PSF U.S. Supreme Court (appointments to) Subj. File Box 186

Isaac Totty
PSF: Supreme Court
Appl file

EMBASSY OF THE
UNITED STATES OF AMERICA

México, March 26, 1937.

PERSONAL.

Dear Franklin:

Having in mind that before a great while you will be considering men for appointment as Justices of the Supreme Court, I am writing, not to make a recommendation, but to call attention to Chief Justice John P. Devaney, of Minnesota. I do not know his record on the bench or how liberal he is, or about his ability. I am only writing to suggest that you have a study made of him. All I know is that he and his wife came here and spent several weeks in the summer of 1935. That was about the time Mr. Carmody was so critical about the administration's church policy in Mexico. I did not know Judge Devaney was here until a few days before he returned to Minnesota. He called then and we invited him to lunch at the Embassy. He said he had been appointed as a member of the Committee of One Hundred of the Knights of Columbus to act with reference to the American policy toward Mexico. He had gone over important parts of the country and talked to many people, particularly of his own creed. "The result of my visit", he said to me, "oppresses me that my church, which had an opportunity to do so much, has not fully lived up to its responsibilities and has not done as much for the people here as it should have done."

He was sincere and genuine, both in his devotion to his church and in the feeling of disappointment. I do not know if he took any action when he returned to the United States, or what action, if any. He impressed me and my wife (who is a better judge of men than I am) as being one of the finest men it had been our privilege to welcome to the Embassy, and his wife also made a fine impression.

I

The President,
The White House,
Washington, D. C.

I see that David Walsh and a professor in a Catholic University have made remarks indicating that the attempt will be made, as in New York, Connecticut and Massachusetts, in the child labor amendment, to raise the fear of the Catholics that your judicial reform might in some way affect injuriously the rights of that church. You will recall that Father Coughlin did this, as did other Catholics, and did much to help Borah and Hiram Johnson to defeat the World Court treaty. It is a matter for great regret that any considerable number of our people can be influenced by such absurd suggestions.

However, we have to take the world as we find it. While I know you will select the men best fitted for high position, it would be good policy if one of your Supreme Court Judges was a Catholic. Most voters of that faith are Democrats and deserve consideration. If the Minnesota Judge meets all the requirements and is a genuine Progressive - and my knowledge of him is too slight to know - it may be well to study his background, etc. I know too little of him to justify a recommendation and your opportunity of judging about material is a hundred times better than mine.

I am somewhat influenced in writing by the bitter feeling of many fine Catholics toward Wilson because he did not, during his whole eight years, name a Catholic to his Cabinet. When there was a vacancy I advised him to fill it by naming Martin Glynn, but he had offered it to Judge Alexander before I made the suggestion. No such criticism could be made of you because you selected two Catholics for your Cabinet, but not because they were Catholics, but because they were the two best qualified men for the positions to which you named them.

You have doubtless seen that the North Carolina Legislature approved your judicial reform measure after the Tories had tried to smother it. Jonathan did a fine piece of work in getting Ickes to carry Good Tidings to replace Bailey's Bad Tydings.

Affectionately,

Josephus Daniels

PSF: Supreme Court
Appt FG

Private file

Office of the Attorney General
Washington, D.C.

July 29, 1937.

The President,
The White House.

My dear Mr. President:

Enclosed herewith you will find a memorandum of law prepared by Judge Townsend with reference to the Presidential power to make a recess appointment of a Justice of the Supreme Court.

You will note that his conclusion confirms the oral opinion I gave to you a few days ago. Unless you desire it, there would seem to be no necessity for preparing a formal opinion as the overwhelming weight of authority and the unbroken practice are to the same effect. You will also note that the Congress, by retaining on the Statute books the Act of February 9, 1863, now Revised Statute 1761, has, in effect, given a Congressional interpretation confirmatory of the power. I think you will find the Townsend memorandum exceedingly interesting, especially the historical references in the addenda.

You will observe that there have been nine instances in which Justices of the Supreme Court have been commissioned "during the recess of the Senate." I have marked with a minus sign the instances in which such Justices have received such commissions but refrained from taking a seat upon the bench until after actual Senatorial confirmation. I have marked with a plus sign those instances in which Justices receiving a recess commission have taken their places upon the bench prior to Senatorial confirmation. There are six instances of the kind first mentioned and three instances that fall in the other class. Amongst the three instances last mentioned was that of John Rutledge who subsequently failed of Senatorial confirmation. Why six Justices, who received recess commissions, refrained from taking advantage of them, but preferred to await Senatorial confirmation in due course, I can only surmise.

Sincerely yours,

Homer Cummings

Attorney General.

Encl.

GOLDEN W. BELL
ASSISTANT SOLICITOR GENERAL

Department of Justice
Washington

July 29, 1937

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Power of the President to Make a Recess Appointment of a Justice of the Supreme Court to Fill a Vacancy which Occurred while the Senate was in Session.

The Power of the President to make appointments of officers is granted by Article II, Section 2 of the Constitution, which reads, in part, as follows:

> "The President * * * shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.
>
> "The President shall have Power to fill up all vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session."

It will be noted that the President's power to make recess appointments of Justices of the Supreme Court is no different from his authority to make such appointments with respect to other officers mentioned in the Constitution; and it has been the practice since the adoption of the Constitution for the President to make recess appointments of officers in cases where the vacancies to be filled had existed during a session of the Senate, as well as in cases where the vacancies had not so existed.

The power of the President to make recess appointments where the vacancies had existed during a session of the Senate is supported

by a long line of decisions of the Attorneys General. In this connection, attention is invited to the opinions of Attorney General Wirt, dated October 22, 1825 (1 Op. A.G. 631), of Attorney General Taney, dated July 19, 1832 (2 Op. A.G. 525), of Attorney General Legaré, dated October 22, 1841 (3 Op. A.G. 673), of Attorney General Mason, dated August 15, 1846 (4 Op. A.G. 525), of Attorney General Cushing, dated May 25, 1855 (7 Op. A.G. 186), of Attorney General Bates, dated October 15, 1862 (10 Op. A.G. 356), of Attorney General Speed, dated March 25, 1865 (11 Op. A.G. 179), of Attorney General Stanbery, dated August 30, 1866 (12 Op. A.G. 32), of Attorney General Evarts, dated August 17, 1868 (12 Op. A.G. 449), of Attorney General Devens, dated June 18, 1880 (16 Op. A.G. 522), and of Attorney General Miller, dated March 20, 1889 (19 Op. A.G. 261).

The power to make such recess appointments is also supported by the opinion of Justice Woods (sitting on the Circuit Court of Appeals) in In re Farrow, 5 Fed. 112. In that opinion Justice Woods adopted the construction of Attorney General Wirt that the Constitution means "Vacancies which may happen to exist during the recess of the Senate." (See p. 114.). After citing numerous opinions of the Attorneys General and referring to the long established practice in connection with such recess appointments, Justice Woods said: (p. 115)

> "These opinions exhaust all that can be said on the subject. They were rendered upon the call of the executive department, and under the obligation of the oath of office, and entitled to the highest consideration. In his opinion Mr. Bates says the power to fill vacancies which occur during the recess has been sanctioned, so far as he knows and believes, by the unbroken acquiescence of the senate. It is true, individual members of the senate have disputed the power, but not the senate itself. Congress has recognized the power by section 2 of the act of February 9, 1863, (Rev. St. § 1761,) which declares: 'No money shall be paid from the treasury as salary to any person appointed, during the recess of the senate, to fill a vacancy in any existing office, if the vacancy existed while the senate was in session, and was by law required to be filled by and with the advice and consent of the senate, until such appointee has been confirmed by the senate.'
>
> "* * * I therefore shall hold that the president had constitutional power to make the appointment * * *, notwithstanding the fact that the vacancy filled by his appointment first happened when the senate was in session."

Other authorities reject the above view. In Case of the District Attorney, 16 Am. Law Reg. 786, District Judge Cadwalader held that the President did not have the power to make recess appointments where the vacancy existed during a session of the Senate. In an exhaustive opinion he rejected the view of Attorney General Wirt that the Constitution means "Vacancies which may happen to exist during the recess of the Senate", and after reciting the administrative practice and reviewing the opinions of the Attorneys General on the subject, said: (p. 816)

> "* * * There has not been opportunity for judicial contestation: The existence of the power in question has not been legislatively recognised, has been denied by the Senate, has been practically asserted by Presidents only, and has not been exercised without constantly recurring suggestions by them of doubts of its existence under the Constitution: Opinions of attorneys-generals have been its only support; and in these opinions, other jurists of eminence have not concurred.
>
> "All this might have been said in language more decidedly showing that the question, whenever directly litigated, will be quite open for judicial contestation. At present, I cannot answer it affirmatively."

In Schenk v. Peay, 1 Dillon 267, 268, District Judge Caldwell held that where an office was created and took effect during a session of the Senate and a subsequent session of Congress passed without the office being filled, the President could not make a valid appointment to such office in the recess of the Senate. See also In re Yancey, 28 Fed. 445, in which the authority of the President to fill by recess appointment a vacancy which existed during a session of the Senate was discussed but not decided. In that case, Justice Woods, whose views were solicited, was of the opinion that the President had such authority, while District Judge Hammond and Circuit Judge Jackson were doubtful of the authority.

In an opinion to the President, dated April 18, 1845, Attorney General Mason held that the President could not make recess appointments to the newly created offices of district judges, attorneys and marshals for the States of Iowa and Florida, newly admitted, since the vacancies in such offices existed during a session of the Senate. In a later opinion, however, Attorney General Mason advised the President (4 Op. A. G. supra), that he was authorized to fill by recess appointments vacancies in offices of postmasters, which vacancies existed during a session of the Senate. In that opinion, Attorney General Mason referred to the opinion of Attorney General Wirt (1 Op. A.G. supra), the opinion

of Attorney General Taney (2 Op. A.G. supra), and the opinion of Attorney General Legaré (5 Op. A.G. supra).

The weight of the authority, however, seems to support the view that the President has the power to fill by recess appointments vacancies which had existed during a session of the Senate.

None of the authorities above cited relates to an appointment to the Supreme Court with the exception of the opinion of Attorney General Bates, dated October 15, 1862 (10 Op. A.G. supra). In that opinion, rendered in response to President Lincoln's request for the Attorney General's opinion upon his power to fill by recess appointment a vacancy on the Supreme Court, "which vacancy existed during and before the last session of the Senate", Attorney General Bates advised the President:

> "If the question were new, and now, for the first time, to be considered, I might have serious doubts of your constitutional power to fill up the vacancy, by temporary appointment, in the recess of the Senate. But the question is not new. It is settled in favor of the power, as far, at least, as a constitutional question can be settled, by the continued practice of your predecessors, and the reiterated opinions of mine, and sanctioned, as far as I know or believe, by the unbroken acquiescence of the Senate.
>
> "Deferring to this practice and to these authorities, I give it as my opinion that you have lawful power, now, in the recess of the Senate, to fill up a vacancy on the bench of the Supreme Court, which vacancy existed during the last session of the Senate, 'by granting a commission which shall expire at the end of their next session.'"

Acting upon the advice of Attorney General Bates, President Lincoln on October 17, 1862, issued a commission to David Davis as a Justice of the Supreme Court. Justice Davis, however, did not take his seat upon the Supreme Court until after his confirmation by the Senate, the Senate confirming his nomination on December 8, 1862, and Justice Davis taking his seat on December 10, 1862.

Attached hereto is a memorandum showing recess appointments made to the Supreme Court, with the dates of such appointments, the dates upon which the Justices appointed took their seats, and the dates upon which their nominations were confirmed or rejected by the Senate. A number of the Justices so appointed took their seats before being confirmed by the Senate; and one of them, Justice Rutledge, served during

a term of the Court and was not confirmed by the Senate. So far as I have been able to ascertain, none of the vacancies filled by recess appointments, other than that which Justice Davis was appointed to fill, had existed during a session of the Senate.

The weight of authority, in my opinion, and also the established practice followed since the adoption of the Constitution, support the view that the President has the power to fill by recess appointment a vacancy on the Supreme Court which existed while the Senate was in session "by granting" a commission "which shall expire at the end of" the next session of the Senate. The question, however, is not definitely settled--no constitutional question, I believe, may ever be said to be definitely settled; but it would seem that this question (to adopt the language of Attorney General Bates, 10 Op. A.G. supra) "is settled in favor of the power, as far, at least, as a constitutional question can be settled, by the continued practice of * * * /former Presidents/, and the reiterated opinions of * * * /former Attorneys General/, and sanctioned, as far as I know or believe, by the unbroken acquiescence of the Senate", and, it might be added, apparently sanctioned also by the unbroken acquiescence of the Supreme Court itself.

It is to be noted, however, that, in practice, there has been no recess appointment to the Supreme Court since 1862, in so far as the records of the Supreme Court, the State Department, or this Department disclose. This practice has continued, however, with reference to the appointment of judges to the lower federal courts.

It should also be noted that under the provisions of the Act of February 9, 1863, now Revised Statutes 1761, quoted by Justice Woods in In re Farrow, supra., no salary could be paid to a Justice appointed to fill a vacancy which existed while the Senate was in session, until after the appointment had been confirmed by the Senate.

Respectfully,

N. A. TOWNSEND,
Acting Assistant Solicitor General.

SUPREME COURT JUSTICES COMMISSIONED

"DURING THE RECESS OF THE SENATE."

The records of the State Department and of the Department of Justice indicate that only the following justices were given recess appointments. (See also list of justices covering period 1789 to 1888 contained in the Appendix to 131 U.S.)

— 1. Thomas Johnson

Recess Commission Aug. 5, 1791) D. of J. Roster Vol. I
Commission on Confirmation, Nov. 7, 1791)
Took seat on bench Aug. 6, 1792
Succeeded: John Rutledge who resigned March 5, 1791 (Warren v. 1, p. 56; v. 3, 479)
Senate not in session while the vacancy existed.

+ 2. John Rutledge (Chief Justice)

Recess Commission July 1, 1795 (D. of J. Roster Vol. I)
Senate refused to confirm Dec. 15, 1795 (Warren v. 1, p. 137; v. 3, p.479)
Took seat on bench Aug. 12, 1795 (Warren v. 1, p. 133)
Succeeded Chief Justice John Jay who was appointed and confirmed as Ambassador to Great Britain April 19, 1794 (Warren v. 1, p. 119) and resigned June 29, 1795 (131 U.S. Appendix v)
Senate not in session while the vacancy existed.

— 3. Bushrod Washington

Recess Commission Sept. 29, 1798) D. of J. Roster Vol. I
Commission on Confirmation Dec. 20, 1798)
Took seat on bench Feb. 4, 1799
Succeeded James Wilson who died Aug. 21, 1798 (Warren v. 1, p. 153)
Senate not in session while the vacancy existed.

— 4. Brockholst Livingston

Recess Commission Nov. 10, 1806) D. of J. Roster Vol. I
Commission on Confirmation Jan. 16, 1807)
Took seat on bench Feb. 2, 1807
Succeeded William Paterson who died Sept. 9, 1806 (Warren v. 1, p. 299)
Senate not in session while the vacancy existed.

— 5. Smith Thompson

Recess Commission Sept. 1, 1823) D. of J. Roster Vol. I
Commission on Confirmation Dec. 9, 1823)
Took seat on bench Feb. 10, 1824 (Warren v. 2, p. 67)
Succeeded Brockholst Livingston who died March 18, 1823 (Warren v. 2, p.47)
Senate not in session while the vacancy existed.

6. John McKinley

Recess Commission April 22, 1837) D. of J. Roster Vol. I
Commission on Confirmation Sept. 25, 1837)
Took seat on bench Jan. 9, 1838
This was a new judgeship created by Act of March 3, 1837. William Smith was appointed by President Jackson on day act was passed but declined the appointment. (Warren v. 2, pp. 313-315; v. 3, p.480)
Warren states that William Smith was "appointed, March 3, 1837; confirmed, March 8, 1837; declined, March, 1837." The Senate remained in session until March 10, 1837, inclusive. The record does not show whether Smith declined the appointment before the Senate adjourned on March 10.

7. Levi Woodbury

Recess Commission Sept. 20, 1845) D. of J. Roster Vol. I
Commission on Confirmation Jan. 3, 1846)
Took seat on bench Dec. 2, 1845
Succeeded Joseph Story who died Sept. 10, 1845 (Warren v. 2, pp. 416,419)
Senate not in session while the vacancy existed.

8. Benjamin Robbins Curtis

Recess Commission Sept. 22, 1851) D. of J. Roster Vol. I
Commission on Confirmation Dec. 20, 1851)
Took seat on bench Dec. 1, 1851
Succeeded Levi Woodbury who died Sept. 4, 1851 (Warren vol. 2, p. 501)
Senate not in session while the vacancy existed.

9. David Davis

Recess Commission Oct. 17, 1862) D. of J. Roster Vol. I
Commission on Confirmation Dec. 8, 1862)
Took seat on bench Dec. 10, 1862
Appointed to fill a vacancy. Justice Daniel had died May 30, 1860, and Justice McLean had died April 4, 1861. (Warren v. 3, pp. 80, 96, 102)
Senate in session May 30, 1860. Senate not in session April 4, 1861, but met July 4, 1861, to Aug. 6, 1861.

Note 1. Information indicated as to dates when the Senate was not in session obtained from available sources in Department of Justice library and verified from the records of the Senate.

Note 2. Information as to dates upon which the justices took their seats on the bench obtained from the Clerk of the Supreme Court, except where otherwise indicated. The Supreme Court records do not unqualifiedly show in each instance that the justice took his seat on the day stated, but the entries made appear to warrant the inference.

PSF: Subject File: Supreme Court Appointment File

THE WHITE HOUSE
WASHINGTON

Box 186

Hon. Judge Norman Jones of
Supt. of Ill.
Was Chief Justice.
Ky. Ill - Dist. Circuit.

PSF: Supreme Court Appointment File

August 3, 1937.

MEMORANDUM IN RE SUPREME COURT.

1. There is one vacancy in the Supreme Court caused by the ~~resignation~~ retirement of Mr. Justice VanDeventer, of Wyoming, which State is located in the Tenth Circuit.

2. The remaining Justices of the Supreme Court are as follows:

Chief Justice Hughes, of New York, located in the SECOND Circuit.
Mr. Justice McReynolds, of Tennessee, located in the SIXTH Circuit.
Mr. Justice Brandeis, of Massachusetts, located in the FIRST Circuit.
Mr. Justice Sutherland, of Utah, located in the TENTH Circuit.
Mr. Justice Butler, of Minnesota, located in the EIGHTH Circuit.
Mr. Justice Stone, of New York, located in the SECOND Circuit.
Mr. Justice Roberts, of Pennsylvania, located in the THIRD Circuit.
Mr. Justice Cardozo, of New York, located in the SECOND Circuit.

3. It will thus be noted that the following circuits have no representation on the Supreme Court, to wit: the FOURTH, the FIFTH, the SEVENTH, and the NINTH.

4. The FOURTH Circuit includes the States of
Maryland
North Carolina
South Carolina
Virginia
West Virginia

The FIFTH Circuit includes the states of
Alabama
Florida
Georgia
Louisiana
Mississippi
Texas
Canal Zone

The SEVENTH Circuit includes the states of
Illinois
Indiana
Wisconsin

The NINTH Circuit includes the states of
Arizona
California
Idaho
Montana
Nevada
Oregon
Washington
Alaska
Hawaii

SUGGESTIONS FROM VARIOUS SOURCES FOR MEMBERSHIP ON THE SUPREME COURT.

Circuit Judge Martin T. Manton, of New York, located in the Second Circuit.

Circuit Judge Edwin R. Holmes, of Mississippi, located in the Fifth Circuit

Circuit Judge Evan A. Evans, of Wisconsin, located in the Seventh Circuit

Circuit Judge Seth Thomas, of Iowa, located in the Eighth Circuit

Circuit Judge Clifton Matthews, of Arizona, located in the Ninth Circuit

✓ Circuit Judge Albert Lee Stephens, of California, located in the Ninth Circuit

✓ Circuit Judge Samuel H. Sibley, of Georgia, located in the Fifth Circuit

Circuit Judge William Healy, of Idaho, located in the Ninth Circuit.

Circuit Judge Augustus N. Hand, of New York, located in the Second Circuit
(suggested by William Draper Lewis)

Circuit Judge Florence E. Allen, of Ohio, located in the Sixth Circuit

Circuit Judge Sam G. Bratton, of New Mexico, located in the Tenth Circuit

Circuit Judge William Denman, of California, located in the Ninth Circuit

Circuit Judge Joseph C. Hutcheson, Jr., of Texas, located in the Fifth Circuit
(suggested by William Draper Lewis)

Circuit Judge John J. Parker, of North Carolina, located in the Fourth Circuit

Circuit Judge John Biggs, Jr., of Delaware, located in the Third Circuit

Circuit Judge Kimbrough Stone, of Missouri, located in the Eighth Circuit.

Justice, U. S. Court of Appeals for the District of Columbia,

Harold M. Stephens, of Utah, located in the Tenth Circuit.

District Judge John McDuffie, of Alabama, located in the Fifth Circuit

District Judge Leon R. Yankwich, of California, located in the Ninth Circuit

District Judge Augustine V. Long, of Florida, located in the Fifth Circuit

District Judge Louie W. Strum, of Florida, located in the Fifth Circuit.

District Judge Elwood Hamilton, of Kentucky, located in the Sixth Circuit

District Judge Wayne G. Borah, of Louisiana, located in the Fifth Circuit

District Judge Patrick T. Stone, of Wisconsin, located in the Seventh Circuit

District Judge Robert N. Pollard, of Virginia, located in the Fourth Circuit

District Judge William Clark, of New Jersey, located in the Third Circuit

Former District Judge Harlan W. Rippey, of New York, located in the Second Circuit

John Dickinson, of Pennsylvania, located in the Third Circuit

Donald Richberg, of Illinois, located in the Seventh Circuit

Senator Robert M. LaFollette, of Wisconsin, located in the Seventh Circuit

Dean Charles E. Clark, of New Haven, located in the Second Circuit

Edward S. Corwin, of Princetown University, located in the Third Circuit

Dean Wiley B. Rutledge, Law School, University of Iowa, located in the Eighth Circuit

Charlton Ogburn, of New York, located in the second Circuit

Judge William Harman Black, of New York, located in the Second Circuit

Dean Herbert F. Goodrich, Law School, University of Pennsylvania, located in the Third Circuit (Suggested by William Draper Lewis)

✓ Dean Lloyd Garrison, of Wisconsin, located in the Seventh Circuit

Governor James V. Allred, of Texas, located in the Fifth Circuit

Thomas G. Corcoran, of New York, located in the Second Circuit

Former Judge Richard Priest Dietzman, of Kentucky, located in the Sixth Circuit.

Felix Frankfurter, of Massachusetts, located in the First Circuit

Assistant Attorney General Robert H. Jackson, of New York, located in the Second Circuit

✓ Senator Hugo L. Black, of Alabama, located in the Fifth Circuit

Ex-Governor Paul V. McNutt, of Indiana, located in the Seventh Circuit

✓ Senator Sherman Minton, of Indiana, located in the Seventh Circuit

Mayor Fiorello H. LaGuardia, of New York, located in the Second Circuit

James A. Marsh, of Colorado, located in the Tenth Circuit

Vincent M. Miles, of Arkansas, located in the Eighth Circuit

Judge William J. Millard, of Washington, located in the Ninth Circuit

Governor Frank Murphy, of Michigan, located in the Sixth Circuit

Judge Ferdinand Pecora, of New York, located in the Second Circuit

Solicitor General Stanley Reed, of Kentucky, located in the Sixth Circuit

✓ Chief Justice Walter P. Stacy, of North Carolina, located in the Fourth Circuit

Senator Robert F. Wagner, of New York, located in the Second Circuit

PSF: Subject File: Supreme Court Appointment File
file
personal
Supreme Court
Appt file
Box 186

THE WHITE HOUSE
WASHINGTON

1. Bob Jackson
Thurman Arnold
O. John Rogge
(Representation of Gen. Counsel of Treas.
John Abt (Clifford La Follette - was with Jackson - or with Resettlement)
Randolph Paul.

OUTSIDE ATTORNEYS:

Dwight Herbert Green: 40 years of age. Born Ligonier, Ind. Educated Wabash University; Stanford University: J.D. Univ. of Chicago. Admitted to Bar in 1922. Practiced in Chicago until 1926. Appointed Special Assistant in Internal Revenue in 1926. General Counsel representative in Chicago in 1927; Special Asst. to United States Attorney of Chicago in charge of tax matters, prosecuting gangsters and rackateers, (including Al Capone and his associates); served as United States Attorney of Chicago, from 1932 to 1934; served as 2nd Lt. U. S. Army during War. Republican. Presbyterian and Mason. Member of Union League Club of Chicago.

Bernhard Knollenberg: 45 years of age. Born Richmond, Ind. Graduated from Earlham College in 1912. Harvard A.M. in 1914. Legal education Harvard Law School LL.B. in 1916. Lecturer on Taxation in New York University Law School. Member of firm of Lord, Day and Lord, N.Y. City.

Whitney North Seymour: University of Wisconsin, B.A. LL.B at Columbia Law School. Formerly Asst. Solicitor General, Dept. of Justice. Leading member of the Bar and leader of Law Reform Movement of N.Y. City.

Randolph E. Paul: 47 years of age. Admitted to Bar in 1914; graduate of Amherst College and Columbia Law School. Practiced in New Jersey; then came to New York with Firm of Olcott, Hall, Havens and Wandless, 70 Pine Street. Author of Paul and Mertens Treatise on Taxation, and other works on taxation.

O. John Rogge: 34 years of age. Residence Chicago, Illinois. A. B. University of Illinois, 1922; L.L.B. Harvard, 1925; member of the Board of the Harvard Law Review; S.J.D. Harvard, 1931. Admitted to Illinois Bar, 1925; Associated with Hopkins, Starr and Hopkins, Chicago, Illinois, 1925-1930; Hopkins, Starr and Godman, 1933 to date. Tried the Dawes Bank case for the RFC in 1936.

GOVERNMENT LAWYERS:

John Joseph Burns: 38 years old. Born Cambridge, Mass., 1901. A.B. Boston College; LL.B. Harvard; S.J.D. Harvard. Practiced in Boston with Gaston, Snow, Saltonstall and Hunt, 1926-1928. Professor of Law Harvard Law School, 1928-1931. Associate Justice Superior Court of Massachusetts 1931-1934; General Counsel, Securities and Exchange Commission 1934-1936. Now advising Joseph Kennedy on Maritime Commission. Catholic. Home: Belmont, Mass.

James Lawrence Fly: 39 years old. Born Dallas County, Texas. Graduate of Annapolis 1920. LL.B. Harvard 1926. Practiced with White and Case in New York City unti 1929. Special Assistant U. S. Attorney General in handling trust company cases 1929-1934. General Solicitor, TVA and General Counsel, Electric Home and Farm Authority in 1934-1935. Democrat. Protestant. Home: Forest Hills, N.Y.

Robert H. Jackson: 45 years old. Born Spring Creek, Pa. Residence Jamestown, New York. Educated in Albany Law School. Practiced law at Jamestown, New York. Appointed General Counsel, Bureau of Internal Revenue, in 1934. Appointed Assistant Attorney General in 1926. Member of New York State Commission to investigate administration of justice. Democrat. Episcopalian and Mason.

Edward G. Lowery, Jr: 34 years old. Born New York City. Legal residence Milton, Mass. Educated Harvard University four years. Oxford College two years. Columbia University 1 year. Associated with Hale and Dorr, Boston, Mass., September 1929 to September 1932. Attorney RFC September 1922 to July 15, 1933. General Counsel, Federal Alcohol Control Admn., February 1934 to April 1934. Since employed as General Counsel of RFC.