

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

1201

SYMBOLS

DL=Day Letter

NL=Night Letter

LT=Int'l Letter Telegram

VLT=Int'l Victory Ltr.

(26)

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

WA167 PD=FAX WASHINGTON DC 3 518P=

1953 MAR 3 PM 5 29

=THE CHIEF JUSTICE=

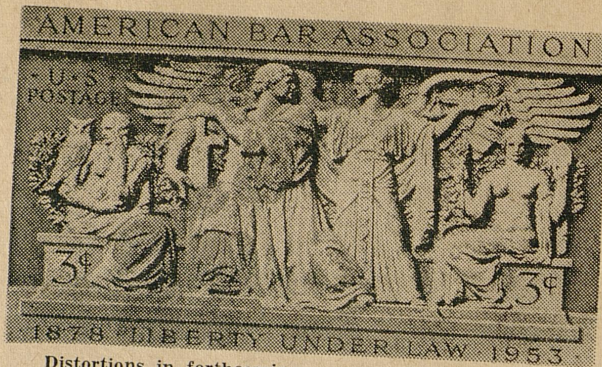
=SUPREME COURT OF THE UNITED STATES=

=REPLY TO LETTER FROM GAO DATED FEBRUARY 16, 1953, REQUESTING INFORMATION BY FEBRUARY 27, 1953, RELATIVE TO TERMINAL LEAVE PAYMENTS TO EMPLOYEES IN GS15 AND ABOVE HAS NOT BEEN RECEIVED. INFORMATION IS URGENTLY NEEDED FOR COMPILATION FOR CONGRESSIONAL COMMITTEE. IMMEDIATE ATTENTION APPRECIATED=

=ROBERT L LONG DIRECTOR OF AUDITS GENERAL ACCOUNTING OFFICE=

THE COMPANY WILL APPRECIATE SUGGESTIONS 16 1953 27 1953 GS15=

From The Washington Sunday Star
July 12, 1953



Distortions in forthcoming commemorative have stirred collectors' protest.

Philatelic News

Lawyers' Stamp Design Criticized as Faulty

By James Waldo Fawcett

The model for the 3-cent commemorative for the 75th anniversary of the American Bar Association was released on Tuesday and immediately created a flurry of critical comment. Based on a frieze on the west side of the chamber of the Supreme Court, the composition purports to show four symbolic figures, "Wisdom," with an owl; "Justice," with a sword; "Divine Inspiration," with evenly balanced scales, and "Truth," with a mirror. What is objected to is the fact that the four figures are disproportionate and malformed. The two end figures are too small in relation to the central figures and the central figures are monumentally too large—and yet appear hammered down or sawed off in defiance of both nature and art. Study of the symbol of "Justice" shows it to be nearly as broad as it is high and careful examination of the symbol of "Divine Inspiration" discloses a similar fault—the wings are much too long and the arms and hands also are disproportionately lengthened. To test the errors in the frieze a check of the height of a seated man and that of

a girl or woman standing beside him is held to be all that is necessary. Normally, the woman's head and shoulders loom considerably higher than the top of the man's head. The lawyers' commemorative contradicts this simple reality. Another defiance of the same character is to be found in the exaggerated thickness of the neck of "Justice."

Responsibility for the errors, however, does not lie with either the Post Office Department or the Bureau of Engraving and Printing. The primary sketch for the Supreme Court frieze seems to have been made by Cass Gilbert, architect of the Supreme Court Building. Actual sculpturing was done by Adolph A. Weinman, famous for his designs for the 1916 dime and half dollar and many popular statues. The lawyers' stamp was based on reproductions of photographs by De Witt Ward of a clay or plaster model for the west frieze of the Supreme Court chamber in *Architecture Magazine*, December, 1935.

First-day sales arrangements for the American Bar Association commemorative call for Boston, August 24.

RECEIVED
JUN 23 11 15 AM '53
CHAMBERS OF THE
CHIEF JUSTICE

File
WEST PUBLISHING COMPANY

S A I N T P A U L 2 , M I N N E S O T A



LAW BOOKS

HENRY F. ASMUSSEN	CHAIRMAN
HARVEY T. REID	PRESIDENT
LEE H. SLATER	VICE PRESIDENT
CHARLES LESLEY AMES	VICE PRESIDENT
WILLIAM W. MARVIN	SECRETARY
HAROLD W. SCHWARTEN	TREASURER
HAROLD F. KAPPLER	ASSISTANT SECRETARY
H. F. HEIDBRINK	ASSISTANT TREASURER

EDITORIAL

HENRY J. BRANDT	EDITOR-IN-CHIEF
WAYNE A. DAVIES	EDITORIAL COUNSEL

Jan. 4, 1952

Hon. Fred M. Vinson
Chief Justice, Supreme Court of the United States
Supreme Court Building
Washington, D.C.

Dear Mr. Chief Justice Vinson:

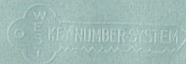
Our shipping department advises me that they recently received the return of Volume 98 Federal Supplement. There was no indication as to the reason for return and I assume that it was returned by the postal department through error.

In order that your Federal Supplement may be complete and up-to-date, we are returning this volume to you and hope that its nondelivery has not inconvenienced you.

Yours very truly,
WEST PUBLISHING COMPANY

Wayne Davies
Editorial Counsel

WAD/vw



January 14, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark ✓
Mr. Justice Minton

1/15/52
OK
by me
rcc

On Thursday, January 17th, at 12:30 p. m. , there will be a Joint Meeting of the Senate and House which will be addressed by Prime Minister Churchill.

A Joint Meeting is to be distinguished from a Joint Session. Were it the latter, we would receive an invitation and, according to the Marshal, if we were not in session, we would attend in a body. As I understand it, the Marshal has been informed that the Congress would like to have us attend, and they desire to know as soon as possible whether or not we will be there.

Please advise me of your wishes.

Chief Justice.

January 14, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson ✓
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

On Thursday, January 17th, at 12:30 p. m. , there will be a Joint Meeting of the Senate and House which will be addressed by Prime Minister Churchill.

A Joint Meeting is to be distinguished from a Joint Session. Were it the latter, we would receive an invitation and, according to the Marshal, if we were not in session, we would attend in a body. As I understand it, the Marshal has been informed that the Congress would like to have us attend, and they desire to know as soon as possible whether or not we will be there.

Please advise me of your wishes.

Chief Justice.

*I think we should attend in a
body.*

R. H. J.

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

CHAMBERS OF
JUSTICE HAROLD H. BURTON

January 15, 1952

Dear Chief:

I would like to attend the Joint
Meeting of Congress on January 17.

H.H.B. ✓

The Chief Justice

January 14, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

On Thursday, January 17th, at 12:30 p. m. , there will be a Joint Meeting of the Senate and House which will be addressed by Prime Minister Churchill.

A Joint Meeting is to be distinguished from a Joint Session. Were it the latter, we would receive an invitation and, according to the Marshal, if we were not in session, we would attend in a body. As I understand it, the Marshal has been informed that the Congress would like to have us attend, and they desire to know as soon as possible whether or not we will be there.

Please advise me of your wishes.

Chief Justice.

1/15/52

Justice Douglas' secretary advises that the Justice will attend the Capitol Ceremonies at which time Prime Minister Churchill will speak.

January 14, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter ✓
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

On Thursday, January 17th, at 12:30 p. m., there will be a Joint Meeting of the Senate and House which will be addressed by Prime Minister Churchill.

A Joint Meeting is to be distinguished from a Joint Session. Were it the latter, we would receive an invitation and, according to the Marshal, if we were not in session, we would attend in a body. As I understand it, the Marshal has been informed that the Congress would like to have us attend, and they desire to know as soon as possible whether or not we will be there.

Please advise me of your wishes.

Chief Justice.

Yes!

JT

January 14, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed ✓
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

On Thursday, January 17th, at 12:30 p. m., there will be a Joint Meeting of the Senate and House which will be addressed by Prime Minister Churchill.

A Joint Meeting is to be distinguished from a Joint Session. Were it the latter, we would receive an invitation and, according to the Marshal, if we were not in session, we would attend in a body. As I understand it, the Marshal has been informed that the Congress would like to have us attend, and they desire to know as soon as possible whether or not we will be there.

Please advise me of your wishes.

I shall be glad to go
SR

Chief Justice.

January 14, 1952

Memorandum to: Mr. Justice Black ✓
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

On Thursday, January 17th, at 12:30 p. m. , there will be a Joint Meeting of the Senate and House which will be addressed by Prime Minister Churchill.

A Joint Meeting is to be distinguished from a Joint Session. Were it the latter, we would receive an invitation and, according to the Marshal, if we were not in session, we would attend in a body. As I understand it, the Marshal has been informed that the Congress would like to have us attend, and they desire to know as soon as possible whether or not we will be there.

Please advise me of your wishes.

Chief Justice.

Dear Fred:

It is not my intention to go

H.B.

Jan 15-52

January 16, 1952.

Memorandum to the Chief Justice:

By direction of the Chief Justice, the Marshal transmits the following information:

The Court in a body, wearing robes, will attend the Joint Meeting of Congress to hear Mr. Churchill address that body on Thursday, January 17th.

Court will assemble in their Conference Room at 11:50 A. M., and in a group go to the old Supreme Court Chamber in the Capitol where their robes will be waiting for them.

ok
cj

1/15/52

Justice Minton's secretary phoned to say the Justice would be glad to attend the ceremonies at the Capitol on Jan. 17th.

Justice Black's secretary phoned
that he would not attend the Capitol
ceremonies today.

1-17-52

Supreme Court of the United States

Memorandum

----- March 31 -----, 19~~4~~ 52

The Capitol has approached the Marshal's office in regard to the Court's attending the Joint Session of Congress on Thursday, April 3rd, at which Queen Juliana will speak. The meeting will be at noon.

Since the Court is sitting, do you wish to decline?

yes
cg.

McH

April 9, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Minton

Re: No. 570 - Kawakita v. United States

The petitioner filed a typewritten copy of a reply brief in the above case on April 7th. The Clerk informs me it will cost \$400 or \$500 to have it printed.

The typewritten copy of the brief is available for use by the members of the Court in their consideration of this case. If the Court desires to have the brief printed, would you please so advise me.

Chief Justice.

May 13, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

May 13, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
✓ Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

Friday, 5/13/52
✓

May 13, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
✓ Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

All on Friday suit me from now on.

W. H. R.

May 13, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
✓ Mr. Justice Clark
Mr. Justice Minton

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

Either okay -

lcc
-

May 13, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
✓ Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

*OK with me either day.
Please advise which
R. H. J.*

May 13, 1952

MEMORANDUM TO: Mr. Justice Black
✓ Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

*Friday or Sat. @ the
Quinn
SR*

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

May 13, 1952

MEMORANDUM TO: ✓ Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

There has been some talk about having the regular Conference of the Court on Friday this week, but if this does not meet with the approval of all of the Brethren, we will meet on Saturday as usual.

Please advise me of your desires.

C. J.

Either day suits me.

HB

[Signature]

May 14, 1952

MEMORANDUM FOR THE CONFERENCE:

The regular Conference this week will be held on Friday,
May 16th, at 11:00 a. m.

Chief Justice

May 14, 1952

Marshall Small, Justice Douglas' law clerk, phoned to say that having the conference on Friday was okay with the Justice.

McH

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

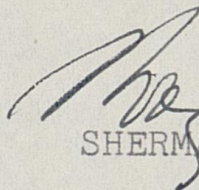
CHAMBERS OF
JUSTICE SHERMAN MINTON

May 14, 1952

My dear Mr. Chief Justice:

Conference on Friday of this week is fine
with me.

Sincerely yours,



SHERMAN MINTON

The Chief Justice

CHAMBERS OF THE CHIEF JUSTICE

MAY 15 1952

FOR CIRCULATION

NOTED

Mr. Justice Black..... WJB

Mr. Justice Reed..... SR

Mr. Justice Frankfurter..... W

Mr. Justice Douglas..... WJD

Mr. Justice Jackson..... J

Mr. Justice Burton..... WJB 5/19/52

Mr. Justice Clark..... CC

Mr. Justice Minton..... M

Please Return to the Chief Justice

May 14, 1952

RECEIVED
MAY 20 AM '52
CHAMBERS OF THE
CHIEF JUSTICE

The Chief Justice and Associate Justices
of the Supreme Court of the United States
Ten Clerks:

May I thank you on
behalf of myself and my
family for your beautiful
Easter Lilies and Red Pines
and express our appreciation
for your kind and gracious
thoughtfulness.

Respectfully

Don E. Waggoner



LOUIS E. HOOVER

Flowers for Every Occasion

FLORISTS' TELEGRAPH DELIVERY SERVICE
PHONE REpublic 3011

1212 14th STREET, N. W.
WASHINGTON 5, D. C.

MAY 13 1952

Miss Helen Lally
1. United States Supreme Court
Washington 25, D.C.

Please Detach and Return this Stub with Your Remittance.
All Accounts Due Before 10th of Following Month.

\$ _____

DATE	ITEM	AMOUNT
<i>May 13</i>	ACCOUNT RENDERED <i>167</i> L. E. HOOVER 1212-14TH ST., N. W. PAID MAY 21 1952 PER <i>[Signature]</i> THANK YOU NO RECEIPT SENT UNLESS REQUESTED	# <i>22 50</i>

May 14, 1952

MEMORANDUM TO: Mr. Justice Black *Pd -*
Mr. Justice Reed *Pd*
Mr. Justice Frankfurter *Pd*
Mr. Justice Douglas *Pd*
Mr. Justice Jackson *Pd -*
Mr. Justice Burton *Pd -*
Mr. Justice Clark *Pd*
Mr. Justice Minton *Pd*

The bill for the flowers which we sent to the funeral of the
Marshal's brother amounts to \$22.50 - \$2.50 for each of us.

If you will be good enough to forward your share to me, I will
see that the bill is paid.

Chief Justice

May 14, 1952

MEMORANDUM TO: ✓ Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

The bill for the flowers which we sent to the funeral of the
Marshal's brother amounts to \$22.50 - \$2.50 for each of us.

If you will be good enough to forward your share to me, I will
see that the bill is paid.

Chief Justice

May 14, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
✓Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

The bill for the flowers which we sent to the funeral of the
Marshal's brother amounts to \$22.50 - \$2.50 for each of us.

If you will be good enough to forward your share to me, I will
see that the bill is paid.

Chief Justice

May 14, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
✓ Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

The bill for the flowers which we sent to the funeral of the
Marshal's brother amounts to \$22.50 - \$2.50 for each of us.

If you will be good enough to forward your share to me, I will
see that the bill is paid.

OK
Chief Justice

May 13, 1952

MEMORANDUM FOR THE BRETHREN:

I arranged last evening to have flowers sent from the Court to the funeral of the Marshal's brother. I am sorry that I didn't have an opportunity to discuss the matter with you, but I felt sure that you would be agreeable to contributing to the cause. The bill will amount to approximately \$2.50 for each of us.

OK

Chief Justice

Justice Clark -

May 14, 1952

MEMORANDUM TO: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
✓ Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

The bill for the flowers which we sent to the funeral of the
Marshal's brother amounts to \$22.50 - \$2.50 for each of us.

If you will be good enough to forward your share to me, I will
see that the bill is paid.

Chief Justice

Florist's Telegraph Delivery Service



Flowers for Every Occasion

496

LOUIS E. HOOVER

1212 14th Street, N. W.
Washington 5, D. C.

MAY 13 D 22.50 Ch

REpublic 7-3011
496

SOLD TO Miss Helen Lally
1 Supreme Court
Washington 25, D.C.

DATE WANTED	TIME WANTED	REMARKS
5-13-52	by 9AM	Rush

TO Mr L. J. Wagman
903 G. Lee Street

ORDERED BY Alexandria, Va.

SOLD BY	PHONE	CASH	CHARGE	C. O. D.	DATE ORDERED	ORDER NO.
H	-	-	-		5-12-52	167

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	<u>Spray of Lilies</u>		<u>22 50</u>
	<u>and Red Pines</u>		

CARD From the Chief Justice TOTAL 22 50
and the Associate Justices of the
Supreme Court.

IF PAID, PLEASE IGNORE THIS INVOICE • IN CASE OF ERROR, PLEASE TELEPHONE OR PRESENT INVOICE.

May 13, 1952

Mr. Waggaman phoned to say that the wreath sent by the court was really beautiful. It was made up of white lilies and red roses, and he was very much pleased.

Would you like to send a note to the members of the Court informing them that you arranged to have the flowers sent?

McH

May 13, 1952

MEMORANDUM FOR THE BRETHREN:

I arranged last evening to have flowers sent from the Court to the funeral of the Marshal's brother. I am sorry that I didn't have an opportunity to discuss the matter with you, but I felt sure that you would be agreeable to contributing to the cause. The bill will amount to approximately \$2.50 for each of us.

Chief Justice

May 27, 1952

MEMORANDUM FOR THE CONFERENCE:

The Conference scheduled for Thursday, May 29th, will commence at 2:30 p. m. instead of 2:00 p. m. as originally planned.

Chief Justice

REQUESTED ANNUAL LEAVE: June 9, 1952.

Monday, June 23d. - Saturday, July 12th. incl., 17 d.

and

Monday, August 11th. - Saturday, August 23d. incl., 12 d.

Edgar L. Keeney

W. K. Cadman
924 N. Hillside
Klitchita, Kas.

Thank
you

Compliments

of

The Author.

June 16, 1952

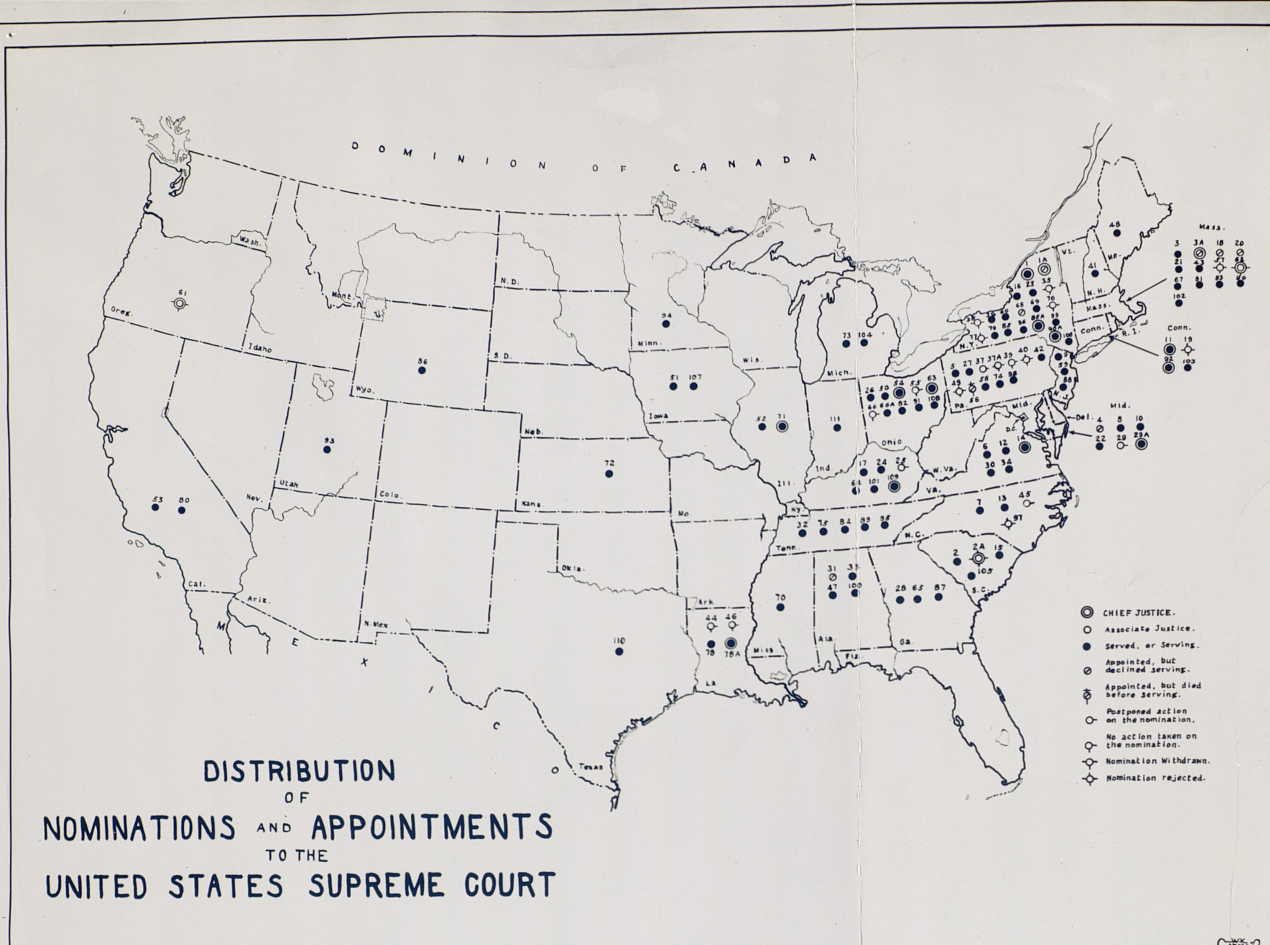
Mr. W. K. Cadman,
924 N. Hillside,
Wichita, Kansas.

Dear Mr. Cadman:

Thank you very much for sending me
the chart showing the distribution of nomina-
tions and appointments to the United States
Supreme Court.

Sincerely,

(Signed) Fred M. Vinson



DISTRIBUTION OF NOMINATIONS AND APPOINTMENTS TO THE UNITED STATES SUPREME COURT

No.	Name	Commission Date	Termination of Service	No.	Name	Commission Date	Termination of Service	No.	Name	Commission Date	Termination of Service
September 24, 1789 to February 1, 1840											
1	J. Jay, N.Y.	9-24-1789	6-29-1795. Resigned.	39	J.M. Read, Pa.	8-7-1845.	Not acted upon.	84	N.H. Lorton, Tenn.	12-20-1909	7-12-1914. Died.
2	J. Rutledge, S.C.	9-26-1789	3-5-1791. Resigned.	40	O.A. Woodward, Pa.	12-21-1845.	Rejected, 1-22-1846.	85	E.D. White, La.	12-12-1910	5-19-1921. Died.
3	W. Cushing, Mass.	9-26-1789	3-5-1791. Resigned.	41	L. Woodbury, Wis.	9-20-1845	9-2-1841. Died.	86	C.E. Hughes, N.Y.	5-2-1910	6-10-1916. Resigned, (c)
4	H. Burdett, Md.	9-27-1789	9-13-1810. Died.	42	R.C. Ogletree, Pa.	9-2-1846	1-11-1870. Resigned, wp.	87	W. VanDevanter, N.Y.	12-17-1910	6-2-1917. Resigned, wp.
5	J. Wilson, Pa.	9-28-1789	Declined appointment.	43	D.B. Curtis, Mass.	9-2-1846	9-30-1847. Resigned.	88	C.L. Lamm, Ga.	12-17-1910	1-2-1912. Died.
6	J. Blair, Pa.	9-29-1789	8-23-1798. Died.	44	A.E. Bradford, La.	8-16-1852.	Not acted upon.	89	M. Pitney, N.J.	1-13-1911	12-31-1922. Resigned, wp. (a)
7	J. Iredell, N.C.	9-30-1789	1-27-1796. Resigned.	45	O.E. Hedger, S.C.	8-10-1853.	Postponed, 2-11-1853.	90	L.D. Brandeis, Mass.	6-1-1916	2-13-1939. Resigned, wp.
8	T. Johnson, Md.	2-10-1793	10-30-1799. Died.	46	W.C. Micou, La.	2-24-1853.	Not acted upon.	91	J.C. McHenry, Tenn.	7-24-1916	7-16-1922. Resigned.
9	J. Johnson, Md.	11-7-1791	3-4-1793. Resigned.	47	J.L. Campbell, Ala.	1-22-1853	5-1-1851. Resigned.	92	W.H. Taft, Conn.	6-30-1921	2-3-1930. Resigned, wp.
10	J. Patterson, N.J.	7-1-1795	Rejected, 12-18-1795.	48	N.C. Clifford, Me.	1-24-1853	7-27-1881. Died.	93	G. Sutherland, Utah	9-8-1922	1-16-1938. Resigned, wp.
11	A. Burlingame, S.C.	1-7-1795	Rejected, 12-18-1795.	49	N.H. Dwayne, Ohio	1-24-1853	1-24-1881. Resigned, wp.	94	F. Butler, Minn.	12-21-1922	11-16-1939. Died.
12	W. Cushing, Mass.	1-7-1796	Declined appointment.	50	D. Davis, Ill.	10-19-1862	1-1-1877. Resigned.	95	R.T. Sanford, Tenn.	1-23-1923	1-8-1930. Died.
13	C. Chase, Md.	1-27-1796	6-19-1811. Died.	51	S.P. Walker, Ia.	7-16-1862	12-1-1890. Died.	96	H.F. Stone, N.Y.	2-5-1925	7-3-1961. Resigned, (b)
14	C. Ellsworth, Conn.	1-1-1796	3-30-1800. Resigned.	52	S.P. Chase, Ohio	1-2-1864	5-1-1873. Died.	97	J.J. Parker, N.C.	3-21-1930	Rejected, 7-7-1930.
15	W. Washington, Va.	12-10-1799	2-31-1806. Resigned.	53	S. Canby, Ohio	18-16-1866	Not acted upon.	98	C.B. Hughes, N.Y.	9-20-1930	7-31-1945. Resigned, wp.
16	J. Marshall, Va.	1-31-1801	7-6-1835. Died.	54	E.M. Stanton, Pa.	12-20-1869	d. Dec. 24, without serving.	99	J.J. Roberts, Pa.	3-2-1931	7-9-1931. Died.
17	A. Johnson, S.C.	1-16-1804	8-11-1814. Died.	55	S.R. How, Mass.	12-1-1870	Rejected, 5-3-1870.	100	H.H. Black, Ala.	1-27-1938	
18	H.B. Livingston, N.Y.	1-16-1807	3-18-1823. Died.	56	W. Strong, Pa.	2-18-1870	12-14-1880. Resigned, wp.	101	S.F. Reed, Ky.	1-27-1938	
19	T. Todd, Ky.	3-1-1807	2-7-1826. Died.	57	J.P. Brady, N.J.	1-21-1872	1-27-1882. Resigned, wp. (a)	102	F. Frankfurter, Mass.	1-20-1939	
20	L. Lincoln, Mass.	1-7-1811	Declined appointment.	58	C. Cushing, Mass.	1-1-1874	Withdrawn, 1-13-1874.	103	W.D. Douglas, Conn.	4-15-1939	
21	J. Adams, Mass.	11-18-1811	4-12-1841. Resigned.	59	M.H. Walter, Ohio	1-21-1874	3-21-1888. Died.	104	F. Murphy, Mich.	1-18-1940	Died.
22	C. Ingham, Mass.	1-18-1811	1-17-1835. Resigned.	60	S.M. Moore, Ohio	12-1-1874	3-21-1888. Died.				
23	C. Deval, Md.	12-9-1823	12-18-1843. Died.	61	S. Mathews, Ohio	12-1-1881	Not acted upon.				
24	R. Thompson, N.Y.	5-9-1826	8-25-1828. Died.	62	N. Gray, Mass.	12-20-1881	7-9-1902. Resigned, wp.				
25	J.J. Crittenden, Ky.	N 12-17-1828	Postponed, 2-12-1829.	63	S. Conklin, N.Y.	2-2-1882	Declined appointment.				
26	J. McLean, Ohio	3-7-1829	4-4-1861. Died.	64	S. Blatchford, N.Y.	1-22-1882	7-7-1893. Died.				
27	H. Williams, Pa.	6-1-1830	8-31-1844. Died.	65	L. Quincey, Mass.	1-16-1888	1-21-1893. Died.				
28	J.M. Wayne, Ga.	9-1-1835	7-5-1867. Died.	66	M.W. Fuller, Ill.	7-20-1888	7-2-1910. Died.				
29	R.B. Taney, Md.	3-15-1835	Postponed, 3-3-1835.	67	D.J. Brewer, Kansas	12-16-1889	3-28-1910. Died.				
30	R.B. Taney, Md.	3-15-1836	10-12-1864. Died.								
31	P.P. Barbour, Va.	3-15-1836	2-28-1861. Died.								
32	J. Smith, Ala.	8-8-1837	Declined appointment.								
33	J. Catron, Tenn.	3-8-1837	3-10-1865. Died.								
34	J. McKinley, Ala.	1-22-1837	7-19-1852. Died.								
February 1, 1840 to February 1, 1890											
34	P.V. Daniel, Va.	3-3-1841	6-30-1860. Died.	74	H.B. Brown, Mich.	12-20-1890	5-28-1906. Resigned, wp.	964	H.F. Stone, N.Y.	7-3-1941	4-23-1946. Died.
35	J.C. Spencer, N.Y.	3-3-1841	Rejected, 1-11-1844.	75	O. Shreve, Jr., Pa.	7-22-1892	2-23-1903. Resigned, wp.	105	J.F. Byrnes, S.C.	6-25-1941	10-3-1942. Resigned.
36	R.H. Worth, N.Y.	1-1-1844	Withdrawn, 6-17-1844.	76	E. Jackson, Tenn.	1-1-1893	Rejected, 1-1-1893.	106	H.H. Jackson, N.Y.	7-11-1941	
37	E. King, Pa.	1-1-1844	Withdrawn, 2-7-1844.	77	W.B. Horblower, N.Y.	1-1-1893	Rejected, 1-1-1893.	107	M.H. Burton, Ia.	2-18-1941	9-10-1949. Died.
38	J. Nelson, N.Y.	2-1-1845	11-28-1874. Resigned, wp.	78	W.H. Fechtel, N.Y.	1-1-1893	Rejected, 1-1-1893.	108	M.W. Tamm, Ky.	6-23-1941	
				79	E.D. White, La.	2-16-1894	Rejected, 1-16-1894.	109	M.W. Tamm, Ky.	6-23-1941	
				80	H. Peckham, N.Y.	1-1-1895	12-21-1899. Died.	110	C.L. Clark, Texas	10-3-1942	
				81	C.W. Holmes, Mass.	12-1-1892	11-11-1932. Resigned, wp.				
				82	S.E. Lay, Ohio	2-21-1903	11-11-1922. Resigned, wp.				
				83	W.H. Moody, Mass.	12-12-1906	11-20-1910. Resigned, wp. (a)				

Note: T. Johnson receives appointment commission dated, 8-5-1791; N. nominated, wp. - with pay, (a) - By special act of Congress, (b) - Resigned to become Chief Justice, (c) - Resigned to become candidate for President.

[June 29, 1952]

Supreme Court of the United States
Washington D. C.

RECORD OF CONFERENCES HELD DURING OCTOBER TERM, 1951.

Prepared by

Edgar L. Kenney, Conference Custodian.

OCTOBER:	Tues.	2d.	- 11.05 - 1.05	(LUNCH PERIOD)	1.35 - 5.25:	6 hrs.	50 min.
	Wed.	3d.	10.35 - 1.00	" "	1.35 - 5.16:	6 "	06 "
	Sat.	13th.	11.05 - 1.10	" "	1.40 - 6.05:	7 "	30 "
	Mon.	15th.	10.35 - 11.50	B E N C H	- - - - -	1. "	15 "
	Sat.	20th.	11.05 - 1.05	(LUNCH PERIOD)	1.32 - 4.52:	5 "	20 "
	Mon.	22nd.	10.30 - 11.55	B E N C H	3.00 - 5.05:	3 "	30 "
NOVEMBER:	Sat.	3rd.	11.05 - 1.06	(LUNCH PERIOD)	1.38 - 3.52:	4 "	14 "
	Wed.	7th.	- - - - -	- - - - -	2.30 - 4.25:	1 "	55 "
	Sat.	24th.	11.05 - 1.05	(LUNCH PERIOD)	1.35 - 3.18:	3 "	43 "
DECEMBER:	Sat.	1st.	11.02 - 1.04	"	1.34 - 5.10:	5 "	36 "
	Sat.	8th.	11.06 - 1.06	"	1.40 - 3.35:	3 "	55 "
	Mon.	31st.	11.00 - 1.15	"	1.47 - 3.47	4 "	15 "
JANUARY:	Sat.	5th.	11.02 - 1.04	"	1.40 - 4.20:	3 "	42 "
	Sat.	12th.	11.05 - 12.58	"	1.33 - 4.50	5 "	10 "
	Sat.	26th.	11.05 - 1.10	"	1.43 - 4.06:	4 "	28 "
FEBRUARY:	Sat.	2d.	11.00 - 12.55	"	1.30 - 4.52:	5 "	17 "
M A R C H:	Sat.	1st.	11.05 - 1.00	"	1.35 - 5.50:	6 "	10 "
	Sat.	8th.	11.05 - 1.02	"	1.35 - 4.35:	4 "	57 "
	Sat.	22nd.	11.00 - 1.05	"	1.35 - 2.30:	4 "	00 "
	Sat.	29th.	11.00 - 12.45	- - - - -	- - - - -	1 "	45 "

89 Hrs. 38 Min.

(see over)

Supreme Court of the United States
Washington D. C.

CONFERENCES, OCTOBER TERM, 1951 (page 2)

BROUGHT FORWARD - - - - - 89 hrs. 38 min.

A P R I L:	Wed. 2d.	- - - - -	4.30 - 5.30:	1 "	00 "
	Sat. 5th.	11.30 - 1.08 (LUNCH) - - -	1.40 - 3.25:	3 "	23 "
	Sat. 19th.	11.03 - 1.05 " - - -	1.38 - 2.30:	2 "	54 "
	Sat. 26th.	11.02 - 1.02 " - - -	1.35 - 3.25:	3 "	50 "
M A Y:	Sat. 3d.	11.05 - 1.55 " - - -	2.30 - 3.35:	3 "	55 "
	Sat. 10th.	11.10 - 1.37 - - - - -	- - - - -	2 "	27 "
	Fri. 16th.	11.00 - 1.07 LUNCH - -	1.35 - 2.37:	3 "	09 "
	Sat. 24th.	11.00 - 1.00 " - -	1.38 - 2.18:	2 "	40 "
	Thur. 29th.	- - - - -	2.40 - 5.15:	2 "	35 "
	Sat. 31st.	11.05 - 11.50 " - - - - -	- - - - -	0 "	45 "
J U N E:	Sat. 7th.	11.05 - 1.00 " - - - - -	2.05 - 4.15:	4 "	05 "

120 " 21 "

TOTAL NUMBER OF CONFERENCES - - - - 31

" " OF HOURS - - - - - 120

" " OF MINUTES OVER HOURS - - - - - 21

(N O T E - No record kept of conferences lasting less than 30 minutes)

J U N E 20th. 1952.

August 19, 1952

Honorable R. H. Todd, Jr.,
Chief Justice,
Supreme Court of Puerto Rico,
San Juan, Puerto Rico.

Dear Mr. Chief Justice:

Thank you very much for your courtesy in
sending me a copy of the new Judiciary Act of
the Commonwealth of Puerto Rico.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

SUPREME COURT OF PUERTO RICO
OFFICE OF THE CHIEF JUSTICE
SAN JUAN, P. R.

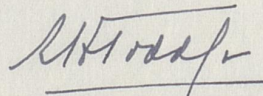
August 13, 1952

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

My dear Mr. Chief Justice:

I enclose a copy of the new Judiciary Act of the Commonwealth of Puerto Rico. I believe that with this Act we now have an outstanding judicial system. Your comments will be appreciated.

Cordially yours,



R. H. Todd, Jr.
Chief Justice

RECEIVED
AUG 13 10 43 AM '52
CHIEF JUSTICE
CHAMBERS OF THE

Thanks

COMMONWEALTH OF PUERTO RICO

JUDICIARY ACT

Approved, July 24, 1952

COMMONWEALTH OF PUERTO RICO

JUDICIARY ACT

Approved, July 24, 1952

[No. 11]

THE JUDICIARY ACT OF THE COMMONWEALTH OF
PUERTO RICO

Be it enacted by the Legislature of Puerto Rico:

ARTICLE I

THE GENERAL COURT OF JUSTICE OF THE COMMONWEALTH
OF PUERTO RICO

Section 1.—*Judicial Power of the Commonwealth of Puerto Rico.*

The judicial power of the Commonwealth of Puerto Rico shall be vested in a single unified judicial system for purposes of jurisdiction, operation and administration, consisting of the Supreme Court as the court of last resort, and the Court of First Instance, which together shall constitute the General Court of Justice.

The Commonwealth of Puerto Rico is hereby constituted a single judicial district, over all of which the General Court of Justice shall exercise its power and authority.

Section 2.—*Rule-Making Power.*

The Supreme Court shall adopt for the General Court of Justice rules of evidence and of civil and criminal procedure, as well as rules of court administration, as provided in the Constitution of the Commonwealth. The rules of administration shall be subject to the laws concerning procurement, personnel, audit and appropriation of funds, and other laws which apply generally to all branches of the government. All existing provisions by statute or rules governing civil and criminal procedure and of evidence shall remain in effect until modified, supplemented, or amended by the Supreme Court in accordance with the Constitution of the Commonwealth of Puerto Rico.

The Supreme Court may also adopt rules for the informal adjudication of claims of one hundred (100) dollars or less.

Section 3.—*Chief Justice as Administrative Head.*

The Chief Justice shall direct the administration of the General Court of Justice, with responsibility for the efficient operation of its various parts and divisions and for the expeditious dispatch of litigation. In pursuance of the mandate of the

Constitution of the Commonwealth for a unified judicial system, he shall assign judges to conduct sessions of the Court of First Instance, and may modify such assignments and make reassignments as the need arises within each division or from division to division of this Court.

In his administration of the General Court of Justice the Chief Justice shall be assisted by an Office of Court Administration under an Administrative Director of the Office of Court Administration, as hereinafter set forth.

The Chief Justice shall also appoint or direct the appointment of, on recommendation of the Administrative Director of the Courts, the Public Defenders and the Secretaries, as well as the deputies of the latter, and he shall supervise them in the performance of their duties as defined by law or rules of the Supreme Court or as heretofore exercised by like officers of the Courts of Puerto Rico and assign and reassign them to the various parts of the General Court of Justice as the needs of justice may require. These officers and employees shall be in the exempt service, with the exception of the deputies of the Secretaries and Marshals, who shall be included in the non-competitive service. He shall likewise appoint or direct the appointment of, on recommendation of the Administrative Director of the Courts, all other necessary personnel of the Court, and assign to them their duties and supervise their execution of the same. All these employees shall be included in the competitive service. The secretaries-stenographers of the judges of the Superior Court and of the judges of the District Court shall be included in the non-competitive service. The Marshals of the Court of First Instance shall be appointed by the Governor by and with the advice and consent of the Senate for a term of four years and until their successors are appointed and qualify. The Deputy Marshals shall be appointed by the Marshals with the approval of the Administrative Director of the Courts.

Section 4.—*Preservation and Destruction of Records.*

The Supreme Court shall make provision for the preservation in the original or in duplicate form of all records and official documents of all divisions of the General Court of Justice. It shall also be empowered to direct the destruction of all such records and official documents as shall seem to it no longer necessary or useful and none may be destroyed except under its direction and with its permission.

ARTICLE II

THE SUPREME COURT

Section 5.—*Constitution of Supreme Court.*

The Supreme Court shall be the court of last resort in Puerto Rico and shall be composed of a Chief Justice and four (4) Associate Justices. The number of Justices may be changed only by law upon request of the Supreme Court.

The Supreme Court shall sit, in accordance with rules adopted by it, as a full court or in divisions. All the decisions of the Supreme Court shall be concurred in by a majority of its members. No law shall be held unconstitutional except by a majority of the total number of Justices of which the Court is composed in accordance with the Constitution of the Commonwealth or with law.

Section 6.—*Disability of Chief Justice.*

If the Chief Justice is unable by reason of sickness, absence, or other disability, to perform the duties of his office or if there is a vacancy in that office, the senior Associate Justice of the Supreme Court in point of service as Associate Justice shall act in his stead until such time as the Chief Justice may resume his duties or until the vacancy is filled.

When the Supreme Court and the Chief Justice are in vacation term the Supreme Court shall designate one of its members to act as Chief Justice.

Section 7.—*Scope of Power.*

The Supreme Court, any of its divisions, or any of its Justices may hear in the first instance petitions for *habeas corpus* and any other causes and proceedings as determined by law. It shall also review judgments of the Court of First Instance as hereinafter set out and rulings of administrative agencies and Registrars of Property as provided by law.

Section 8.—*Secretary, Marshal and Personnel.*

There shall be in the Supreme Court a Secretary, a Marshal, a Compiler and Publicist of Jurisprudence and the Inspectors of Protocols who shall be appointed by the Court. These officers, together with Law Clerks and secretaries-stenographers of the Justices appointed by the individual Justices, shall be in the exempt service. All other necessary personnel shall be appointed by the Chief Justice, or, subject to the direction of the Chief Justice, by the Administrative Director of the Office of Court Administration and shall be included in the competitive service.

ARTICLE III

THE COURT OF FIRST INSTANCE

Section 9.—*Organization of the Court.*

The Court of First Instance shall consist of two divisions, a division to be known as the Superior Court and a division to be known as the District Court. Each division shall be a court of record and shall be constituted as, and shall perform the functions, hereinafter set out.

Section 10.—*Jurisdiction and Venue Preserved.*

The Court of First Instance is a court of original general jurisdiction with power to act in the name and by the authority of the Commonwealth of Puerto Rico in all civil and criminal proceedings as hereinafter provided. Every civil or criminal action shall be filed in the part of the court held at the place where it should have been filed under the legislation heretofore in force; but no cause shall fail on the ground that it has been submitted to a division without jurisdiction or authority or to a part of the court of improper venue. Every case may be heard in the division or part where it is brought by agreement of the parties and consent of the judge presiding at the time in such part or, if not so heard, shall be transferred by order of the judge to the appropriate division or part in accordance with such rules as may be adopted by the Supreme Court.

ARTICLE IV

THE SUPERIOR COURT

Section 11.—*Sessions, Where Held.*

The Superior Court of the Court of First Instance shall have parts and shall hold sessions in San Juan, Bayamón, Arecibo, Aguadilla, Mayagüez, Ponce, Guayama, Humacao and Caguas. Juries for the various parts shall be impanelled from the same towns as were heretofore included in the former judicial districts thus denominated.

Section 12.—*Judges, Number and Qualification.*

There shall be in the Superior Court thirty (30) judges appointed by the Governor with the advice and consent of the Senate. They may be assigned as needed to conduct any part or any division.

No person shall be appointed as judge of the Superior Court unless he is at least twenty-five (25) years of age, has been ad-

mitted to the bar by the Supreme Court of Puerto Rico, possesses professional experience, and enjoys good repute, all as determined by the appointing power as provided by the Constitution of the Commonwealth of Puerto Rico. Each judge shall be appointed and hold office for a term of twelve (12) years and thereafter until his successor qualifies.

Judges of the District Court, the Tax Court and the Court of Eminent Domain heretofore constituted shall complete their terms of office, without diminution of salary, serving as judges of the Superior Court.

No Superior Judge shall practice law during his term of service as judge.

Section 13.—*Scope of Power.*

The Superior Court shall have cognizance of the following matters:

(a) Civil:

1. Of all appeals and review proceedings against decisions, orders and rulings of administrative agencies under the terms and conditions established by law, except those cognizable by the Supreme Court.

2. Of all cases, actions, proceedings or extraordinary legal remedies in connection with or affecting the levy, collection and payment of all kinds of taxes, including property taxes, inheritance and gift taxes, income taxes, unfair profiteering taxes, social insurance taxes, excises, license taxes and any other taxes or imposts, as well as of claims for taxes collected by unlawful procedure or which voluntarily or without notice from the Secretary of the Treasury were paid unduly or in excess, the reimbursement of which is authorized by law and is refused by the Secretary of the Treasury.

3. Of all disputes concerning the evaluation and proper compensation to be paid for property taken under the power of eminent domain.

4. Of all recourses, actions and proceedings, including the probation of wills, divorce and extraordinary and special legal remedies, in regard to which the District Court of Puerto Rico heretofore exercised cognizance up to the date on which this Act takes effect.

5. Of all other civil matters where the amount, legal interest or property sought exceeds in value the amount of two thousand five hundred (2,500) dollars, not including interest, costs and attorney's fees.

(b) Criminal:

1. Of all felonies.
2. Of all misdemeanors, except those involving the violation of statutes or municipal ordinances whose enforcement has heretofore been vested exclusively in the Municipal Court, or in the Justice of the Peace Court.
3. Of all causes previously cognizable by the Minors' Guardianship Court under the terms and conditions heretofore pertaining to such causes.

(c) Place of Trial of Certain Causes:

Whenever, by law, the review of rulings of administrative agencies or the institution of proceedings has been assigned to the San Juan section of the former District Court, such proceedings shall hereinafter be had in the San Juan part of the Superior Court.

Section 14.—*Appeals.*

Final judgments, and other orders of the Superior Court from which heretofore an appeal might have been taken from the District Court, may be appealed to the Supreme Court under the terms and conditions established by law and in accordance with the rules of procedure established by the Supreme Court, except that the right and extent of appeal in cases brought under section 13(a) 2, 3 and 4 of this Act shall be the same as that heretofore and now accorded cases brought under section 13(a) 5. Any judgment or ruling of the Superior Court may be reviewed by certiorari in the discretion of the Supreme Court.

Section 15.—*Secretaries and Marshals; Public Defenders.*

There shall be in the Superior Court twelve (12) Secretaries, twelve (12) Marshals, one Supervisor of Probation Officers and twelve (12) Probation Officers. The present Secretaries and Marshals shall serve out their terms without diminution of salary.

There shall also be ten (10) Public Defenders who shall not practice law during their terms of office.

ARTICLE V

THE DISTRICT COURT

Section 16.—*Sessions, Where Held.*

The District Court shall hold sessions in all towns as judicial business dictates and shall have as the seats of its various parts the municipalities heretofore the seats of the Municipal Court.

Section 17.—*Judges, Number and Qualification.*

There shall be in the District Court fifty-five (55) judges appointed by the Governor with the advice and consent of the Senate. They may be assigned as needed to conduct any part or any division of the Court. Upon the taking effect of this Act, judges of the Municipal Court as heretofore constituted shall act as District Judges for so long as the term of office to which they were appointed has not yet expired. At the request of the Chief Justice, accompanied by a certificate from the Administrative Director to the effect that the needs of the Court require the appointment of additional district judges, the number of these judges may be increased, but in no case to more than ninety.

No person shall be appointed as District Judge unless he is at least twenty-one (21) years of age, has been admitted to the bar by the Supreme Court of Puerto Rico and enjoys good repute, all as determined by the appointing power as provided in the Constitution of the Commonwealth. Each judge shall be appointed and hold office for a term of eight (8) years and thereafter until his successor qualifies.

No district judge shall practice law during his term of service as judge.

Section 18.—*Scope of Powers.*

The District Court shall have cognizance of the following matters:

(a) Civil:

1. Of all matters of which the Municipal Court existing at the time this Act takes effect took cognizance, exclusively or concurrently.
2. Of all other civil matters where the amount, legal interest or property sought does not exceed in value twenty-five hundred (2,500) dollars not including interest, costs and attorney's fees, except for those matters stated in Section 13(a) 2, 3 and 4 here-in of which cognizance is given to the Superior Court.

(b) Criminal:

1. Of all misdemeanors, except those which were not heretofore cognizable by the Municipal Court.
2. Of all violations of statutes or of municipal ordinances whose enforcement has heretofore been vested exclusively or concurrently in the Municipal Court, or in the Justice of the Peace Court.

Section 19.—*Appeals.*

The right of appeal from any final judgment of the District Court to the Superior Court is hereby established. The procedure on appeal shall be in accordance with the rules established by the Supreme Court. Hearing and decision of such appeals shall be by either three Superior Judges or a single Superior Judge, as the Supreme Court may by rule establish according to the nature of the case or the amount involved or other reasonable standard in its discretion; and the Chief Justice may assign the hearing of the cases under such rule if there is doubt or the parties do not agree. Further review thereafter shall be only by certiorari by the Supreme Court grantable by that Court in its discretion.

Appeal shall be by way of review of the judgment or action of the court from which the appeal is taken and shall not be by way of trial *de novo*.

In every case the Judge shall provide a record of everything which transpired in the case, which record shall be included in the proceedings, unless the party or parties can prepare a transcript of the evidence. The parties shall, within the time provided by rule of the Supreme Court, notify the Judge of any objection they may have to either the record of the case as prepared by the Judge or the transcript of the evidence. The Judge shall hear and pass on such objections. The Supreme Court shall also provide by rule for granting of new hearings by the District Court upon prompt request in cases where the parties or their counsel have not adequately protected their rights during the original trial of a cause, or where an adequate record has not been provided by the Judge.

The Office of Court Administration shall provide each part of the District Court with adequate equipment for recording mechanically the incidents of each case. The Judge may use this recording in preparing his statement of what transpired during the trial, and the same shall be sent to the Superior Court together with the judgment roll, whenever any of the parties so requests. The Superior Court shall, whenever it is alleged that the statement prepared by the district judge is incorrect, use the recording to decide the appeal or to order a new trial in the District Court.

Section 20.—*Secretaries and Marshals; Defense of Indigent Persons.*

There shall be in the District Court fifty-three (53) Secretaries and fifty (50) Marshals. The present Secretaries and Marshals shall serve out their terms without diminution of salary.

The District Court shall assign counsel for the defense of indigent persons in criminal proceedings and shall so assign the Public Defenders of the Superior Court so far as they may be available.

ARTICLE VI

JUSTICES OF THE PEACE

Section 21.—*Justices of the Peace, Number and Qualification.*

There shall be as heretofore forty-two (42) justices of the peace to be appointed by the Governor with the advice and consent of the Senate for a term of four years and until their successors qualify. Justices of the Peace heretofore appointed shall complete their terms of office and shall be removable as hereinafter provided by section 24. No person shall be appointed as Justice of the Peace unless he is at least twenty-one (21) years of age and enjoys good repute.

If a Justice of the Peace is unable by reason of sickness, absence, or other disability, to perform the duties of his office, the Governor shall designate a qualified person who shall act in his stead until such time as the Justice of the Peace may resume his duties.

Section 22.—*Functions.*

The Justices of the Peace shall exercise all functions and powers of judicial authority exercised by the Justices of the Peace at the time this Act takes effect, including the function and power to fix and accept bails and to issue warrants for arrest and for search and seizure in appropriate instances as established by law, except that they may not adjudicate cases cognizable by the District or Superior Courts.

ARTICLE VII

SALARY AND REMOVAL OF JUDGES

Section 23.—*Salary.*

The salary of the Chief Justice of the Supreme Court shall be \$15,500 and the salary of the Associate Justices shall be \$15,000, per annum.

The following schedule of salaries is hereby established for the judges of the Superior Court:

Basic Salary	Promotion Rates				Maximum Rate
\$8,600	\$9,200	\$9,800	\$10,400	\$11,000	\$11,600

The judges of the Superior Court shall receive for each two years of service rendered on and after July 1, 1952, excluding any period of service without pay, the salary established by the promotion rates of said schedule.

The following schedule of salaries is hereby established for the judges of the District Court:

Basic Salary	Promotion Rates				Maximum Rate
\$5,100	\$5,400	\$5,700	\$6,000	\$6,300	\$6,600

The Judges of the District Court shall receive for each two years of service rendered from and after July 1, 1952, excluding any period of service without pay, the salary established in the promotion rates of said schedule.

The following salary schedule is hereby established for Justices of the Peace:

Basic Salary	Promotion Rates		
\$1,200	\$1,500	\$1,800	\$2,100

Justices of the Peace shall, for each four (4) years of service rendered from and after July 1, 1952, exclusive of any period of service without pay, receive the salary established in the promotion rates of said schedule.

Beginning with fiscal year 1952-53, the salaries for the judges of the Supreme Court, of the Superior Court, of the District Court, and those of the Justices of the Peace shall be included in the General Budget of Expenses of the Government of Puerto Rico, subject to the provisions of this Act.

Section 24.—*Procedure for Removal.*

Charges made against any judge of the Court of First Instance shall be filed with the Administrative Director of the

Office of Court Administration, who shall report the same to the Chief Justice, and if the Supreme Court shall so desire, shall make his recommendation as to further action or as to dismissal of the charges. The Supreme Court may cause such investigation to be made as it shall deem necessary and may request the Secretary of Justice to make such investigation and report to the Court.

If the Supreme Court shall determine that there is cause for further proceedings, it may request the Secretary of Justice or other officer of the Court to prosecute the cause. The Secretary of Justice also, of his own motion or by direction of the Governor, may initiate a prosecution for the removal of a judge and shall then act as prosecutor. Prosecution shall be by complaint returnable to the Supreme Court charging the judge with immoral conduct or neglect of judicial duties. The Court shall accord the parties an opportunity to be heard, together with their witnesses and the court may, in its discretion while the proceeding is pending, suspend the judge from performing the duties of his office and receiving his salary. If the Court shall find the charges, or any part of them, sustained, it may censure or suspend the offending judge or remove him permanently from his office as it shall determine the most appropriate penalty under the circumstances.

The Justices of the Supreme Court shall be removable only by impeachment as provided in the Constitution of the Commonwealth.

ARTICLE VIII

OFFICE OF COURT ADMINISTRATION

Section 25.—*Office Established.*

An Office of Court Administration is hereby established in the General Court of Justice. It shall be under the direction of an Administrative Director who shall be appointed by the Chief Justice of the Supreme Court and who shall hold office at the will of the Chief Justice. He shall draw a salary of \$10,000 per annum.

Neither the Administrative Director nor any officer or employee of the Office of Court Administration shall practice law during his term of service as such.

Section 26.—*Function.*

The function of the Office of Court Administration shall be to assist the Chief Justice in the administration of the General

Court of Justice of Puerto Rico by examining the administrative methods and efficiency of the court personnel, and the state of the dockets and the pending case loads of the courts, collecting statistical and other data as to the court operation, preparing and keeping proper books of accounting, submitting estimates and drawing the necessary requisitions for public funds appropriated for operation of the judicial system, making recommendations to the Chief Justice for the improvement of court operation and the assignment and transfer of judges, and generally performing such tasks and taking such steps as the Chief Justice shall direct for the better administration of the Court.

Section 27.—*Personnel.*

The Administrative Director, with the approval of the Chief Justice, shall appoint such personnel as is needed for the proper functioning of the Office of Court Administration. The Administrative Director, the Assistant Administrative Director, and the division heads shall be in the exempt service. The attorneys shall be in the non-competitive service and all other personnel shall be included in the competitive service.

Section 28.—*Reports to the Office.*

The judges, secretaries and all other officers and employees of the General Court or of any division or part thereof shall comply with all requests of the Administrative Director or his assistants for information and statistical data bearing on the state of the dockets of the courts and such other information as will reflect the business transacted by them and the expenditure of public funds for the maintenance and operation of the Judicial System.

Section 29.—*Judicial Conferences.*

The Supreme Court shall provide by rule or special order for the holding of conferences of the Judges of the Court and of members of the Bar, as it shall determine, for consideration of matters relating to judicial business, the improvement of the Judicial System, and the effective administration of justice in Puerto Rico.

Section 30.—*Legal Aid.*

The General Court of Justice and the Office of Court Administration shall encourage the promotion of legal aid for the defense of poor persons with the cooperation of the Bar Association, of the Law School of the University of Puerto Rico, and of all others interested in the adequate protection of the poor.

ARTICLE IX

MISCELLANEOUS AND GENERAL PROVISIONS

Section 31.—*Short Title.*

This Act shall be known as the Judiciary Act of the Commonwealth of Puerto Rico.

Section 32.—*Saving Clause.*

All cases pending in the former District Court and in the former Court of Eminent Domain shall remain pending in the Superior Court; all cases pending in the former Tax Court shall remain pending in the Superior Court, and all cases in which hearings have been held and are awaiting decision, shall be decided by one of the judges of the former Tax Court, in accordance with the distribution made in the said Court. All cases pending in the former Justice of the Peace Court and the former Municipal Court and awaiting trial, shall remain pending in the District Court. All cases pending in the former Justice of the Peace Court and the former Municipal Court which have been tried, and all cases pending on appeal therefrom in the former District Court, shall be allowed an appeal to the Superior Court with a trial *de novo* in accordance with the former law. All cases pending in the former District Court shall remain pending in the Superior Court.

Section 33.—*Existing Fees and Costs.*

All existing laws levying fees and costs in civil and criminal cases for the filing of pleadings, for appearances, appeals, serving of notices and other services of the judicial officers shall remain in force, and such fees and costs shall be paid in the same amounts and for the same services in the General Court of Justice.

Section 34.—*Powers and Functions Continued.*

The Judges, Secretaries, Marshals, Deputy Secretaries and Deputy Marshals of the General Court of Justice shall have those powers and perform those functions previously exercised by them or by officers of equivalent rank under legal authority before the taking effect of this Act, except where inconsistent with the Constitution of the Commonwealth or the express provisions of this Act.

Section 35.—The sum of sixty-five thousand (65,000) dollars, or so much thereof as may be necessary, is hereby appropriated

from any available funds in the Treasury not otherwise appropriated, to carry out the provisions of this Act.

Section 36.—*Repealing Clause.*

The Organic Act of the Judiciary of Puerto Rico of 1950 and all other laws or parts of laws in conflict herewith are hereby repealed.

Section 37.—This Act, being of an urgent and necessary character, shall take effect as soon as the Constitution of the Commonwealth of Puerto Rico shall become operative, with the exception of section 19, which shall take effect on October 15, 1952. In the meantime, appeals from the District Court to the Superior Court shall follow the procedure existing on the date of the approval of this Act for appeals taken from the former Municipal Court to the former District Court.

Approved, July 24, 1952.

DEPARTMENT OF FINANCE
GOVT. SERVICE OFFICE — PRINTING DIVISION
SAN JUAN, P. R.
1952

September 24, 1952

MEMORANDUM FOR THE CONFERENCE:

We will meet for the first conference of the Court for the 1952 Term on Tuesday, October 7th, at 11:00 a. m. , and each day thereafter at 11:00 a. m. until the Conference Lists are completed.

Chief Justice

October 6, 1952

THE CHIEF JUSTICE SAID:

MR. ATTORNEY GENERAL, THE COURT WELCOMES
YOU TO THE PERFORMANCE OF THE IMPORTANT DUTIES WHICH
DEVOLVE UPON YOU AS THE CHIEF LAW OFFICER OF THE
GOVERNMENT, AND AS AN OFFICER OF THIS COURT. YOUR
COMMISSION WILL BE RECORDED BY THE CLERK.

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

WASHINGTON 1, D. C.

JOSEPH W. STEWART
CLERK

*Records turned
over to Mr. Kelley
10/9/52-*

October 8, 1952

No. 11,018 - Bolling, et al. v. Sharpe, et al.
No. 11,019 - Cogdell, et al. v. Sharpe, et al.

Honorable Fred M. Vinson
Chief Justice of the United States
Washington 13, D. C.

My dear Mr. Chief Justice:

I send you herewith a set of the briefs filed in
this Court in each of the above-entitled cases.

Sincerely yours,

Joseph W. Stewart
Clerk.

Enclosures.

November 4, 1952

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

Chief Judge Stephens has asked me to advise you that he would like to take those of you who are planning to attend the Judge Groner portrait ceremonies on November 10th on a personally conducted tour of the new Courthouse after the ceremonies are over. He thinks that it wouldn't take more than about a half hour.

C. J.

November 13, 1952

MEMORANDUM FOR THE CONFERENCE:

The Conference this week will be held on Friday,
November 14th, at 11:00 a. m.

Chief Justice

November 19, 1952

MEMORANDUM FOR THE CONFERENCE:

The regular Conference of the Court for this week will be held on Friday, November 21st, at 11:30 a. m.

The Chief Justice

December 8, 1952

ANNOUNCEMENT MADE BY THE CHIEF JUSTICE AT PRESENTATION OF WALTER CUMMINGS, JR. , AS SOLICITOR GENERAL (Attorney General presented the Solicitor General.)

MR. SOLICITOR GENERAL, THE COURT WELCOMES YOU TO

THE PERFORMANCE OF THE IMPORTANT DUTY WITH WHICH YOU

ARE SPECIALLY CHARGED--THE DUTY OF REPRESENTING THE

GOVERNMENT AT THE BAR OF THIS COURT IN ALL CASES IN WHICH

IT ASSERTS AN INTEREST. YOUR COMMISSION WILL BE RECORDED

BY THE CLERK.

25 Minetta Lane
New York 12, New York.
January 3, 1953.

The Honorable
The Chief Justice
Washington, D. C.

File

Sir:

My wife and I have just returned from a delightful visit to Washington. We were privileged to be taken on a guided tour of your imposing edifice, the Supreme Court Building. We were awed and impressed by the history and solemnity of the structure.

One episode of our tour seemed so out of place in such surroundings that I feel impelled to bring to your attention what I consider to be discrimination against a religious group.

During the tour we were in a room where hung paintings of former Justices of the Court. The guide, an amiable and informative host, identified the various Justices with a brief account of their backgrounds. The descriptions of Associate Justices Cardoza and Brandeis contained the information that these men were of Jewish faith. Not once during his talk concerning the other gentlemen did he mention their religious backgrounds. He ~~we~~ also noted that there have been, with the present Justice Frankfurter included, three Jews on the Supreme Court.

Why this singling out of this religious group?

The impression this left with us was this: "Look people. We Americans allow Jews to sit on our highest Court. We don't discriminate."

I feel sincerely that no malice was meant by our able guide, but, at the same time, I see nothing to be gained on the part of the visitor in learning that members of one particular religious group have been represented on the Court since no mention was made of other religious groups being represented on the Court. This, in essence, is discrimination.

I appreciate your full schedule but trust that you will find time to correct this biased attitude in the halls of one of our nation's most sacred institutions.

I have the honor to remain,

Yours respectfully,

/s/ Philip Green

25 Minetta Lane
New York 12, New York
January 3, 1953

The Honorable
The Chief Justice
Washington, D. C.

Sir:

My wife and I have just returned from a delightful visit to Washington. We were privileged to be taken on a guided tour of your imposing edifice, the Supreme Court Building. We were awed and impressed by the history and solemnity of the structure.

One episode of our tour seemed so out of place in such surroundings that I feel impelled to bring to your attention what I consider to be discrimination against a religious group.

During the tour, we were in a room where hung paintings of former Justices of the Court. The guide, an amiable and informative host, identified the various Justices with a brief account of their backgrounds. His descriptions of Associate Justices Cardozo and Brandeis contained the information that these men were of Jewish faith. Not once during his talk concerning the other gentlemen did he mention their religious backgrounds. He also noted that there have been, with the present Justice Frankfurter included, three Jews on the Supreme Court.

Why, this singling out of this religious group?

The impression this left with us was this: "Look, People. We Americans allow Jews to sit on our highest Court. We don't discriminate." I feel, sincerely that no malice was meant by our able guide, but, at the same time, I see nothing to be gained on the part of the visitor in learning that members of one particular religious group have been represented on the Court since no mention was made of other religious groups being represented on the Court. This, in essence, is discrimination.

I appreciate your full schedule but trust that you will find time to correct this biased attitude in the halls of one of our nation's most sacred institutions.

I have the honor to remain,
Yours respectfully,
Philip Green

ANNOUNCEMENT MADE BY CHIEF JUSTICE AT CONVENING OF THE
COURT - 1/6/53

MR. JUSTICE CLARK IS UNAVOIDABLY ABSENT
BECAUSE OF THE DEATH OF HIS MOTHER, MRS. WILLIAM
H. CLARK, SR. THE COURT EXTENDS ITS DEEPEST
SYMPATHY TO BROTHER CLARK AND THE FAMILY IN
THEIR HOUR OF BEREAVEMENT.



THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

February 12, 1953

My dear Mr. Chief Justice:

Following his recent visit to South America, Judge John J. Parker indicated that he would like to see Chief Justice Luis Antonio Eguiguren of Peru and Chief Justice José Linhares of Brazil visit the United States if this could be arranged officially. I am told that the visits can be arranged by the Department, and that one of the Chief Justices, at least, has been approached informally in the matter and has indicated much interest in such a visit.

Meanwhile, the suggestion has been made in the Department that I approach you with a view to ascertaining whether you might not be agreeable to extending the invitations to the two Chief Justices to visit this country. The Department does not, however, by this suggestion, contemplate that your responsibilities by virtue of signing such invitations would be at all extensive.

Should you be agreeable to inviting these two distinguished jurists to the United States, I shall be pleased to discuss the matter further with you at such time as you may, through your secretary, select.

Sincerely yours,

Herman Phleger

Herman Phleger
The Legal Adviser

The Chief Justice,

The Supreme Court.

February 13, 1953

Honorable Herman Phleger,
The Legal Adviser,
Department of State,
Washington, D. C.

Dear Mr. Phleger:

I am in receipt of your letter of February 12th relating to the proposed visits of the Chief Justice of Peru and the Chief Justice of Brazil. Judge Parker took this matter up with me some time ago.

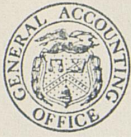
It may very well be that the visits of these two Chief Justices might be helpful in our relationship with their countries and other countries South of the border, but I do not believe that I am the one to extend the invitations to them. It seems to me that it is a matter for Executive consideration and action.

I may be wrong in my conclusion and if, upon further reflection, you do not agree with my view, I will be very happy to discuss the matter with you.

Sincerely,

(Signed) Fred M. Vinson

FMV:McH



*mc. A -
Please
advise
CG*
No such Payments made during
this period.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

February 16, 1953

TO: Heads of all Departments and Agencies

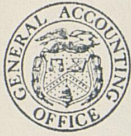
SUBJECT: Terminal leave payments to employees in grade GS-15 and above who left the Federal Service during the period November 1, 1952, to February 15, 1953.

It is requested that the General Accounting Office be furnished information as indicated below concerning all employees of your department or agency subject to the Act of December 21, 1944, 58 Stat. 845, in grade GS-15 and above, who left the service during the period November 1, 1952, to February 15, 1953, and received terminal leave payments of \$1,000 or more. The information should not be limited to employees under the Classification Act but should include all officials or employees with salary rates comparable to grade GS-15 or higher who received payment for accrued leave. (See 25 Comp. Gen. 211, 213.) The information should be submitted in the following form:

<u>Name</u>	<u>Title</u>	<u>Place of Duty</u>	<u>Grade</u>	<u>Rate of Annual Compensation</u>	<u>Date of Termination</u>	<u>No. of days of Terminal Leave</u>	<u>Amount Paid for Terminal Leave</u>
-------------	--------------	----------------------	--------------	------------------------------------	----------------------------	--------------------------------------	---------------------------------------

The information is being compiled at the request of the Committee on Appropriations, House of Representatives, and is to be submitted to the Director of Audits, General Accounting Office, no later than February 27, 1953.

Frank B. Bates
Acting Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

February 16, 1953

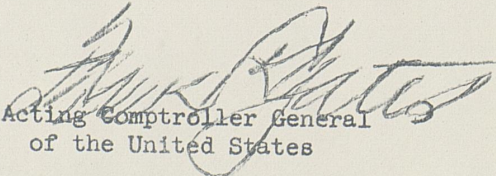
TO: Heads of all Departments and Agencies

SUBJECT: Terminal leave payments to employees in grade GS-15 and above who left the Federal Service during the period November 1, 1952, to February 15, 1953.

It is requested that the General Accounting Office be furnished information as indicated below concerning all employees of your department or agency subject to the Act of December 21, 1944, 58 Stat. 845, in grade GS-15 and above, who left the service during the period November 1, 1952, to February 15, 1953, and received terminal leave payments of \$1,000 or more. The information should not be limited to employees under the Classification Act but should include all officials or employees with salary rates comparable to grade GS-15 or higher who received payment for accrued leave. (See 25 Comp. Gen. 211, 213.) The information should be submitted in the following form:

<u>Name</u>	<u>Title</u>	<u>Place of Duty</u>	<u>Grade</u>	<u>Rate of Annual Compensation</u>	<u>Date of Termination</u>	<u>No. of days of Terminal Leave</u>	<u>Amount Paid for Terminal Leave</u>
-------------	--------------	----------------------	--------------	------------------------------------	----------------------------	--------------------------------------	---------------------------------------

The information is being compiled at the request of the Committee on Appropriations, House of Representatives, and is to be submitted to the Director of Audits, General Accounting Office, no later than February 27, 1953.


Acting Comptroller General
of the United States

March 4, 1953

Mr. Robert L. Long,
Director of Audits,
General Accounting Office,
Washington, D. C.

Dear Mr. Long:

In reply to your inquiry, addressed to the Chief Justice of the United States, relative to terminal leave payments to employees in GS 15 and above, please be advised that the Supreme Court made no such payments during the period November 1, 1952, to February 15, 1953.

Very truly yours,

Executive Secretary
to the Chief Justice.

February 17, 1953

Perry Lippitt is asking whether the building, including the cafeteria, will be closed on Monday, February 23rd. George Washington's birthday falls on Sunday and in that case the holiday is observed by the Executive Departments on Monday.

yes
C.J.

CHAMBERS OF THE CHIEF JUSTICE

April 30, 1953

FOR CIRCULATION

NOTED

Mr. Justice Black..... WLB

Mr. Justice Reed..... J.R.

Mr. Justice Frankfurter..... dr.

Mr. Justice Douglas..... WLD

Mr. Justice Jackson..... _____

Mr. Justice Burton..... WLB 5/1/53

Mr. Justice Clark..... _____

Mr. Justice Minton..... M

Please Return to the Chief Justice

Jaycees

UNITED STATES JUNIOR CHAMBER OF COMMERCE
TWENTY-FIRST & MAIN STREETS TULSA, OKLAHOMA TELEPHONE 5-5631

OFFICE OF THE PRESIDENT

April 20, 1953

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

My dear Mr. Chief Justice:

We of the United States Junior Chamber of Commerce feel that the most powerful weapon which Americans have at their command is prayer.

Therefore, we believe that this power of prayer should and must be used in a positive way to bring about the peace which you and other members of the executive, judiciary and legislative branches of our national government are so earnestly striving for.

In an attempt to contribute to the search for lasting peace, we have designated Sunday, May 3, as a day of national prayer for the divine guidance of our national leaders.

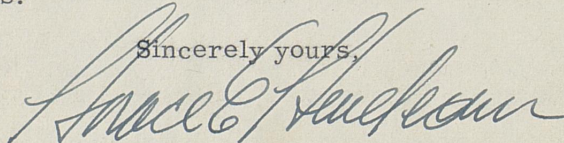
Jaycees all across the country are enlisting the support of churches and other civic groups to promote and organize this day of common prayer for you and your colleagues.

We would very much appreciate your notifying the other members of the Supreme Court of our program, so that they too will know that members of our organization, and other individual citizens, in our communities are with you in our prayers.

Enclosed is a copy of a resolution which is being adopted by our local chapters.

Congratulations, Justice Vinson, on the decisive steps you have already taken toward establishing world peace. And God bless you in your future efforts.

Sincerely yours,



Horace E. Henderson
President

HEH:ms

AFFILIATED WITH JUNIOR CHAMBERS INTERNATIONAL

Operation Pray Resolution

Adopted unanimously by the Board of Directors of the _____, _____,
Junior Chamber of Commerce in regular meeting assembled on _____,
1953.

WHEREAS, Jaycees everywhere believe that "Faith in God gives meaning and purpose to human life"; and

WHEREAS, Jaycees in all parts of the country can spearhead the drive for national and international moral regeneration through prayer; and

WHEREAS, every citizen can render a real service to his country and to his world by praying each day for Divine strength and guidance for our President, the Cabinet, Congress and Judiciary; and

WHEREAS, President Eisenhower has many times expressed his dependence upon God and the necessity for prayer; and

WHEREAS, a tremendous religious reawakening will be brought upon our nation on Sunday, May 3, 1953, if each of our local Jaycee chapters resolve to offer special prayers on that Sunday for President Eisenhower, the Cabinet, Congress and Judiciary, to the end that our nation may successfully lead the rest of the world to peace.

NOW, THEREFORE BE IT RESOLVED by the _____ Junior Chamber of Commerce in Board meeting assembled this _____ day of _____, 1953, that:

1. Citizens everywhere be urged to offer their prayers on Sunday, May 3, for the success of our country in the role of world leadership which has been imposed upon us.
2. That the _____ Junior Chamber of Commerce will do all in its power to have appropriate proclamations issued by the Mayor of our city and the Governor of our state to further this day of national prayer.
3. That a copy of this resolution be sent immediately to Horace E. Henderson, President of the United States Junior Chamber of Commerce, for accumulation and transmission onto the President of the United States, the Cabinet, Congress and Judiciary. Copies also will be sent immediately to the Mayor of our city and Governor of our state, and a copy will be placed upon file with our permanent chapter records.

Junior Chamber of Commerce
By _____
President

May 5, 1953

MEMORANDUM FOR THE CONFERENCE:

There will be a Conference of the Court on Wednesday, May 6th, at 11:00 a. m. for the consideration of this week's argued cases and No. 617 - District of Columbia v. John R. Thompson Co. - which we passed last Saturday.

C. J.

May 20, 1953

Memorandum to: Mr. Justice Black
Mr. Justice Reed
Mr. Justice Frankfurter
Mr. Justice Douglas
Mr. Justice Jackson ✓
Mr. Justice Burton
Mr. Justice Clark
Mr. Justice Minton

Since Saturday, May 30th, is a legal holiday, it has been suggested that the regular conference next week be held on Friday, May 29th.

Unless there is objection, the conference will be scheduled for Friday, May 29th, at 11:00 a. m.

C. J.

OK for me

R. H. J.

May 21, 1953

MEMORANDUM FOR THE CONFERENCE:

The regular Conference of the Court next week will be held on
Friday, May 29th, at 11:00 a. m.

C. J.

[June, 1953]

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

RECORD OF CONFERENCES HELD DURING OCTOBER TERM, 1952.

Prepared by

Edgar L. Kenney, Conference Custodian.

OCTOBER:	Tues.	7th:	11.00 - 1.10 (LUNCH PERIOD)	1.38 - 5.00:	5 hrs.	52 min.
	Wed.	8th:	11.00 - 1.00 " "	1.35 - 4.00:	4 "	25 "
	Thurs.	9th:	11.00 - 1.08 " "	1.40 - 4.50:	5 "	18 "
	Sat.	18th:	11.00 - 1.00 " "	1.30 - 6.05:	6 "	35 "
	Sat.	25th:	11.00 - 1.05 " "	1.40 - 6.00:	6 "	25 "
	Mon.	27th:	* * * * * 1.10 - 4.55:	3 "	45 "	
NOVEMBER:	Sat.	8th:	11.00 - 1.08 (LUNCH PERIOD)	1.40 - 3.30:	3 "	58 "
	Fri.	14th:	11.00 - 1.06 " "	1.35 - 3.16:	3 "	47 "
	Fri.	21st:	11.30 - 1.02 " "	1.35 - 4.25:	4 "	22 "
DECEMBER:	Sat.	6th:	11.10 - 1.12 * * * * *	2 "	02 "	
	Sat.	13th:	11.00 - 1.00 (LUNCH PERIOD)	1.35 - 5.12:	5 "	37 "
	Sat.	20th:	11.00 - 1.05 " "	1.35 - 3.55:	4 "	25 "
JANUARY:	Sat.	3rd:	11.10 - 1.05 * * * * *	1 "	55 "	
	Sat.	10th:	11.00 - 1.05 (LUNCH PERIOD)	1.35 - 4.35:	5 "	05 "
	Sat.	17th:	11.00 - 12.55 " "	1.35 - 5.35:	4 "	50 "
	Sat.	31st:	11.00 - 1.25 * * * * *	2 "	25 "	
FEBRUARY:	Sat.	7th:	11.00 - 1.03 (LUNCH PERIOD)	1.32 - 2.22:	2 "	53 "
	Mon.	9th:	* * * * * 2.50 - 3.50:	1 "	00 "	

74 " 39 "

(O V E R)

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

CONFERENCES, OCTOBER TERM, 1952: Page 2

BROUGHT OVER

							74 hrs. 39 min.
MARCH:	Sat.	7th:	11.00 - 1.07 (LUNCH PERIOD)	1.35 - 2.25:	- - -	2 "	57 "
	Sat.	14th:	11.00 - 1.10 " "	1.43 - 3.26:	- - -	3 "	53 "
	Thur.	26th:	* * * * *	1.50 - 6.00:	- - -	4 "	10 "
	Fri.	27th:	10.00 - 1.07 (LUNCH PERIOD)	2.05 - 4.15:	- - -	5 "	17 "
APRIL:	Sat.	4th:	11.00 - 1.35 * * * * *			2 "	35 "
	Sat.	11th:	11.11 - 1.05 (LUNCH PERIOD)	1.35 - 4.20:	- - -	4 "	50 "
	Sat.	25th:	11.00 - 1.05 " "	1.35 - 2.42:	- - -	3 "	12 "
M A Y:	Sat.	2nd:	11.00 - 1.03 " "	1.40 - 4.30:	- - -	4 "	53 "
	Wed.	6th:	11.00 - 12.40 * * * * *			1 "	40 "
	Sat.	16th:	11.10 - 1.10 (LUNCH PERIOD)	1.35 - 4.25:	- - -	4 "	50 "
	Sat.	23rd:	11.00 - 1.00 " "	1.40 - 2.50:	- - -	3 "	10 "
	Fri.	29th:	11.00 - 12.40 * * * * *			1 "	40 "
J U N E:	Sat.	6th:	11.00 - 1.10 * * * * *			2 "	10 "
	Sat.	13th:	11.00 - 1.16 (LUNCH PERIOD)	1.50 - 4.30:	- - -	4 "	56 "
	Mon.	15th:	10.45 - 11.20 (BENCH)	3.15 - 4.30:	- - -	1 "	50 "

CONFERENCES HELD 33.

TOTAL NUMBER OF HOURS 127 " 42 "

Note: No record is kept of a conference lasting less than thirty minutes.

(June, 1953)

EDWARD T. ROEHNER
COUNSELLOR AT LAW
1501 BROADWAY
NEW YORK 36, N.Y.

*Mr. Roehner:-
ack rec
I read it with
interest sincerely*

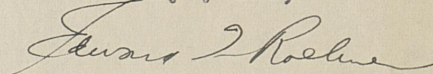
July 14, 1953

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

My dear Chief Justice:

I thought that as Chief Justice of the United States you might be interested in the enclosed reprint, since it is a correction of the article by the Acting Solicitor General which contends that the Supreme Court no longer grants certiorari as of course in conflicts between circuits. The very cases he employs shows that he is unaware of what a conflict between circuits is.

Sincerely yours,



Edward T. Roehner

ETR:lm

August 3, 1953

Mr. Edward T. Roehner,
1501 Broadway,
New York 36, New York.

Dear Mr. Roehner:

I have your letter of July 14th with which you enclosed a reprint of an article in The University of Chicago Law Review on "Certiorari - What Is a Conflict Between Circuits?"

I read the article with interest and appreciate your sending it to me.

With kind regards,

Sincerely,

(Signed) Fred M. Vinson

CERTIORARI—WHAT IS A CONFLICT
BETWEEN CIRCUITS?

EDWARD T. ROEHNER AND SHEILA M. ROEHNER

Reprinted for private circulation from
THE UNIVERSITY OF CHICAGO LAW REVIEW
Vol. 20, No. 4, Summer 1953

PRINTED IN U.S.A.

CERTIORARI--WHAT IS A CONFLICT
BETWEEN CIRCUITS?

EDWARD T. ROEHNER AND SHEILA M. ROEHNER

Reprinted for private circulation from
THE UNIVERSITY OF CHICAGO LAW REVIEW
Vol. 20, No. 4, Summer 1953
PRINTED IN U.S.A.

CERTIORARI—WHAT IS A CONFLICT BETWEEN CIRCUITS?

EDWARD T. ROEHNER AND SHEILA M. ROEHNER†

CERTIORARI ON CONFLICTS BETWEEN CIRCUITS is granted as of course only on narrow issues—on what Mr. Justice Frankfurter terms a "head-on collision."¹ But the tax bar generally² and at least one leading commentator³ seem not to be so aware as common lawyers were of the meaning of a narrow issue.

Chief Justice Vinson, in an address delivered in 1949 before the American Bar Association, said that the Supreme Court has never been primarily concerned with the correction of errors in lower court decisions.⁴ In almost all cases within the Court's appellate jurisdiction, he observed, the petitioner has already received one appellate review of his case. The debates in the Constitutional Convention make clear, he said, that the purpose of the establishment of one supreme national tribunal was, in the words of John Rutledge, of South Carolina, "to secure the national rights & Uniformity of Judgments." One of the functions of the Supreme Court is, therefore, said the Chief Justice, to resolve conflicts of opinion on federal questions that have arisen.⁵

† Members of the New York Bar.

¹ Cf. "Considerations of ultimate juristic philosophy are involved when the Court is asked to resolve a conflict of decisions between two circuit courts of appeals where the conflict is not such a head-on collision as a difference by two circuits regarding the validity of a patent. Here, facts relevant to judicial administration . . . undoubtedly influence the Court in deciding whether to adjust the conflict or to stay its hand, at least for the moment. All these more subtle cases of conflict present precisely the kind of situation for which the Court's discretion is properly invoked. And concordance between the Court's conception of conflict and that of the litigants is not always to be expected." Frankfurter, *The Business of the Supreme Court* at the October Terms, 1935 and 1936, 51 *Harv. L. Rev.* 577, 596-97 (1938).

² See note 6 *infra*.

³ Stern, *Denial of Certiorari Despite a Conflict*, 66 *Harv. L. Rev.* 465 (1953).

⁴ Vinson, *Work of the U.S. Supreme Court*, 12 *Tex. Bar J.* 551-52 (1949). Cf. "That function [certiorari] is not simply to do justice between parties. Everyone who comes before it by the certiorari route has had one trial and one appeal already. For justice simply, two courts are enough. The Supreme Court exists primarily to give a uniform and National interpretation to the Constitution and the National laws. Discretion in the selection of its cases preserves its time and energy to do the job." Bunn, *Jurisdiction and Practice of the Courts of the United States* 261 (5th ed., 1949).

⁵ He remarked also that if the Court took every case in which an interesting legal question was raised or its prima facie impression was that the decision below was erroneous, it could not fulfill the constitutional and statutory responsibilities placed upon it. Vinson, *op. cit.* supra note 4, at 552.

However, the tax bar has written⁶ that in *Bear Gulch Water Company v. Commissioner*,⁷ the Supreme Court denied certiorari despite the fact that there was a direct conflict between that case and *Roche's Beach, Inc. v. Commissioner*⁸ in that both decisions turned on Section 101(6) of the Internal Revenue Code. In addition, the Acting Solicitor General of the United States, Mr. Robert L. Stern, has written quite recently, under the title, "Denial of Certiorari Despite a Conflict,"⁹ that the Supreme Court no longer grants certiorari as of course in conflicts between circuits.¹⁰

When we examined the Ninth Circuit opinion in the *Bear Gulch* case,¹¹ we found that the court discussed Section 101(6), which had never been advanced before the Tax Court,¹² but decided the case solely on Section 116(d), the ground advanced by the taxpayer before the Tax Court.¹³ The Second Circuit decision in *Roche's Beach*,¹⁴ on the other hand, turned on Section 101(6). Clearly, no matter what the textwriters might announce, there was no conflict of circuits because of the *Bear Gulch* and *Roche's Beach* decisions.

When we examined the basis for Mr. Stern's assertion, we found it equally lacking in support. Mr. Stern begins his discussion by saying that the 1951 edition of Robertson and Kirkham, "Jurisdiction of the Supreme Court of the United States,"¹⁵ had said:

Where the decision of the Court of Appeals sought to be reviewed by certiorari directly conflicts, upon a question of federal law, with the decision of another Court of Appeals on the same question, the Supreme Court grants certiorari as of course, and irrespective of the importance of the question of law involved. The importance in such cases

⁶ E.g., Blodgett, *Taxation of Businesses Conducted by Charitable Corporations*, New York University Fourth Annual Institute on Federal Taxation 421 (1946); Lowndes, *Review of Polisher, Estate Planning and Estate Tax Saving*, 2 *Vanderbilt L. Rev.* 335, 337 (1949); *Colleges, Charities, and the Revenue Act of 1950*, 60 *Yale L.J.* 851, 862 (1951).

⁷ 116 F. 2d 975 (C.A. 9th, 1941), cert. denied, 314 U.S. 652 (1941).

⁸ 96 F. 2d 776 (C.A. 2d, 1938).

⁹ 66 *Harv. L. Rev.* 465 (1953).

¹⁰ To tax lawyers, this statement was disturbing. If Mr. Stern was correct, they would have to tell their clients that whether or not they were subject to federal tax on a question unaffected by state law depended upon the particular circuit in which they were living. Instead of a migration to avoid the impact of state estate taxes, we should have a migration to avoid the impact of federal estate and income taxes. We wondered whether, if a businessman worked in a circuit which was unfavorable to him taxwise, he could move his home to a circuit hundreds of miles away which was favorable and commute by jet plane.

¹¹ *Bear Gulch Water Co. v. Comm'r*, 116 F. 2d 975 (C.A. 9th, 1941), cert. denied, 314 U.S. 652 (1941).

¹² Then the Board of Tax Appeals.

¹³ The circuit court headnote, which is unofficial, did say that the 101(6) issue was also decided. Cf. "The head-note frequently is misleading if you read it alone and do not take the trouble to read the case." Lord Fitz-Gerald, in *Cooke v. Eshelby*, [1887] 12 A.C. 271, 282.

¹⁴ *Roche's Beach, Inc. v. Comm'r*, 96 F. 2d 776 (C.A. 2d, 1938).

¹⁵ *Wolfson and Kurland ed.*

lies in the preservation of uniformity of decision in the federal courts upon points solvable by federal law—a basic purpose of the certiorari jurisdiction since its inception in 1891.¹⁸

He says that the work cited two tax cases, *Helvering v. New York Trust Company*¹⁷ and *Cahn v. United States*,¹⁸ in support of its statement that "the Court has granted certiorari upon demonstration of a conflict even though the statute involved had been changed and the issue could hardly arise again."¹⁹ Mr. Stern believes, however, that the action of the Supreme Court in some recent cases in denying certiorari indicates either that the Court has modified its prior policy or that he and the other authors quoted were unaware of what the Court had been doing in the past. It could well be, he says, that these denials represent nothing new, but he adds that whether or not the recent decisions represent a departure from previous practice, the denials of certiorari despite conflicting decisions in courts of appeals is probably as unfamiliar to the bar generally as it was "to those bold enough to write books upon the subject." He therefore thinks that the summary and analysis which he presents of what the Court had done in this connection in several recent cases may be helpful both to lawyers who are trying to decide whether to file a petition for certiorari in a particular case and to those who are searching for grounds upon which to oppose a petition already filed.

Mr. Stern indicates that the cases he discusses are those which he happened to run across in his own work, by accident, or by inquiry among those associated with him. He says also: "In each case the conflict between the circuits was acknowledged by the court of appeals or the respondent. There is no consideration here of any case in which the existence of a conflict was in dispute. . . ." After devoting a paragraph apiece to seven instances of alleged conflicts between circuits, two of which are in the federal tax field, he adds that the first and obvious conclusion to be drawn from the cases is that a conflict will not necessarily result in the granting of certiorari if the issue is no longer a live one. He says that in the first four conflicts, which included the two tax conflicts, the statute upon which the controversy rested had expired or had been amended in a man-

¹⁸ Robertson and Kirkham, *Jurisdiction of the Supreme Court of the United States* 629-31 (Wolfson and Kurland ed., 1951) (emphasis added). He also quoted to the same effect from Stern and Gressman, *Supreme Court Practice* 101 (1950), of which he was coauthor.

¹⁷ 292 U.S. 455 (1934).

¹⁸ 297 U.S. 691 (1936).

¹⁹ He says that the 1936 edition of Robertson and Kirkham follows its general statement that, in the event of conflict, certiorari is granted as "of course," with a discussion of these two cases "in which certiorari was unsuccessfully opposed on the ground that changes in the applicable statute deprived the issue of future importance."

ner which would prevent the problem from arising in the future. But he adds that in each case it was nevertheless true that a substantial number of pending or potential cases would still be controlled by a resolution of the conflict. However, this, he contends, did not convince the Court that review of the decisions of the courts of appeals was warranted.

Our discussion will show that, judged by the standards of the *New York Trust Company* and *Cahn* cases, the Supreme Court still grants certiorari as of course in the event of a conflict between circuits, even if the conflict, because of amendment of the statutes, lacks vitality for future cases. Let us examine the standards by which certiorari was measured in those two cases. If, tested by those standards, there was no conflict between the circuits in the two tax cases in the 1951 Term, *United States v. Community Service, Inc.*,²⁰ and *Sokol Brothers Furniture Company v. Commissioner*,²¹ in which Mr. Stern declares the Supreme Court denied certiorari despite the existence of a conflict between courts of appeals, we shall be justified in assuming that the rule remains in full vigor. This is so, for Mr. Stern has said that there was no consideration of any case in which the existence of a conflict was in dispute. We believe also that an examination of the petitions for certiorari in the other cases advanced by Mr. Stern will show that they too failed to meet the test of a direct conflict between circuits.

In the *New York Trust Company* case, the Supreme Court decided a conflict between the Second Circuit²² and the Third Circuit²³ and the Court of Appeals for the District of Columbia.²⁴ The conflict was over the question of whether the length of time that the donor held stock may be considered in determining whether the gain on a sale by the donee was taxable to the donee as capital gain within the meaning of Section 206(a)(6) of the Revenue Act of 1921, which defined capital assets as property "held by the taxpayer . . . for more than two years."

We see that the issue on which certiorari was granted was a very narrow one; in fact, it is difficult to see how an issue could be narrower.

In the *Cahn* case, the Supreme Court decided a conflict between the Court of Claims²⁵ and the Seventh Circuit²⁶ and the Fourth Circuit.²⁷ The

²⁰ 189 F. 2d 421 (C.A. 4th, 1951), cert. denied, 342 U.S. 932 (1952).

²¹ 185 F. 2d 222 (C.A. 5th, 1950), cert. denied, 340 U.S. 952 (1951).

²² *New York Trust Co. v. Comm'r*, 68 F. 2d 19 (C.A. 2d, 1933).

²³ *Johnson v. Comm'r*, 52 F. 2d 726 (C.A. 3d, 1931).

²⁴ *Shoenberg v. Burnet*, 55 F. 2d 543 (App. D.C., 1931).

²⁵ *Cahn v. United States*, 10 F. Supp. 577 (Ct. Cl., 1935).

²⁶ *Kaufman v. Reinecke*, 68 F. 2d 642 (C.A. 7th, 1934).

²⁷ *Tait v. Safe Deposit & Trust Co.*, 70 F. 2d 79 (C.A. 4th, 1934).

conflict was over whether all or half of the value of the property held by husband and wife in joint tenancy or tenancy by the entireties was, under Section 402(d) of the Revenue Acts of 1918 and 1921, to be included in the gross estate of the one first to die, if the tenancy was created prior to the enactment of the first estate tax law on September 8, 1916. The Revenue Act of 1924 was the first to provide for a retroactive application of the estate tax law.

As in the *New York Trust Company* case, it is difficult to see how an issue could be narrower.²⁸

Tax Conflicts in the 1951 Term

In Mr. Stern's opinion, there were conflicts (1) between *United States v. Community Services, Inc.*,²⁹ and certain unnamed cases "under another section of the Internal Revenue Code containing substantially the same language," and (2) between *Basalt Rock Company v. Commissioner*³⁰ and *Sokol Brothers Furniture Company v. Commissioner*.³¹

In the *Community* case, Mr. Stern says that there was involved the question whether a corporation was exempt from employment taxes by reason of the fact that its profits were paid to exempt charitable or educational organizations. He relates that the taxpayer asserted that the decision of the Court of Appeals conflicted with other cases under another section of the Internal Revenue Code containing substantially the same language. He continues that the government's memorandum, while admitting the existence of the conflict, stated that recent legislation had rendered the conflict academic with respect to taxable years after 1950 and partially academic as to prior years. The government's memorandum, he says, further pointed out, however, that the Commissioner had advised the Department of Justice that "there are a number of open cases presenting the issue" and that, in the Commissioner's view, the matter remained of sufficient importance to make "a decision of the Supreme Court desirable." Mr. Stern says that the government accordingly did not oppose the issuance of the writ, but the Court denied certiorari.

It is difficult to see how the alleged conflict between Section 101(6) of

²⁸ The per curiam opinion in *Cahn v. United States*, 297 U.S. 691 (1936), read simply: "The judgment is reversed upon the authority of *Knox v. McElligott*, 258 U.S. 546 [(1922)]." The reason the decision so reads is that in its petition for certiorari, the taxpayer argued that the conflict was caused because the Court of Claims, which had decided adversely to the taxpayer, was in direct conflict with *Knox v. McElligott*.

²⁹ 189 F. 2d 421 (C.A. 4th, 1951), cert. denied, 342 U.S. 932 (1951).

³⁰ 180 F. 2d 281 (C.A. 9th, 1950), cert. denied, 339 U.S. 966 (1950).

³¹ 185 F. 2d 222 (C.A. 5th, 1950), cert. denied, 340 U.S. 952 (1951).

the income tax statute and section 1426(b)(8) of the Federal Insurance Contributions Act can be considered the sharp conflict between circuits that was present in the *New York Trust Company* and *Cahn* cases, where the conflicts were on the same subsection of the income tax statute.

Mr. Stern says that in the *Basalt* case the government petitioned unsuccessfully from a decision of the Court of Appeals for the Ninth Circuit with respect to the method of computation for purpose of the excess profits tax. He indicates that after certiorari was denied in the *Basalt* case, the Court of Appeals for the Fifth Circuit in the *Sokol* case stated explicitly that it was unable to follow the Ninth Circuit decision in the *Basalt* case. Mr. Stern also says that upon the taxpayer's petition for certiorari, the government admitted that the Fifth and Ninth Circuits were in disagreement and did not oppose certiorari. The government's memorandum did, however, he says, point out that the problem could no longer arise under the Excess Profits Tax Act of 1950, which had changed the controlling statutory provisions. Certiorari was denied.

But our examination of the opinions shows that in the *Basalt* case the taxpayer elected under Section 736(b) of the Internal Revenue Code to compute income on contracts the performance of which required more than twelve months on the percentage of completion method for excess profits tax purposes. The question was whether it had thereby elected to compute corporation surtax net income under Section 710(a)(1)(B) by the same method. The Ninth Circuit said that Section 736(b) did not authorize the election, nor did the taxpayer make the election.

In the *Sokol* case, the taxpayer elected under Section 736(a) of the Internal Revenue Code to compute income on installment sales on the accrual basis for excess profits tax purposes. The question was whether it had thereby elected to compute corporation surtax net income under section 710(a)(1)(B) by the same method. The Fifth Circuit held that it had.

In the *Basalt* case, 736(b) was in question, while the *Sokol* case involved 736(a). There is certainly not a conflict here in the sense of the one in the *New York Trust Company* and *Cahn* cases with the dispute limited to the same subsection of the statute. A mere examination of the long and involved language of subsections 736(a) and 736(b) would be enough to convince most lawyers that the Supreme Court would seize the opportunity to call a conflict between the two subsections not a conflict between circuits on "the same matter,"³² under which certiorari issues as of

³² U.S. S. Ct. Rule 38(5)(b).

course.³³ Of course, there is a disturbing conflict in principle between the two cases at which the tax practitioner cannot blink.³⁴

Mr. Stern tells us, however, that it would be unsafe to generalize from the few instances he relates that the Court will never grant a petition for certiorari because of conflict when the controversy can no longer occur. He illustrates this point by saying that in *Watson v. Commissioner*,³⁵ another tax case, the Court recently granted certiorari despite a change in the law, upon being advised of a conflict and the pendency of fifty-five cases totaling \$2,300,000.³⁶

The *Watson* case, instead of substantiating Mr. Stern's point, substantiates ours.³⁷ The Ninth Circuit in the *Watson* case disagreed with the Tenth Circuit decision in *McCoy v. Commissioner*³⁸ and the Fifth Circuit decision in *Owen v. Commissioner*³⁹ on whether under section 117(j) of the Internal Revenue Code the gain on the sale of an immature crop sold with the land is capital gain. As in the *New York Trust Company and Cahn* cases, the circuits were in conflict on the same subsection of the statute, and, as in those cases, the statute had been amended.

Mr. Stern says that *Tinder v. United States*⁴⁰ presents the same problem as *Watson v. Commissioner*, but in a different setting. Defendant had been convicted of stealing from the mails. The Fourth Circuit, noting its dis-

³³ Cf. Frankfurter, *op. cit. supra* note 1.

³⁴ Cf. "It [the Tax Court] deals with a subject that is highly specialized and so complex as to be the despair of judges. . . ." *Dobson v. Comm'r*, 320 U.S. 489, 498 (1943).

³⁵ 197 F. 2d 56 (C.A. 9th, 1952), cert. granted, 344 U.S. 895 (1952).

³⁶ All that can be said, he believes, is that in such cases, the Court may not grant certiorari even though there is a conflict. The cases discussed demonstrate, he says, that reference to a substantial number of similar cases pending may or may not be regarded as a strong enough showing. We believe, on the other hand, that the important issue is the conflict, and that reference to a substantial number of similar cases pending will not help. The shorter the petition the better. As Mr. John W. Davis has said, a lawyer must have the courage of exclusion. Cf. "Not long since, I am told, a brief was filed in the Supreme Court of the United States, in the closing hours of a busy term, supporting a petition for a certiorari, which cited by name no less than 432 cases. . . ." Davis, *The Case for the Case Lawyer*, 3 Mass. L.Q. 99, 108 (1918). Cf. also: "The problem-solver may fail to confine himself to cases and rules which deal with the kind of . . . problem he has, and go galloping over the entire diverse field—he may fail to narrow his thinking sufficiently, and muddle his solution with a lot of authorities which are not in point." Morris, *How Lawyers Think* 101 (1937).

³⁷ Cf. "[J]udges however blind they may be to their own imperfections are, as Lord Bowen put it, deeply conscious of each other's deficiencies. Lord Justice Christian, when he was Chief of the Irish Court of Appeal, used to display this consciousness in his own way. When his two colleagues differed in opinion, each of them stated his decision and his reasons for it before his Chief, and, when the Chief gave his, it sometimes took this laconic but not flattering form: 'I agree with the decision of my brother on the right for the reasons so admirably stated by my brother on the left.'" Strahan, *The Bench and Bar of England* 9 (1919).

³⁸ 192 F. 2d 486 (C.A. 10th, 1950).

³⁹ 192 F. 2d 1006 (C.A. 5th, 1950).

⁴⁰ 193 F. 2d 720 (C.A. 4th, 1951), cert. granted, 343 U.S. 976 (1952).

agreement with the prior decision of the Ninth Circuit in *Armstrong v. United States*,⁴¹ construed the statute as making the felony rather than the misdemeanor penalty applicable, despite absence of proof that the value of what had been stolen exceeded \$100. Mr. Stern says that in view of this conflict, the government did not formally oppose certiorari, although it called the Court's attention to the fact that corrective legislation had been passed by the Senate and had been reported favorably by the House Judiciary Committee. Certiorari was granted June 9, 1952. On July 1, 1952, Congress amended the statute so as to delete the provision for a lesser penalty for theft involving less than \$100, thereby making it impossible for the issue to arise in the future. Mr. Stern suggests that perhaps certiorari would have been denied if the amendment to the statute had been enacted before the Court first acted upon the petition.

The *Tinder* case, as outlined by Mr. Stern, like the *Watson* case, shows that the Supreme Court is following the rule of the *New York Trust Company* and *Cahn* cases. In the *Tinder* case, a criminal case, there was, as in the *Watson* case, a head-on collision between circuits. Mr. Stern's statement notwithstanding, enactment of the amendment to the statute while the petition was before the Court would not, judging by Chief Justice Vinson's statement that one of the Court's duties is to resolve conflicts of opinion between the circuits on federal questions, have affected the granting of certiorari. It can be assumed that the Court knew when it granted certiorari that since the bill had passed the Senate and been favorably reported by the House Judiciary Committee it would almost certainly become law. If there had been any doubts in the minds of the Justices about the bill's becoming law, they could have held the case until the bill had become law.⁴² Moreover, after the bill became law the Government filed a supplemental memorandum calling this fact to the Court's attention and suggesting that the case had lost all importance and that the Court "may deem it appropriate to dismiss the writ." The Court, nevertheless, retained the case on the argument calendar.

Mr. Stern ends his discussion of when the Supreme Court will grant certiorari if the circuits are in conflict by saying:

That there can no longer be certainty that the Court will automatically grant certiorari where there is a conflict among the circuits does not mean that a conflict will not usually be sufficient. But counsel should be aware that in conflict cases as in others the Court takes other factors into account and should frame their litigation

⁴¹ 187 F. 2d 954 (C.A. 9th, 1951).

⁴² See Robertson and Kirkham, *Jurisdiction of the Supreme Court of the United States* § 319 (Wolfson and Kurland ed., 1951).

policies as well as their petitions for certiorari and briefs in opposition with this in mind.⁴³

We disagree with Mr. Stern. We believe that the Court grants certiorari as of course in conflicts between the circuits, provided the petition for certiorari clearly frames the head-on collision for the Court to see.

Addendum: Issue Pleading and Certiorari

Chief Judge Harold M. Stephens of the Court of Appeals for the District of Columbia, in an address before the American Bar Association in 1949, introduced a discussion of notice and issue pleading by the statement: "We may have some concern, I think, as would the lawyers and judges of an earlier day, over the diminution in the sense of craftsmanship in the law."⁴⁴ Recalling his article, we wondered whether the mental habits induced by the change from issue pleading to notice have anything to do with the fallacious belief that the Court no longer grants certiorari as of course in conflicts between circuits. We wonder, because he says that, while notice as distinguished from issue pleading has resulted in many benefits through simplification, a dear price has been paid for this in a consequent lack of precision in definition of the field of controversy in cases litigated in the courts. He has often found that not until a case reached a court of appeals has there been an exact focus of attention upon what are the issues of fact and law. He deprecates the present-day tendency of both courts and commissions to admit evidence largely upon the grounds of relevancy, i.e., with little reference to the rules of competency.⁴⁵

Chief Judge Stephens observes that there is a seemingly prevalent notion today that the adjective law is but a congeries of dispensable technicalities, whereas in an art which assumes to apply its substantive principles in an efficient, orderly, and impersonal manner it is indispensable. Every art, he points out, has, in addition to a substantive aspect embracing organized information and principles, a technique through which they are carried into effect. He likens the substantive law to water in a reservoir. Unless the water passes out through canals, laterals, and still smaller channels, it never with precision reaches a particular tract of land to make it fruitful. True, says the judge, the channels may be made too many, too

⁴³ Stern, *op. cit.* supra note 3, at 472.

⁴⁴ Stephens, *Fifty Years of Legal Change: The Lawyer of 1949 and the Lawyer of 1900*, 35 A.B.A.J. 897, 970 (1949).

⁴⁵ Cf. "As someone said to David Dudley Field: 'I understand, Mr. Field, that under your Code the plaintiff comes in and tells his story like an old woman and the defendant comes in and tells his story like another old woman.'" Seagle, *Law: The Science of Inefficiency* 52 (1952).

long, or too tortuous, and the water thus seep or evaporate before it reaches the land toward which it has been directed. But, he points out, it is equally true that, if there are no channels through which it may flow, it will never reach that land. He believes that the substantive law must likewise pass through the channels of pleading, procedure, and evidence, so that it may precisely apply itself to the solution of a particular controversy in respect of which it is apt.

If issue pleading were still the rule, would the sharpness of thinking it required have made our discussion of Mr. Stern's viewpoint unnecessary?

