

SUPREME COURT REPORTER



VOLUME 61

COVERING
VOLUMES 311-313 U. S. REPORTS

CASES ARGUED AND DETERMINED
IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

ST. PAUL, MINN.
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1941

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JUSTICES

OCTOBER TERM, 1940

CHIEF JUSTICE

HON. CHARLES EVANS HUGHES¹

ASSOCIATE JUSTICES

HON. JAMES CLARK McREYNOLDS²

HON. HARLAN FISKE STONE

HON. OWEN J. ROBERTS

HON. HUGO L. BLACK

HON. STANLEY F. REED

HON. FELIX FRANKFURTER

HON. WILLIAM O. DOUGLAS

HON. FRANK MURPHY

RETIRED JUSTICES—28 U.S.C.A. § 375

HON. WILLIS VAN DEVANTER³

HON. LOUIS D. BRANDEIS⁴

HON. GEORGE SUTHERLAND

ATTORNEY GENERAL

HON. ROBERT H. JACKSON

SOLICITOR GENERAL

HON. FRANCIS BIDDLE

CLERK

CHARLES ELMORE CROPLEY

MARSHAL

THOMAS E. WAGGAMAN

REPORTER

ERNEST KNAEBEL

¹ Retired July 1, 1941.

² Retired Feb. 1, 1941.

³ Died Feb. 8, 1941.

⁴ Died Oct. 5, 1941.

ALLOTMENT OF THE JUSTICES

DISTRICT OF COLUMBIA.

CHIEF JUSTICE CHARLES EVANS HUGHES, of New York.
Appointed February 13, 1930, by President Hoover.

FIRST CIRCUIT.

Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico.

JUSTICE FELIX FRANKFURTER, of Massachusetts.
Appointed January 17, 1939, by President Roosevelt.

SECOND CIRCUIT.

Connecticut, New York, and Vermont.

JUSTICE HARLAN FISKE STONE, of New York.
Appointed February 5, 1925, by President Coolidge.

THIRD CIRCUIT.

Delaware, New Jersey, Pennsylvania, and Virgin Islands.

JUSTICE OWEN J. ROBERTS, of Pennsylvania.
Appointed May 20, 1930, by President Hoover.

FOURTH CIRCUIT.

Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

CHIEF JUSTICE CHARLES EVANS HUGHES, of New York.
Appointed February 13, 1930, by President Hoover.

FIFTH CIRCUIT.

Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, and Canal Zone.

JUSTICE HUGO L. BLACK, of Alabama.
Appointed August 17, 1937, by President Roosevelt.

SIXTH CIRCUIT.

Kentucky, Michigan, Ohio, and Tennessee.

JUSTICE JAMES CLARK McREYNOLDS, of Tennessee.²
Appointed August 29, 1914, by President Wilson.

JUSTICE FRANK MURPHY, of Michigan.
Appointed January 18, 1940, by President Roosevelt.

² Retired Feb. 1, 1941.

ALLOTMENT OF THE JUSTICES

SEVENTH CIRCUIT.

Illinois, Indiana, and Wisconsin.

JUSTICE FRANK MURPHY, of Michigan.

Appointed January 18, 1940, by President Roosevelt.

EIGHTH CIRCUIT.

Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

JUSTICE STANLEY REED, of Kentucky.

Appointed January 25, 1938, by President Roosevelt.

NINTH CIRCUIT.

Alaska, Arizona, California, China, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

JUSTICE WILLIAM O. DOUGLAS, of Connecticut.

Appointed April 4, 1939, by President Roosevelt.

TENTH CIRCUIT.

Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming.

JUSTICE STANLEY REED, of Kentucky.

Appointed January 25, 1938, by President Roosevelt.

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1	61	2	610	61	19	631	61	38	651	61	22
5	61	1	610	61	25	631	61	39	652	61	27
7	61	77	611	61	32	631	61	39	652	61	28
15	61	81	611	61	6	632	61	46	652	61	35
20	61	90	611	61	6	632	61	49	653	61	37
32	61	115	612	61	6	633	61	62	653	61	41
46	61	109	612	61	53	633	61	60	653	61	47
54	61	114	612	61	65	634	61	61	654	61	47
55	61	95	613	61	8	634	61	62	654	61	48
60	61	102	613	61	57	634	61	63	655	61	50
72	61	83	613	61	55	634	61	64	655	61	8
83	61	97	613	61	25	634	61	65	655	61	9
91	61	122	613	61	52	635	61	68	656	61	9
104	61	120	614	61	58	635	61	69	656	61	10
107	61	154	614	61	5	636	61	70	656	61	11
112	61	144	614	61	68	636	61	71	656	61	11
122	61	149	615	61	67	636	61	76	657	61	11
128	61	164	616	61	70	636	61	73	657	61	12
132	61	152	616	61	75	636	61	74	658	61	12
138	61	157	616	61	67	637	61	74	658	61	13
150	61	219	617	61	67	637	61	69	659	61	14
169	61	176	617	61	68	637	61	72	659	61	15
180	61	186	617	61	313	638	61	73	660	61	16
189	61	241	617	61	135	638	61	134	660	61	18
195	61	244	618	61	131	639	61	139	660	61	17
199	61	213	618	61	129	639	61	141	661	61	17
205	61	204	618	61	169	639	61	135	661	61	18
211	61	235	619	61	167	639	61	140	662	61	19
223	61	179	619	61	172	640	61	141	662	61	19
243	61	139	620	61	172	640	61	142	663	61	19
255	61	210	620	61	314	640	61	143	663	61	20
262	61	201	620	61	318	640	61	171	664	61	21
267	61	207	621	61	313	641	61	171	664	61	22
272	61	210	621	61	314	641	61	172	665	61	22
273	61	196	621	61	315	641	61	174	665	61	23
282	61	229	621	61	393	641	61	175	666	61	24
292	61	217	622	61	390	642	61	317	666	61	25
295	61	254	622	61	395	642	61	318	667	61	25
317	61	264	622	61	443	642	61	392	667	61	26
377	61	291	623	61	438	643	61	394	668	61	27
435	61	246	623	61	10	643	61	392	668	61	28
452	61	253	623	61	8	643	61	396	669	61	28
454	61	334	624	61	9	643	61	440	669	61	29
457	61	339	624	61	10	644	61	442	670	61	29
464	61	336	624	61	11	644	61	30	670	61	30
470	61	351	624	61	14	644	61	43	670	61	31
494	61	326	624	61	24	645	61	9	671	61	31
504	61	368	625	61	25	645	61	10	671	61	32
513	61	372	625	61	26	645	61	11	671	61	33
514	61	320	625	61	28	646	61	16	672	61	33
527	61	373	625	61	32	646	61	17	672	61	34
531	61	376	625	61	34	646	61	19	672	61	35
538	61	347	626	61	34	646	61	21	673	61	35
544	61	379	626	61	35	646	61	22	673	61	37
570	61	343	626	61	37	646	61	23	673	61	38
573	61	347	626	61	40	647	61	23	674	61	39
579	61	331	627	61	40	647	61	30	674	61	40
584	61	358	627	61	45	647	61	31	675	61	41
605	61	5	627	61	47	647	61	33	675	61	42
605	61	6	627	61	48	648	61	35	676	61	43
605	61	12	628	61	8	648	61	37	677	61	44
605	61	36	628	61	10	648	61	38	677	61	45
606	61	38	628	61	13	648	61	44	678	61	45
606	61	19	628	61	24	649	61	44	678	61	46
606	61	14	628	61	33	649	61	46	679	61	46
607	61	21	629	61	14	649	61	51	679	61	47
607	61	29	629	61	39	649	61	8	679	61	48
607	61	17	629	61	31	650	61	12	680	61	48
608	61	28	629	61	32	650	61	13	680	61	49
608	61	52	629	61	49	650	61	14	680	61	50
608	61	13	630	61	50	650	61	15	681	61	51
609	61	39	630	61	34	651	61	16	681	61	52
609	61	42	630	61	27	651	61	20	681	61	62
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1	61	422	45	61	418	96	61	473	168	61	538
19	61	429	52	61	399	100	61	451	176	61	503
34	61	411	81	61	485	126	61	524	183	61	513
38	61	414	86	61	518	156	61	542	195	61	498
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Pg.	Vol.	Pg.	Pg.	Vol.	Pg.	Pg.	Vol.	Pg.	Vol.	Pg.	Pg.	Pg.	Vol.	Pg.
270	61	510	646	61	783	664	61	724	678	61	447	694	61	732
275	61	574	649	61	445	665	61	666	679	61	448	694	61	733
287	61	552	649	61	446	666	61	823	681	61	449	695	61	730
321	61	568	650	61	446	666	61	824	680	61	449	695	61	731
329	61	672	650	61	444	666	61	827	680	61	450	695	61	732
335	61	599	650	61	443	667	61	829	681	61	549	696	61	732
342	61	603	651	61	616	667	61	830	681	61	550	696	61	732
349	61	580	651	61	548	667	61	823	682	61	550	696	61	731
358	61	586	652	61	548	668	61	623	682	61	551	697	61	731
372	61	593	652	61	615	668	61	623	683	61	551	697	61	731
377	61	595	652	61	608	668	61	703	683	61	610	697	61	737
383	61	687	653	61	608	669	61	703	683	61	611	698	61	738
393	61	653	653	61	609	669	61	447	683	61	612	698	61	737
399	61	659	654	61	235	669	61	450	684	61	612	698	61	737
405	61	656	654	61	618	670	61	550	684	61	611	699	61	737
410	61	623	654	61	619	670	61	611	684	61	610	699	61	739
426	61	683	655	61	622	670	61	613	684	61	614	700	61	739
443	61	631	655	61	617	671	61	613	685	61	612	700	61	740
450	61	637	655	61	422	671	61	614	685	61	614	700	61	741
457	61	703	656	61	538	671	61	620	685	61	611	701	61	805
469	61	708	656	61	713	671	61	821	686	61	612	701	61	806
473	61	669	657	61	451	672	61	619	686	61	613	701	61	807
484	61	662	657	61	524	672	61	711	687	61	614	702	61	807
492	61	634	657	61	729	673	61	727	687	61	613	702	61	808
496	61	643	658	61	732	673	61	730	687	61	615	702	61	805
502	61	666	658	61	734	673	61	733	688	61	615	703	61	806
510	61	675	659	61	734	674	61	734	688	61	616	703	61	807
531	61	646	659	61	735	674	61	739	689	61	617	703	61	808
543	61	651	659	61	733	674	61	738	689	61	618	704	61	809
546	61	640	659	61	726	675	61	740	689	61	621	704	61	808
552	61	719	660	61	726	675	61	738	690	61	621	704	61	826
561	61	723	660	61	809	675	61	739	690	61	618	705	61	830
563	61	715	660	61	736	676	61	740	691	61	622	705	61	827
569	61	762	661	61	736	676	61	807	691	61	710	705	61	828
579	61	759	661	61	737	677	61	828	692	61	711	705	61	825
584	61	767	662	61	741	677	61	826	692	61	712	705	61	826
592	61	772	662	61	735	677	61	830	693	61	712	706	61	827
600	61	742	662	61	737	677	61	447	693	61	713	706	61	828
621	61	784	662	61	804	678	61	449	694	61	727	707	61	829
630	61	754	663	61	806	678	61	450	694	61	731	707	61	830
636	61	777	663	61	803									

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U.S.	S.Ct.	U.S.	S.Ct.	U.S.	S.Ct.	U.S.	S.Ct.	U.S.	S.Ct.	U.S.	S.Ct.	U.S.	S.Ct.
Pg.	Vol.	Pg.	Pg.	Pg.	Vol.	Pg.	Vol.	Pg.	Vol.	Pg.	Vol.	Pg.	Vol.
1	61	789	450	61	1064	551	61	834	565	61	939	578	61
11	61	795	487	61	1020	552	61	836	565	61	941	578	61
15	61	798	498	61	1023	552	61	838	566	61	942	579	61
23	61	761	508	61	1050	552	61	843	566	61	939	579	61
28	61	757	537	61	844	552	61	841	566	61	940	579	61
33	61	757	537	61	842	553	61	842	567	61	941	580	61
57	61	820	538	61	833	553	61	840	567	61	942	580	61
62	61	855	538	61	834	553	61	960	568	61	940	580	61
69	61	924	539	61	839	554	61	1085	568	61	942	580	61
80	61	873	540	61	839	554	61	1087	568	61	943	581	61
98	61	884	540	61	831	555	61	1096	568	61	944	581	61
100	61	868	540	61	833	555	61	1093	568	61	945	581	61
109	61	930	541	61	936	555	61	1098	569	61	943	582	61
117	61	881	541	61	840	555	61	1104	569	61	944	582	61
121	61	896	542	61	841	555	61	1105	569	61	945	583	61
127	61	893	542	61	844	556	61	1103	569	61	946	583	61
132	61	888	543	61	840	556	61	1104	569	61	947	584	61
146	61	908	543	61	936	556	61	1105	570	61	947	584	61
177	61	845	543	61	772	556	61	1093	570	61	957	584	61
212	61	861	543	61	947	557	61	1113	571	61	958	585	61
215	61	904	544	61	956	557	61	1110	571	61	959	585	61
221	61	898	544	61	957	557	61	1111	572	61	959	585	61
236	61	862	544	61	960	557	61	1115	572	61	960	586	61
247	61	878	545	61	956	558	61	1117	572	61	958	586	61
252	61	866	545	61	1084	558	61	1113	573	61	959	586	61
256	61	934	545	61	1087	558	61	833	573	61	960	586	61
259	61	948	546	61	1084	558	61	835	573	61	961	586	61
270	61	953	546	61	1085	559	61	837	574	61	961	587	61
274	61	1011	546	61	1088	559	61	835	574	61	1087	587	61
283	61	1028	547	61	1084	559	61	834	574	61	1085	587	61
289	61	995	547	61	1090	560	61	834	574	61	1086	587	61
299	61	1031	547	61	1091	560	61	836	575	61	1087	588	61
342	61	1015	547	61	1092	561	61	837	575	61	1088	588	61
354	61	979	548	61	1090	561	61	838	576	61	1089	588	61
362	61	983	548	61	1089	562	61	838	576	61	1099	589	61
387	61	962	548	61	1108	562	61	839	576	61	1098	590	61
406	61	969	549	61	1120	563	61	842	577	61	1097	590	61
409	61	999	549	61	1121	563	61	841	577	61	1104	591	61
428	61	971	550	61	1106	564	61	841	577	61	1105	591	61
441	61	978	550	61	1015	564	61	842	577	61	1102	591	61
443	61	1007	551	61	835	565	61	843	578	61	1095	592	61

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