

RETIREMENT OF MR. JUSTICE FRANKFURTER.

SUPREME COURT OF THE UNITED STATES.

MONDAY, OCTOBER 1, 1962.

Present: MR. CHIEF JUSTICE WARREN, MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS, MR. JUSTICE CLARK, MR. JUSTICE HARLAN, MR. JUSTICE BRENNAN, MR. JUSTICE STEWART and MR. JUSTICE WHITE.

THE CHIEF JUSTICE said:

With the concurrence of my colleagues, I announce with regret the retirement of Mr. Justice Frankfurter who has served this Court with distinction for the past 24 years.

All of us, with the exception of Mr. Justice White, have had the pleasure of serving for years with him, and we exceedingly regret that the condition of his health compelled his retirement. We are reconciled to the situation, however, by the opinion of his doctor that if he is relieved of his arduous Court work he will still have years of usefulness to the profession to which he has been devoted for 60 years. We look forward to such a speedy and complete recovery because he has so much to give from his vast experience.

As scholar, teacher, public servant, enlightened critic, and member of this Court for almost a quarter of a century, he has already made a contribution to our jurisprudence rarely equalled in the life of our Court. Through each of these facets of his long and notable career, he looms large in the history of our country and we, his colleagues, have been the most favored beneficiaries of his

wisdom and his fellowship. These we may continue to enjoy because our association with him is not ended. It will continue unabated in another form.

Our appreciation of that association and for his great service to the Court is amplified in a letter to him which, with his response and the exchange of letters between him and the President on the occasion of his retirement, will be spread upon the Minutes of the Court.

SUPREME COURT OF THE UNITED STATES,
CHAMBERS OF THE CHIEF JUSTICE,
Washington 25, D. C., September 27, 1962.

HONORABLE FELIX FRANKFURTER,
Associate Justice of the Supreme Court, Retired,
Washington, D. C.

DEAR JUSTICE FRANKFURTER:

As the opening day of our 1962 Term approaches, it becomes increasingly difficult for all of us to realize that you will not be in your accustomed chair, which you filled with such distinction and in such good fellowship with your colleagues for almost a quarter of a century.

All of us, except Mr. Justice White, our newest member, have served with you for years and we, more than any others, will feel the loss that comes from your retirement. We regret the necessity for it, but we reluctantly accept your decision because your doctor has told you and us that if this course is pursued there will be opened to you new avenues of usefulness to the profession to which you dedicated yourself 60 years ago.

Every one of those years was an eventful year for you as you strained every fiber of your mind and body to the administration of justice and to the welfare of the Court.

Few men in the life of the Supreme Court have made contributions to its jurisprudence equal to your own. As a scholar, teacher, critic, public servant, and a member of the Court for 24 Terms, you have woven your philosophy of law and your conception of our institutions into its annals where all may read them and profit thereby.

Your retirement does not end our association. It merely changes the form of it. You will always be one of us, and after rest and relaxation from the rigors of the Court work restore you to health, we look forward to years of continued happy association with you. In the meantime, our best wishes for a rapid recovery will always be with you.

Sincerely,

EARL WARREN
HUGO L. BLACK
WM. O. DOUGLAS
TOM C. CLARK
JOHN M. HARLAN
WM. J. BRENNAN, JR.
POTTER STEWART
BYRON R. WHITE

SUPREME COURT OF THE UNITED STATES,
CHAMBERS OF JUSTICE FELIX FRANKFURTER,
Washington, D. C., September 28, 1962.

MY DEAR BRETHREN:

It would be unnatural for me not to address you thus, although you have been apprised that I have advised the President of my decision to retire as of August 28th, under the appropriate provisions of law, as an active member of the Court. I still address you as I do, for

the endeavors which the business of the Court entails in the daily intimacy of our association have forged bonds of fellowship which cannot be abruptly severed. The final manifestation of your fraternal feelings toward me, your letter of September 27th, your generous words of farewell, are a cheering close to our uniformly happy curial relations over the years, and I shall enduringly cherish your moving letter. Retiring from active membership on the Court of itself would involve a wrench in my life, but the fact is that I have served the Court in one professional way or another almost from the day that I ceased to be a law student, not merely during the years that I have actually been on the Bench.

My years on the Court have only deepened my conviction that its existence and functioning according to its best historic traditions are indispensable for the well-being of the nation. The nature of the issues which are involved in the legal controversies that are inevitable under our constitutional system does not warrant the nation to expect identity of views among the members of the Court regarding such issues, nor even agreement on the routes of thought by which decisions are reached. The nation is merely warranted in expecting harmony of aims among those who have been called to the Court. This means pertinacious pursuit of the processes of Reason in the disposition of the controversies that come before the Court. This presupposes intellectual disinterestedness in the analysis of the factors involved in the issues that call for decision. This in turn requires rigorous self-scrutiny to discover, with a view to curbing, every influence that may deflect from such disinterestedness.

I have spent happy years in my fellowship with you and I carry away the abiding memory of years of comradeship in grappling with problems worthy of the best in fallible men.

My best wishes for happy, long years for each of you and continued satisfying labors, and every good wish that the Court may continue its indispensable role in the evolution of our beloved nation.

With the happiest memories, I am

Sincerely and faithfully yours,

FELIX FRANKFURTER.

THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF
THE SUPREME COURT OF THE UNITED STATES
OF AMERICA.

SUPREME COURT OF THE UNITED STATES,
CHAMBERS OF JUSTICE FELIX FRANKFURTER,
Washington 25, D. C., August 28, 1962.

MY DEAR MR. PRESIDENT:

Pursuant to the provisions of 28 U. S. C. Section 371(b), 68 Stat. 12, I hereby retire at the close of this day from regular active service as an Associate Justice of the Supreme Court of the United States.

The occasion for my retirement arises from the affliction which I unexpectedly suffered last April. Since then I have undergone substantial improvement. High expectations were earlier expressed by my doctors that I would be able to resume my judicial duties with the beginning of the next Term of the Court, commencing October 1. However, they now advise me that the stepped-up therapy essential to that end involves hazards which might jeopardize the useful years they anticipate still lie ahead of me.

The Court should not enter its new Term with uncertainty as to whether I might later be able to return to unrestricted duty. To retain my seat on the basis of a diminished work schedule would not comport with my

own philosophy or with the demands of the business of the Court. I am thus left with no choice but to regard my period of active service on the Court as having run its course.

I need hardly tell you, Mr. President, of the reluctance with which I leave the institution whose concerns have been the absorbing interest of my life. May I again convey to you my gratitude for your call upon me during the summer and for the solicitude you were kind enough to express.

With high respect and esteem,

Faithfully yours,

FELIX FRANKFURTER.

THE PRESIDENT,
The White House,
Washington, D. C.

THE WHITE HOUSE,
Washington, August 28, 1962.

MY DEAR MR. JUSTICE FRANKFURTER:

Your retirement from regular active service on the Supreme Court ends a long and illustrious chapter in your life, and I understand well how hard a choice you have made. Along with all your host of friends I have followed with admiration your gallant and determined recovery, and I have shared the general hope that you would return soon to the Court's labors. From my own visit I know of your undiminished spirit and your still contagious zest for life. That you now take the judgment of the doctors and set it sternly against your own demanding standard of judicial effectiveness is characteristic, but it comes as an immediate disappointment.

Still, if you will allow it, I will say that there is also consolation in your decision. I believe it good for you as

well as for the rest of us that you should now be free, in reflective leisure, for activities that are impossible in the demanding life of a Justice of the Supreme Court. You have been part of American public life for well over half a century. What you have learned of the meaning of our country is reflected, of course, in many hundreds of opinions, in thousands of your students, and in dozens of books and articles. But you have a very great deal still to tell us, and therefore I am glad to know that the doctors are telling you, in effect, not to retire, but only to turn to a new line of work, with new promise of service to the nation.

Meanwhile, I should like to offer to Mrs. Frankfurter and to you, for myself and for all Americans, our respectful gratitude for the character, courage, learning and judicial dedication with which you have served your country over the last twenty-three years.

Sincerely,

JOHN KENNEDY.

The Honorable FELIX FRANKFURTER,
Associate Justice,
Supreme Court of the United States,
Washington, D. C.

