



# SUPREME COURT REPORTER



Volume 89

Pages 1-1029

*Covering*

VOLUMES 393-394 U. S. REPORTS

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*Cases Argued and Determined  
in the*

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

ST. PAUL, MINN.

WEST PUBLISHING CO.

1970

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# JUSTICES

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OCTOBER TERM, 1968

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## CHIEF JUSTICE

HON. EARL WARREN <sup>1</sup>  
HON. WARREN E. BURGER <sup>2</sup>

## ASSOCIATE JUSTICES

HON. HUGO L. BLACK  
HON. WILLIAM O. DOUGLAS  
HON. JOHN M. HARLAN  
HON. WILLIAM J. BRENNAN, Jr.  
HON. POTTER STEWART  
HON. BYRON R. WHITE  
HON. ABE FORTAS <sup>3</sup>  
HON. THURGOOD MARSHALL

## ATTORNEY GENERAL

HON. RAMSEY CLARK  
HON. JOHN D. MITCHELL <sup>4</sup>

## SOLICITOR GENERAL

HON. ERWIN N. GRISWOLD

## CLERK

JOHN F. DAVIS

## CHIEF DEPUTY CLERK

EDMUND P. CULLINAN

## REPORTER OF DECISIONS

HENRY PUTZEL, Jr.

## MARSHAL

T. PERRY LIPPITT

## LIBRARIAN

HENRY CHARLES HALLAM

<sup>1</sup> Retired June 23, 1969.

<sup>2</sup> Took oath June 23, 1969.

<sup>3</sup> Resigned May 14, 1969.

<sup>4</sup> Appointed, took office January 22, 1969.



# ALLOTMENT OF THE JUSTICES

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## DISTRICT OF COLUMBIA CIRCUIT

CHIEF JUSTICE EARL WARREN, of California.

Appointed Chief Justice by President Eisenhower;  
took office October 5, 1953.

## FIRST CIRCUIT.

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

JUSTICE ABE FORTAS, of Tennessee.

Appointed by President Johnson; took office October 4, 1965.

JUSTICE WILLIAM J. BRENNAN, Jr.,<sup>5</sup> of New Jersey.

Appointed by President Eisenhower; took office October 16, 1956.

## SECOND CIRCUIT.

*Connecticut, New York, and Vermont.*

JUSTICE JOHN M. HARLAN, of New York.

Appointed by President Eisenhower; took office March 28, 1955.

## THIRD CIRCUIT.

*Delaware, New Jersey, Pennsylvania, and Virgin Islands.*

JUSTICE WILLIAM J. BRENNAN, Jr., of New Jersey.

Appointed by President Eisenhower; took office October 16, 1956.

## FOURTH CIRCUIT.

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

CHIEF JUSTICE EARL WARREN, of California.

Appointed Chief Justice by President Eisenhower;  
took office October 5, 1953.

## FIFTH CIRCUIT.

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

JUSTICE HUGO L. BLACK, of Alabama.

Appointed by President Roosevelt; took office August 19, 1937.

## SIXTH CIRCUIT.

*Kentucky, Michigan, Ohio, and Tennessee.*

JUSTICE POTTER STEWART, of Ohio.

Appointed by President Eisenhower; took office October 14, 1958.

<sup>5</sup> Temporarily assigned May 26, 1969.

## ALLOTMENT OF THE JUSTICES

### SEVENTH CIRCUIT.

*Illinois, Indiana, and Wisconsin.*

JUSTICE THURGOOD MARSHALL, of New York.

Appointed by President Johnson; took office October 2, 1967.

### EIGHTH CIRCUIT.

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

JUSTICE BYRON R. WHITE, of Colorado.

Appointed by President Kennedy; took office April 16, 1962.

### NINTH CIRCUIT.

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

JUSTICE WILLIAM O. DOUGLAS, of Connecticut.

Appointed by President Roosevelt; took office April 17, 1939.

### TENTH CIRCUIT.

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

JUSTICE BYRON R. WHITE, of Colorado.

Appointed by President Kennedy; took office April 16, 1962.

# **SUPREME COURT OF THE UNITED STATES**

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## **ASSIGNMENT OF MR. JUSTICE REED**

### **ORDER**

**February 24, 1969**

An order of the Chief Justice designating and assigning Mr. Justice Reed (Retired) to perform judicial duties in the United States Court of Claims on February 4, 1969, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

## **ASSIGNMENT OF MR. JUSTICE CLARK**

### **ORDER**

**February 24, 1969**

An order of the Chief Justice designating and assigning Mr. Justice Clark (Retired) to perform judicial duties in the United States Court of Appeals for the Second Circuit beginning February 18, 1969, and ending February 20, 1969, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

# **PRESENTATION**

**HONORABLE  
JOHN N. MITCHELL  
ATTORNEY GENERAL  
OF THE  
UNITED STATES**

**February 24, 1969**

Mr. Solicitor General Griswold presented the Honorable John N. Mitchell, Attorney General of the United States.

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 with the Clerk."

**IN MEMORY OF  
GENERAL DWIGHT D. EISENHOWER**

Thirty-Fourth President of the United States

**March 31, 1969**

Present: Mr. Chief Justice Warren, Mr. Justice Black, Mr. Justice Harlan, Mr. Justice Brennan, Mr. Justice Stewart, Mr. Justice White, Mr. Justice Fortas, and Mr. Justice Marshall.

The Chief Justice said:

"The Court meets this morning for the sole purpose of paying tribute to the memory of Dwight D. Eisenhower, the thirty-fourth President of the United States.

"The passing of General Dwight D. Eisenhower closes an illustrious chapter of world history. His accomplishments in war and peace distinguish him as one of the great men of this century.

"As Supreme Military Commander of the Forces of the Free World during the greatest crisis in world history, he made possible one more opportunity for honorable and lasting universal peace.

"As a civilian statesman, his dedication was to that cause, and as President of the United States that became his preoccupation. He was a civilian at heart and espoused the simple virtues of American life. He was generous in spirit and action and endowed with a cheerful and understanding nature that endeared him to people everywhere without regard to politics or divisive issues.

"General Eisenhower's passing will be mourned by people of good will throughout the world.

"Out of respect to his memory, the Court will stand adjourned until ten o'clock tomorrow morning."



## **ASSIGNMENT OF MR. JUSTICE CLARK**

### **ORDER**

**April 7, 1969**

An order of the Chief Justice designating and assigning Mr. Justice Clark (retired) to perform judicial duties in the United States Court of Customs and Patent Appeals on April 9, 1969, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.