

UNITED STATES COURT OF APPEALS

WASHINGTON, D.C.

Conversation at White House May 23, 1939.

F.D.R. & W.B.R., Jr. – Confidential

F.D.R. “Well, it’s about time! I’ve been looking forward to this, and I’m mighty glad you are here.”

W.R. “It’s something I also have been looking to for a long time. It’s fine to be here.”

F.D.R. “Now have a most interesting variety of subject-matter in that court.”

W.R. “I’ve been discovering recently how varied is its jurisdiction – all sorts of cases & issues.”

F.D.R. “And a most interesting bunch of men to work with.”

W.R. “Yes, I am finding them so.”

F.D.R. “Now that you’re here and starting out, there’s one word of counsel I want to give you.”

W.R. “I’d appreciate having it very much.”

F.D.R. “It is that in view of the five fellows you have in that court, you guard against its becoming a country club.”

At this point the phone rang, & the President was engaged in conversation for several minutes – apparently with some relative or intimate friend, who was coming to the White House the following day, & who complimented him on his speech last night 5/22/39 before the National Retailers Association. F.D.R. seemed pleased, remarked “It was all my own, too,” & seemed happy about the reception given his speech. When the telephone conversation ended, he leaned back in his chair.

W.R. “Reverting, if I may, to your word of caution, so you think there’s real danger that may happen.”

F.D.R. “There’s more of that sort of thing in Washington than anywhere in the country. Parties, dinners, dances, & there’s always a host or hostess who wants member’s of the judiciary in attendance. Every night something is going on.”

W.R. “I think I can control that. It’s not & never has been my style of living. If I thought surrender inevitable, I’d beat it back to the cornfields as fast as I could go.”

F.D.R. “But so many of these things are managed by the wives.”

W.R. “I have no fear on that scene. I’m very fortunate in having a wife who, like myself, doesn’t care for that sort of life.”

F.D.R. “What we need in the judiciary is to keep the spirit of youth. That has been the big trouble with the Supreme Court. They are so cut off from the life of the ordinary people. They go out to a dinner party, sit next to some one they’ve never known, can’t talk intimately with them or get a chance to hear their ideas.”

W.R. “Even if they did have such a chance, those usually aren’t the people from whom they should hear. The only way a Supreme Court judge can get or keep touch with the common man is to disguise himself completely & get out among them. Few do it.”

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F.D.R. "I was told the other day of an incident in the Supreme Court. Black, Bill Douglas & Reed got together & went over to Felix' office. They said to him, 'Well, Felix, the Chief Justice is to Hering -- there's going to have to be a new one soon. We've been going over the situation. You are the most learned man on the Court, your opinions reek with long words. In fact when you read them from the bench on alternate Mondays, each one of us has to have a dictionary to find out what they mean. We've decided that you are the man who ought to be Chief Justice when Hughes steps down. But we've looked up the history of the Court, & we find that in all its existence there's never been a Chief Justice without whiskers. So we've come— 'Felix, you go to hell!' that's what we need in the judiciary "___to keep the spirit of youth."

W.R. "Of course, you have a fine bunch there now. They have it, and I think they will keep it. I was very much interested in the 5-4 decision which was rendered yesterday."

Just then General Watson stepped in the door — my signal to go — the President looked at his clock — "My God! It's a quarter after one. Just one more minute, General."

F.D.R. "That decision reminds me of the tax situation, & the other tax decision rendered yesterday. As you know a bill is pending to tax governmental bonds issued on or after the date of passage. When I proposed this, someone said, 'But its' unconstitutional.' I replied, 'That's what I was told when the bill for taxing salaries went in.' Now see what has happened to that theory. I said at the time that I was sure the Supreme Court would sustain the bill, if enacted."

W.R. "That had been the direction in which the decisions had been moving & rapidly. The salary decision is of course, only a stepping stone toward the taxing of the securities. In fact the security tax should have preceded the salary tax, if either had to come first."

F.D.R. "I dislike so much people who tell only half-truths. Someone remarked recently that the people in the higher brackets were under an unbearable burden of taxes — 80% of their income. I replied, "But that doesn't tell the story. The 80% applies only to part of their income—only the part which is taxable. And a large part isn't taxable—all of the wealth that is in tax-exempt securities."

W.R. "Of course it's absurd to try to make a system of graduated income taxes work and at the same time give the income taxed escape thru tax-exemption. The two systems simply contradict each other."

W.R. "It has been good of you to give these busy minutes to me. I mustn't take more of them."

F.D.R. "I'm glad you came, & I'll be seeing you."

N.B. General Watson, prior to conference, entertained W.R. with his salty, homely conduct & a mixture of business, side-remarks, fun & general good humor. He dictated a letter to Robert Jackson, declining (regretfully?) for the President a request for an appointment from the Jamestown, N.Y. Chamber of Commerce — schedule too full and even likely Pres. would not be in the city at the date of their visit. He sent a telegram of affectionate homely greeting to Bernard Baruch, all in N.Y. with mastard infection. Telephoned to Baruch's valet for delivery to Baruch a message conveying the President's love as well as his own, & that F.D.R. wanted to talk to B.B. as soon as doctor would permit.

He strolled over to shake hands with me told me the nature of Baruch's illness, said they had hunted together – that it would be a serious thing for a man 68 years old, & engaged in small

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talk. Said, in response to a suggestion from me as to the pressure of his duties, that he'd "go crazy, if he didn't have a sense of humor." At one point, while talking on the phone, the presidential buzzer buzzed, & the general handed the phone over to the steno to continue the conversation, saying "He just buzzed me!"