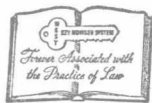


SUPREME COURT REPORTER



Volume 77

covering

VOLUMES 352-354 U. S. REPORTS

*Cases Argued and Determined
in the*

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

ST. PAUL, MINN.
WEST PUBLISHING CO.
1957

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JUSTICES

OCTOBER TERM, 1956

CHIEF JUSTICE

HON. EARL WARREN

ASSOCIATE JUSTICES

HON. HUGO L. BLACK

HON. STANLEY REED ¹

HON. FELIX FRANKFURTER

HON. WILLIAM O. DOUGLAS

HON. HAROLD H. BURTON

HON. TOM C. CLARK

HON. SHERMAN MINTON ²

HON. JOHN M. HARLAN

HON. WILLIAM J. BRENNAN, Jr. ³

HON. CHARLES E. WHITTAKER ⁴

ATTORNEY GENERAL

HON. HERBERT BROWNELL, Jr.

SOLICITOR GENERAL

HON. J. LEE RANKIN

CLERK

JOHN T. FEY

REPORTER OF DECISIONS

WALTER WYATT

MARSHAL

T. PERRY LIPPITT

LIBRARIAN

HELEN NEWMAN

¹ Retired Feb. 25, 1957

² Retired Oct. 15, 1956

³ Appointed Oct. 16, 1956

⁴ Appointed, took office March 25, 1957

ALLOTMENT OF THE JUSTICES

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 FELIX FRANKFURTER, of Massachusetts.

Appointed by President Roosevelt; took office January 30, 1939.

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 HAROLD H. BURTON, of Ohio.

Appointed by President Truman; took office October 1, 1945.

ALLOTMENT OF THE JUSTICES

SEVENTH CIRCUIT.

Illinois, Indiana, and Wisconsin.

JUSTICE TOM C. CLARK, of Texas.

Appointed by President Truman; took office August 24, 1949.

EIGHTH CIRCUIT.

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

JUSTICE CHARLES E. WHITTAKER, of Missouri.

Appointed by President Eisenhower; took office March 25, 1957.

NINTH CIRCUIT.

Alaska, Arizona, California, 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 CHARLES E. WHITTAKER, of Missouri.

Appointed by President Eisenhower; took office March 25, 1957.

SUPREME COURT OF THE UNITED STATES

APPOINTMENTS

ASSOCIATE JUSTICES

HON. WILLIAM J. BRENNAN, Jr.

October 16, 1956

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

The Chief Justice said:

"We also welcome his successor. The President has appointed the Honorable William Joseph Brennan, Jr., an Associate Justice of the Supreme Court of New Jersey, to succeed Mr. Justice Minton. Justice Brennan has taken the Constitutional Oath administered by the Chief Justice. He is now present in Court. The Clerk will read his commission. He will then take the Judicial Oath, to be administered by the Clerk, after which the Marshal will escort him to his seat on the Bench."

The Clerk then read the commission as follows:

"DWIGHT D. EISENHOWER

"PRESIDENT OF THE UNITED STATES OF AMERICA

"To All Who Shall See These Presents, Greeting:

"Know Ye; That reposing special trust and confidence in the Wisdom, Uprightness and Learning of William Joseph Brennan, Jr., of New Jersey I do appoint him Associate Justice of the Supreme Court of the United States and do authorize and empower him to execute and fulfil the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining, unto Him, the said William Joseph Brennan, Jr., until the end of the next session of the Senate of the United States and no longer; subject to the provisions of Law.

SUPREME COURT OF THE UNITED STATES

"In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

"Done at the City of Washington this fifteenth day of October, in the year of our Lord one thousand nine hundred and fifty-six and of the Independence of the United States of America the one hundred and eighty-first.

[SEAL]

"DWIGHT D. EISENHOWER.

"By the President:

"HERBERT BROWNELL, Jr.,
"Attorney General."

The oath of office was then administered by the Clerk, and Mr. Justice Brennan was escorted by the Marshal to his seat on the bench.

The oaths taken by Mr. Justice Brennan are in the following words, viz.:

"I, William Joseph Brennan, Jr., do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

"So help me God.

"WILLIAM JOSEPH BRENNAN, Jr.

"Subscribed and sworn to before me this sixteenth day of October A. D. 1956.

"EARL WARREN,
"Chief Justice."

"I, William Joseph Brennan, Jr., do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as Associate Justice of the Supreme Court of the United States according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.

"So help me God.

"WILLIAM JOSEPH BRENNAN, Jr.

"Subscribed and sworn to before me this sixteenth day of October A. D. 1956.

"JOHN T. FEY,
"Clerk of the Supreme Court of the United States."

Present: Mr. Chief Justice Warren, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, Mr. Justice Douglas, Mr. Justice Burton, Mr. Justice Clark, Mr. Justice Harlan, and Mr. Justice Brennan.

SUPREME COURT OF THE UNITED STATES

HON. WILLIAM J. BRENNAN, Jr.
HON. CHARLES EVANS WHITTAKER

March 25, 1957

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

It is ordered that the Commission of Mr. Justice Brennan be
recorded and that his oaths be filed.

The commission of Mr. Justice Brennan is in the words and
figures following, viz.:

“DWIGHT D. EISENHOWER

“PRESIDENT OF THE UNITED STATES OF AMERICA

“TO ALL WHO SHALL SEE THESE PRESENTS, *Greeting:*

“KNOW YE; That reposing special trust and confidence in the
Wisdom, Uprightness, and Learning of William Joseph Brennan,
Jr., of New Jersey I have nominated, and, by and with the advice
and consent of the Senate, do appoint him Associate Justice of
the Supreme Court of the United States and do authorize and
empower him to execute and fulfil the duties of that Office ac-
cording to the Constitution and Laws of the said United States,
and to Have and to Hold the said Office, with all the powers,
privileges, and emoluments to the same of right appertaining,
unto Him, the said William Joseph Brennan, Jr., during his good
behavior.

“In testimony whereof, I have caused these Letters to be made
patent and the seal of the Department of Justice to be hereunto
affixed.

“Done at the City of Washington this twenty-first day of
March, in the year of our Lord one thousand nine hundred and
fifty-seven, and of the Independence of the United States of
America the one hundred and eighty-first.

“DWIGHT D. EISENHOWER.

[SEAL]

“By the President:

“HERBERT BROWNELL, Jr.,

“Attorney General.”

SUPREME COURT OF THE UNITED STATES

The Chief Justice said:

"The President, with the advice and consent of the Senate, has appointed the Honorable Charles Evans Whittaker of Missouri, Circuit Judge of the Eighth Circuit, an Associate Justice of this Court to succeed Justice Reed. Justice Whittaker has taken the Constitutional Oath administered by the Chief Justice. He is now present in Court. The Clerk will read his commission. He will then take the Judicial Oath, to be administered by the Clerk, after which the Marshal will escort him to his seat on the bench."

The Clerk then read the commission as follows:

"DWIGHT D. EISENHOWER

"PRESIDENT OF THE UNITED STATES OF AMERICA

"TO ALL WHO SHALL SEE THESE PRESENTS, *Greeting:*

"KNOW YE; That reposing special trust and confidence in the Wisdom, Uprightness, and Learning of Charles E. Whittaker of Missouri, I have nominated, and by and with the advice and consent of the Senate, do appoint him Associate Justice of the Supreme Court of the United States and do authorize and empower him to execute and fulfil the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges, and emoluments to the same of right appertaining, unto Him, the said Charles E. Whittaker, during his good behavior.

"In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

"Done at the City of Washington this twenty-second day of March, in the year of our Lord one thousand nine hundred and fifty-seven, and of the Independence of the United States of America the one hundred and eighty-first.

"DWIGHT D. EISENHOWER.

[SEAL]

"By the President:

"HERBERT BROWNELL, Jr.,
"Attorney General."

The oath of office was then administered by the Clerk, and Mr. Justice Whittaker was escorted by the Marshal to his seat on the bench.

SUPREME COURT OF THE UNITED STATES

The oaths taken by Mr. Justice Whittaker are in the following words, viz.:

"I, Charles E. Whittaker, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

"So help me God.

"CHARLES E. WHITTAKER.

"Subscribed and sworn to before me this 25th day of March A. D. 1957.

"EARL WARREN,

"Chief Justice."

"I, Charles E. Whittaker, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as Associate Justice of the Supreme Court of the United States according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.

"So help me God.

"CHARLES E. WHITTAKER.

"Subscribed and sworn to before me this 25th day of March A. D. 1957.

"JOHN T. FEY,

"Clerk of the Supreme Court of the United States."

APPOINTMENT OF SOLICITOR GENERAL

MR. J. LEE RANKIN

October 1, 1956

Mr. Attorney General Brownell presented the Honorable J. Lee Rankin, of Nebraska, Solicitor General of the United States.

The Chief Justice said:

"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

SUPREME COURT OF THE UNITED STATES

this Court on all cases in which it asserts an interest. Your commission will be recorded by the Clerk.

I should also like to take this occasion to commend the work of your predecessor in office, Judge Sobeloff, and to wish him every success and happiness on the Bench."

The commission of the Solicitor General is in the following words, viz.:

"DWIGHT D. EISENHOWER

"PRESIDENT OF THE UNITED STATES OF AMERICA

"To all who shall see these Presents, Greeting:

"KNOW YE: That reposing special trust and confidence in the Wisdom, Uprightness and Learning of J. Lee Rankin, of Nebraska, I do appoint him Solicitor General of the United States and do authorize and empower him to execute and fulfill the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said J. Lee Rankin, until the end of the next session of the Senate of the United States and no longer; subject to the provisions of law.

"In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

"Done at the City of Washington this fourteenth day of August, in the year of our Lord one thousand nine hundred and fifty-six and of the Independence of the United States of America the one hundred and eighty-first.

"DWIGHT D. EISENHOWER.

"By the President:

"HERBERT BROWNELL, Jr.,
"Attorney General."

Present: Mr. Chief Justice Warren, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, Mr. Justice Douglas, Mr. Justice Burton, Mr. Justice Clark, Mr. Justice Minton, and Mr. Justice Harlan.

APPOINTMENT OF DEPUTY CLERK

MR. EDMUND P. CULLINAN

January 28, 1957

It is ordered that Edmund P. Cullinan be, and he hereby is, appointed a Deputy Clerk of this Court.