rutledge, he reminded all that:⁸²

. . . in the sober after glow will come the realization of the boundless and dangerous implications of the procedure sanctioned today. No one in a position of command in an army, from sergeant to general, can escape those implications. Indeed, the fate of some future President of the United States and his chiefs of staff and military advisers may well have been sealed by this decision . . . Indeed, an uncurbed spirit of revenge and retribution, masked in formal legal procedure for purposes of dealing with a fallen enemy commander, can do more lasting harm than all of the atrocities giving rise to that spirit.

Justice Murphy stuck to his refusal to sanction the loose and precedent-setting procedures of military tribunals, and in *Application of Homma*⁸³ he repeated his dissent of the *Yamashita* case. Finally, in the attempt by the Japanese war criminals to have the Supreme Court review their convictions by the international Tokyo Tribunal, he dissented without writing any opinion.⁸⁴ The latter tribunal, while not strictly a military court, had been set up under a decree of the Supreme Commander for the Allied Powers in Japan, General MacArthur.

In concluding our investigation of Justice Murphy's reactions to the relationship between the civil and the military, we should mention the Selective Service Act cases. In *Falbo*

⁸¹ 327 U. S. 1, 66 S. Ct. 340, 90 L. Ed. 499 (1946).

⁸² 327 U. S. at 28.

⁸³ 327 U. S. 759, 66 S. Ct. 520, 90 L. Ed. 992 (1946).

⁸⁴ *Kido v. MacArthur*, 335 U. S. 906, 69 S. Ct. 197 (1948).

v. United States,⁸⁵ we find him to be the sole dissenter from a majority holding that a draft order of the Selective Service Board was not reviewable, and that it was merely an intermediate step in a process which would not reach its conclusion until the selectee actually was accepted by the Army. Justice Murphy felt that the rule which requires exhaustion of one's administrative remedies was not applicable where, as he pointed out,⁸⁶ it stripped a man of his only defense to a criminal prosecution for evasion of the Selective Service Act. The same philosophy was reflected in his dissent in *Cox v. United States*,⁸⁷ where he disagreed with a majority ruling which upheld, as supported by substantial evidence, a draft board's refusal to classify some Jehovah's Witnesses as ministers of religion. Once again we see Justice Murphy, usually a staunch defender of administrative finality in matters of fact, rejecting the "substantial evidence" rule when civil rights were in jeopardy. It is interesting to note, however, that Justice Murphy's views in these Selective Service decisions were, to all intents and purposes, adopted in two cases decided after the war had been concluded and the tides of nationalism, which, it seems, unavoidably must prevail in periods of wartime, had subsided.⁸⁸ Perhaps we can speculate that the dangerous decisions rendered in the Japanese curfew and exclusion cases might have gone the other way had they been decided after the actual war had been terminated.

Justice Murphy, himself a former soldier, like another great soldier-judge, Oliver Wendell Holmes, did not allow any misconceived romanticism or servile respect for military

⁸⁵ 320 U. S. 549, 64 S. Ct. 346, 88 L. Ed. 305 (1944).

⁸⁶ 320 U. S. at 559.

⁸⁷ 332 U. S. 442, 68 S. Ct. 115, 92 L. Ed. 59 (1947).

⁸⁸ *Estep v. United States*, 327 U. S. 114, 66 S. Ct. 423, 90 L. Ed. 405 (1946), where the Court held the order of the Board to be judicially reviewable in a criminal prosecution against a selectee who had reported for induction but refused to submit to induction. Any distinction between the *Estep* and *Fablo* cases would seem to be one without a difference. See also *Gibson v. United States*, 329 U. S. 338, 67 S. Ct. 301, 91 L. Ed. 331 (1946).

glory and authority to mislead him into sanctioning the slightest impairment of the principle of civil supremacy over military authority, or to forget that the ultimate overseer in maintaining that hierarchy of constitutional values should always be the Supreme Court. The role of custodian of the people's liberties has no finer duty than that discharged here.

Before concluding this evaluation of Justice Murphy's philosophy of law, we might once again briefly recall his attitude in the broad field of cases lying outside the sphere of civil liberties. We have already adverted to the wide scope he was willing to give to the federal and state regulatory powers, whether based on the commerce and taxation powers of the federal government or residing in the inherent police powers of the individual states.⁸⁹ In addition, it should be pointed out that Justice Murphy was a firm defender of extensive and effective anti-trust legislation. The limitations of time and space prevent detailed discussion of his contribution to the precedent-making decisions in the fields of trade regulation in general and anti-trust law in particular.⁹⁰ Suffice to say, Frank Murphy stood firm with the three other members of the liberal quartet, Black, Douglas and Rutledge, in refusing to tolerate any slight cracks in the legislative dikes which have been erected against monopoly. One quotation from his dissent in *Bruce's Juices v. American Can Company*⁹¹ serves to illustrate Justice Murphy's views in this general field. In that case the majority refused to permit a buyer to defend an action for the price of goods by showing that the seller had engaged in price discriminations against the buyer in violation of the Robinson-Patman Act. Justice Murphy, in whose philoso-

⁸⁹ Note 25 *supra*.

⁹⁰ See, e.g., the *Yellow Cab* decision wherein Justice Murphy interpreted the sweep of the monopoly section of the Sherman Act to embrace any "appreciable amount of interstate commerce." *United States v. Yellow Cab Co. et al.*, 332 U. S. 218, 225, 67 S. Ct. 1560, 91 L. Ed. 2010 (1947).

⁹¹ 330 U. S. 743, 67 S. Ct. 1015, 91 L. Ed. 1219 (1947).

phy the giant equity of the public interest would always adumbrate the dry legalisms of law suits between individuals, spoke thusly:⁹²

We should pause long before sanctioning the recovery of discriminating prices which Congress has found inimical to the nation's welfare. We should be on guard against the use of the judicial process to augment the subtle destruction of small business contrary to the legislative will, and the erosion of the barriers which Congress has erected against the flood-tide of monopoly. To that end, therefore, we should reverse the judgment below and allow courts to give full effect to the Robinson-Patman Act.

Firm believer in the efficacy of full and vigorous anti-trust enforcement though he was, Justice Murphy rebelled somewhat when he imagined that the protective enclave of the First Amendment would be infringed thereby. Thus he dissented in the *Associated Press* case,⁹³ wherein the Associated Press was found guilty of violating the Sherman Act by conspiring through its by-laws and other practices to exclude and discriminate against non-member competitors. In his separate dissent he remarked on the fact that the Sherman Act was being applied against the press for the first time, and went on to remind all that:⁹⁴

The tragic history of recent years demonstrates far too well how despotic governments may interfere with the press and other means of communication in their efforts to corrupt public opinion and destroy individual freedom. Experience teaches us to hesitate before creating a precedent in which might lurk even the slightest justification for such interference by the Government in these matters.

Thus, while a sympathetic friend of the collective efforts of the people's representatives to use the full power of government against the economic and financial abuses of a monopoly minority, he balked when the slightest specter of the opinion-controlling police state crossed his judicial path.

⁹² 330 U. S. at 766.

⁹³ *Associated Press v. United States*, 326 U. S. 1, 65 S. Ct. 1416, 89 L. Ed. 2013 (1945).

⁹⁴ 326 U. S. at 51.

Further demonstration of this wise caution was found in the field of administrative law. We have previously adverted to the fact that he was willing to forget his tolerance of administrative fact-finding finality when a deportation case was involved. Similarly in *National Broadcasting Company v. United States*,⁹⁵ he betrays the same apprehensions lest political and personal rights be infringed. In that case the majority upheld the power of the Federal Communications Commission to issue so-called "chain-broadcasting" regulations, which prohibited the granting of radio broadcasting licenses to applicants having certain corporate and financial relations with the networks. Justice Murphy dissented,⁹⁶ and, although his opinion did not specifically indicate it, we may surmise it was his usual anxiety over possible invasions of the "free speech" principle that prompted him to depart from the deference he ordinarily demonstrated toward administrative power of regulation.

Conclusion

A critic of Roger Williams once had to admit of that pioneer founder of Rhode Island, that he "had the root of the matter in him."⁹⁷ The same thing can safely be said of Justice Murphy. Like Roger Williams in his day, he saw that a Constitution, the fundamental law of a nation, could only be interpreted by the power that created it originally, namely, the sovereign people acting in a political capacity. For that reason Justice Murphy, true to the Holmes tradition, allowed wide reign to the power of government. He would not interpose his personal prejudices and predilections to stop the great social experiments that have to be carried out by a democratic government in the Twentieth Century, if that government is to continue to exist. Yet, as

⁹⁵ 319 U. S. 190, 63 S. Ct. 997, 87 L. Ed. 1344 (1943).

⁹⁶ 319 U. S. at 227.

⁹⁷ Cotton Mather, as quoted in I PARRINGTON, MAIN CURRENTS IN AMERICAN THOUGHT 75 (1927).

one astute observer has pointed out, it is a matter of considerable controversy how far government economic regulation and planning is compatible with the maintenance of our civil and political freedoms.⁹⁸ Justice Murphy demonstrated he was alive to this fact: that liberty can be lost by government action just as well as by its non-use.

Thus, as we hope these pages have recalled, Justice Murphy was ever vigilant in protecting the great political freedoms of speech, religion, press, and thought. Perhaps it was in good measure because of his leadership that, in a period when governmental activity and planning in America reached its greatest intensity, there has been a vigorous protection of civil rights by the Court. Perhaps never before since the days of the great Jefferson have the principles of freedom of speech, press, and religion been more venerated and protected by our high Court. Never before have the political and economic rights of the American Negro been looked after with such scrupulous caution. The hypocrites who distort the terms "liberty" and "states' rights" to serve as a clever masquerade behind which to oppress the Negro and the "poor white," to give, for example, the national tidelands oil resources to the money changers, and to attack the public power developments of the nation, could take a leaf from the book of Justice Murphy and some of his colleagues, if they are really concerned about preserving human freedom.

One major criticism has been directed against Justice Murphy's "judicial activism" in serving the cause of civil liberties. Essentially, this criticism amounts to this: for the Court to play the role of an active protector of civil liberties is undemocratic. It tends to shift responsibility for the preservation of minority rights away from the legislature, the representatives of the people.⁹⁹ Moreover, say some, it

⁹⁸ ROTTSCHAEFER, *THE CONSTITUTION AND SOCIO-ECONOMIC CHANGE* 235 (1948).

⁹⁹ COMMAGER, *MAJORITY RULE AND MINORITY RIGHTS* 71 (1943).

is undemocratic in that it often results in overturning legislation which the state legislatures, representing their electorates, have passed. The answer to this multiphrased objection is not difficult and has been referred to at some length earlier in this article. We sanction the decisions of the rule of the majority when they come from the duly and democratically elected representatives of the people. When that majority will tries to undercut or impair the basic principles upon which it rests, namely, the free play of opposing views, practices, parties, etc., then the Court, as guardian of the Bill of Rights, must step in. We will not tolerate democracy to be destroyed in its own name. Justice Murphy grasped that. The majority must be left free to govern; but the minorities must be left free in their efforts to become a majority. Moreover, sectional prejudices cannot be allowed to override the letter and spirit of the Constitution. To these principles Justice Murphy's career on the bench was successfully dedicated.

With the passing of Justice Murphy and his close colleague, Justice Rutledge, the so-called Roosevelt Court has suffered a bitter blow. Fate has taken this great team of humanitarians. What their respective successors will be like is open to grave speculation.¹⁰⁰ It is hoped, however, that at least one of them will step forward to occupy the role of the late Justice Murphy as special custodian of oppressed minority groups, the vigilant watch dog of the First Amendment. Justice Murphy was the conscience of the Court. More than that, he was a great American in the Jeffersonian mold. His contributions to the judicial heritage of a free people will be long remembered. American Catholics can

¹⁰⁰ The reaction to the appointments of Tom C. Clark, former Attorney General of the United States, and Sherman Minton, former United States Senator from Indiana and Judge of the United States Court of Appeals, to succeed the late Justices Murphy and Rutledge has been of a mixed nature. Of the two, in the opinion of the writer, the proved liberal Minton gives the greater promise of stepping into the shoes of Murphy as the strident, humanitarian voice on the Court.

well be proud of him, and agree with him that: "In the scheme of democracy, as in the code of Christianity, all men are on a common level of dignity and importance."¹⁰¹

This is a truth that can stand much re-emphasizing in these days of insecurity and fear. Justice Murphy never forgot it; let us not.

Alfred L. Scanlan

¹⁰¹ As quoted in the Chicago Sun-Times, July 20, 1949, p. 12, col. 6.

Supreme Court of the United States
Washington, D. C.

Rm. 236

October 26, 1949

Dear Mrs. McHugh,

If and when convenient, would you
kindly ask the Chief
Justice to sign the
attached lists which
have been requested
by J. Murphy's friends
of me. Thank you.
Eleanor Beengardner

PRESENTATION OF PORTRAIT
of
JUSTICE FRANK MURPHY
to the
SUPREME COURT of the UNITED STATES



DEDICATION

While still a student at the University of Michigan, Frank Murphy came to believe that to better the lot of the workingman is to invest in the future of democracy. He worked for a higher standard of living for the laborer and his family, convinced that this is one of the loftiest goals of the Christian ethic. He espoused social justice because to him it was morally right. He knew, also that extremist causes—whether in the guise of communism or fascism—will not flourish among people who are free from want.

For these reasons, he believed in the usefulness of responsible labor unions, wisely led and capable of cooperating with industry and government in the common cause of economic stability.

Thus it was that he came to be regarded as a friend by such organizations as the Detroit Federation of Labor. In token of its respect and gratitude, the Federation presents this portrait of Justice Murphy to the Supreme Court of the United States, on whose bench he was serving when his long career of public service reached its untimely end.

PRESENTATION CEREMONY

Friday, May 15, 1953, 11:30 a. m.

Lawyers' Lounge, Supreme Court of the
United States

A few words of appreciation will be
spoken by:

Patrick V. McNamara, Chairman of Portrait Committee,
Master of Ceremonies

Edward J. Hayes,
Member of United States Supreme Court Bar

Frank X. Martel, President, Detroit
Federation of Labor

A Note on the Artist and the Portrait

The portrait herewith presented to the Supreme Court was painted by Fernando C. Amorsolo, a noted artist of the Philippines. He was personally acquainted with Justice Murphy and much of his interpretation comes from direct observation of the Justice. This portrait formerly belonged to the Murphy family and was considered by the Justice to be the finest portrait ever painted of him. The Justice, who also acquired other Amorsolo paintings, believe the artist to be one of the greatest now living.

DONORS OF THE PORTRAIT

AFSCME 41
AFSCME 245
AFSCME 339
AFSCME 345
AFSCME 409
AFSCME 595
AFL—Regional Office
Asbestos Workers 25
Bakers 78
Barber Employers Guild 4
Barbers Union 552
Barbers Employes 960
Bill Posters 94
Boilermakers 169
Bricklayers & Masons 2
Building Service Employes 79
Carpenters 19
Carpenters 337

Carpenters 983
Electrical Workers 17
Electrical Workers 58
Electrotypers 54
Elevator Constructors 36
School Engineers 522
Michigan Consolidated
Gas Workers 22177
Glass Workers 357
Government Employees 176
Lathers 505
Laundry Workers 129
Meat Cutters 539
Millwrights 1102
Molders 31
Motion Picture Operators 199
Painters 37
Painters 42

Painters 675
Photo Engravers 12
Pipe Fitters 636
Plumbers 98
Pressmen & Assistants 40
Radio Artists
Riggers 575
Roofers 149
Sanitary Drivers 663
Signwriters 591
Sheet Metal Workers 105
Sleeping Car Porters
Sprinkler Fitters 704
Steel Workers 426
Stereotypers 9
Detroit News Chapel Members
Streetcarman's Division 26
Typographical 18
Upholsterers 31

BALKANY, Ben
BALLENGER, John
BANKS, Roy Delco
BASSO, Joseph
BEECHINOR, William
BERG, Emil
BERGHOFF, Sam
BETTESWORTH, Carl P.
BLOTNICK, Louis
BORG, Frank
BOURKE, Richard M.
BRADLEY, D. E.
BUCHAN, Herman
BURNS, Edward P.
BURNS, Vernon
BUTSKI, S.
BYERS, William
CABOT, Edward
CODY, William
COHN, Meyer
COOK, J. H.
CIAPA, Joel
CRAFT, Ezra B.
CROOKS, Sam
CULP, Guy
DAY, Edward
DINGELL, John (Cong.)
DONEY, William C.
DUFF, George
DZENDZEL, John
EDWARDS, George
ERLEBACHER, Fred
FERLAND, Arthur F.
FLEISHER, Isadore
FINE, Max
FINK, Henry
FUESTER, B. L.
GARRETT, Dan
GARU, Leo
GIBSON, James
GILBERT, Karl
GLASER, George
GOLDEN, Sam
GOLDMINTZ, Jacob
GOODSTEIN, Rubin
GROLDNER, Binem
GUTTER, Irving
GRODSKY, I.
GRISHAM, Charles M.
HARKMAN, C. A.
HARRIS, Leo
HARK, Philip A.
HEANEY, Frank
HECKERT, Joseph E.
HEDDLE, C.
HILL, Kermit
HOLTON, C. J.
HORTICK, Louis
HONICA, Leo

HERSZLKOWSKI, Nathan
HUSK, George
INNES, Russell
JACOBS, Ben
JAMIESON, A. R.
JENSEN, O. E.
JOHNSON, Patrick J.
KALMBAUGH, Ernest
KANABY, Edward Roy
KAUFMAN, Les
KEAN, James
KLEIN, Juhda
KEATING, George
KERPAN, John
KOBÉ, Matt J.
KOGAN, Harry
KMIECIK, Walter
KORMAN, Morry
KORNFIELD, Henry
KWANSIEWSKI, J.
LEADBETTER, Thomas
LETOW, Dave
LAUB, Joseph
LEE, James
LEVINSON, Ben
LISS, Joseph
LOTTMAN, Dave
LOUGH, Vern
LYON, Clark
MAGNUSSON, Chris
MARTEL, Frank
MARTINO, Tom
MATTINSON, George
MEGE, Isadore
MAYER, Arthur
MEISNER, Max
MEISNER, Meyer
MOORE, Cliff
MORGAN, Floyd
MOWAT, Charles
MULLETT, M. E.
MYERS, Theresa
MUALDUAR, Marian
MEYERS, William
McCARTAN, Eugene
McCORM, L. R.
McINTOSH, Elmer
McNAMARA, P. V.
McNAMARA, Tom
McGUNNITY, James
McGUINGAN, Leo
McGUINNES, P. S.
McGUIRE, Jack
NEWMAN, Ralph
NIDORF, Isadore
NOCH, Michael
OTTEN, Julius
OSSA, Wilhelm

PEITZCSH, W.
PETERSON, Robert
PICKARD, Walter
PUROSS, James
ROLNITSKY, S.
REYNOLDS, James
RHODES, Herbert
ROACH, John
ROSMYS, Walter
RYAN, Frank J.
RUBIN, Ben
RUBINSTEIN, Nathan
RYBICKI, Stephan
SEIB, Clarence
SCHARER, Maurice
SHERMAN, Albert
SCHWARTZ, Frank
SIEGEL, Boaz
SIMKOVITZ, Joseph
SINGER, Isadore
SCHLUSSEL, Abe
SINSABAUGH, Fred
SMALL, Sam
SMITH, Herman
STALEY, Wilbur
STAEBLER, Neil
STANLEY, Walter
STEFFANS, Edward
STINGER, Leopold
STOKES, Roy
SWEENEY, Florence
SWOPE, J.
TASHNICK, Anthony
THOM, Glenn
TOBIN, Maurice
TRAYLOR, Hoy C.
TUCHMINTZ, H.
WEBERMAN, Hubert
WEBERMAN, Julius
WEINSTEIN, David
WINGRAD, David
WEIS, Morris
WEISS, Martin
WISH, Herman
WISHNEWITZ, Ralph
WEINRAUGH, William
WERNETTE, Richard
WHITE, George
WIEDERHOLDT, Herman
WILLIAMS, G. Mennen (Mrs.)
WILLIAMS, G. Mennen
WISDOM, Walter
YOUNG, Charles
YOUNG, Rudy
AGERMAN, Leon
ZAGERMAN, Isadore
ZAMEK, Philip
ZIMMERMAN, Morton
ZWERLING, A. L.

DETROIT AND WAYNE COUNTY FEDERATION OF LABOR

Requests the Honor of the Presence of

Hon. & Mrs. Fred M. Union

At a Presentation

To the Supreme Court of the United States

of a Portrait of

HON. FRANK MURPHY

Late Justice of the Supreme Court
of the United States

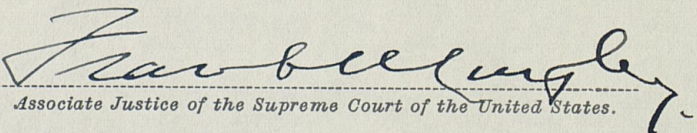
In the Supreme Court Building
Washington, D. C.

FRIDAY, MAY FIFTEEN
NINETEEN HUNDRED FIFTY-THREE
At Half Past Eleven in the Morning

Supreme Court of the United States
Washington, D. C.

May 23, 19 49

Mr. William J. Schrenk, Jr. is hereby designated and
appointed to serve as my Law Clerk
from the 18th day of July, 19 49
at a salary of \$ 4,618.68, per annum.


Associate Justice of the Supreme Court of the United States.

Approved:

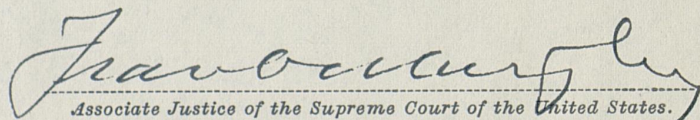
[Signed] Fred M. Vinson

Chief Justice of the United States.

Supreme Court of the United States
Washington, D. C.

_____, 19____

T. L. Tolan, Jr. is hereby designated and
appointed to serve as my Law Clerk
from the first day of September, 1948
at a salary of \$4,618.68, per annum.


Associate Justice of the Supreme Court of the United States.

Approved:

Chief Justice of the United States.

Supreme Court of the United States
Washington, D. C.

June 1, 1948

ELEANOR M. BUMGARDNER is hereby designated and
appointed to serve as my Stenographer - Clerk
from the first day of July, 1948
at a salary of \$5,116.32, per annum.

Associate Justice of the Supreme Court of the United States.

Approved:

(Signed) Fred M. Vinson

Chief Justice of the United States.

Mr. Haggaman informs that Justice
Murphy's Secy advises him that

Mr. Dykema has been practicing for
over a year in Detroit. Therefore, I
assume under the Ct. policy, he qualifies
for the "Sr" rating. As I understand it, it
is a matter for the discretion of the apptg
judges - i.e. whether the background & experience equals
the "experience" of one up on

the Ct.

July 20, 1949.

TEACHERS COLLEGE
COLUMBIA UNIVERSITY
NEW YORK 27, N. Y.

OFFICE OF ADMISSIONS

Hon. Fred Vinson -
Supreme Court,,
Washington D.C.

Dear Sir:

This note is really meant for all
the Justices. It is a note written
in sorrow, for the loss of Justice
Frank Murphy -

The Negro race has lost another "friend"
and I should make every letter a
Capital. The word "tolerant" was un-
known to him; he only knew "love".
He did not give lip service, he gave to
the race physical service and attention.
There is nothing, absolutely nothing
he could have asked us for, that
would have been denied him.

II

TEACHERS COLLEGE
COLUMBIA UNIVERSITY
NEW YORK 27, N. Y.

OFFICE OF ~~ADMISSIONS~~

He loved us in return and we felt it - From the moment he sat on the bench in Detroit Mich. through every change in his life, we were with him and he felt that also -

Since he could not go on to the Presidency because of his religion, we had a secure feeling when he went into the Supreme Court - We followed him every step of the way with prayer and anything else he needed -

We grieve deeply at his leaving so soon -

I am only a colored girl studying for my Masters degree here at Columbia. If I had the money, I would not hesitate to fly to his bier. because

III

TEACHERS COLLEGE
COLUMBIA UNIVERSITY
NEW YORK 27, N.Y.

OFFICE OF ADMISSIONS

I lived in Detroit and knew him so very well and worked with my people to help him attain his goal - whatever his goal - it was ours, because he gave so unstintingly to me and my race -

I had the pleasure of breaking the news to him in Washington when he was confirmed by the senate to go into the Supreme Court of the land -

He knew my mother, my whole family and he was wonderful to us -

In sorrow
I am sincerely
Alma Thomas - Jones -