

the United States.
Memorandum.

-----, 194

E Weiss

Wol + check
this.

J. R.

Supreme Court of the United States.

Memorandum.

7/1

-----, 194

My statement was that
a subpoena could be
issued under W.R. opinion,
as I understand it, without
any ~~proof~~ allegation of
reasonable cause to
think there was a
violation of the act
by a person admittedly
covered. SR

1111

Supreme Court of the United States.

Memorandum.

-----, 194

No. The opinion
does not so say
or rule. The
only issues here
relate to coverage.
None was made
as to absence of
alleg. of reas. cause
to think there

Supreme Court of the United States.

Memorandum.

-----, 194

was violation.
(apart from
coverage), Both
applications con-
tained such al-
legations. It did
not occur to me
to, & I do not think
we should discuss

Supreme Court of the United States.

Memorandum.

-----, 194

a question not
raised.

Hanson's very
purpose is to stop
the inquiry be-
fore it gets to
the stage of violation.

W.

Frankfurter, J.

Supreme Court of the United States
Washington, D. C.

November 8, 1944.

Mr. Emanuel G. Weiss,
c/o Judge Magruder,
1634 P. O. & U. S. Courthouse,
Boston, Massachusetts.

My dear Mr. Weiss:

Your letter of November 6th in regard to the law clerkship in my office for next year is acknowledged.

I do not make my selection until the first of February preceding the appointment. The appointment is made as of August 1 and carries from \$3200 to \$3600, depending on the experience of the appointee. He is expected to start work on the certioraris around the first of August.

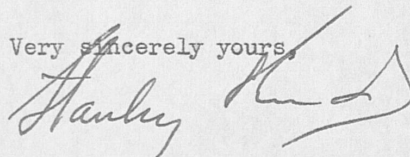
As several of my friends know of my habit of postponing appointment until the first of February, I do not wish to make any decision until that time. This gives an opportunity for such suggestions or applications as anyone cares to make.

Your background and experience of course really interest me. I shall be glad to see you in Washington any time that you may be here prior to the first of February.

Of course if any other position opens before February 1, I do not think through your application that you are under the slightest obligation to me. I should, however, appreciate being advised if for any reason you lose interest in the appointment.

Your letter tells me very little of your non-legal background. I should like to know about your parents, their residence and business; where you were born and raised and prepared for college.

Very sincerely yours,



United States Circuit Court of Appeals
1634 P. O. & U. S. COURTHOUSE
BOSTON, MASSACHUSETTS

CHAMBERS OF
CALVERT MAGRUDER
CIRCUIT JUDGE

21 Nov/44

Dear Felix,

This will introduce

my law clerk Emanuel

Weiss, who is down in

Washington to see the

Chief & Stanley Reed. He is

a fine lad & I wanted

him to meet you.

Yrs

Calvert

Magruder
U. S. CIRCUIT COURT OF APPEALS

JUDGE'S CHAMBERS

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Mr. Justice Frankfurter

Washington

D. C.

Introducing

Mr. Emanuel Weiss

Supreme Court of the United States
Washington, D. C.

CHAMBERS OF
THE CHIEF JUSTICE
1929 TWENTY-FOURTH STREET, N. W.

Zone 8

January 13, 1945

Emanuel Weiss, Esq.
c/o Honorable Calvert Magruder
United States Courthouse
Boston, Massachusetts

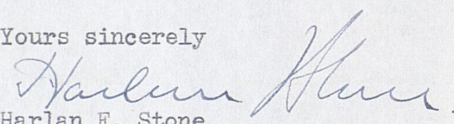
Dear Mr. Weiss:

I have delayed writing to you because I had a prospect of securing a good Columbia graduate as my clerk next year, but was unable to secure an interview with him until last week. He has now been here and I have decided to take him.

In the meantime I have talked to Justice Reed about you and I think that he will offer you a place with him. I am sure you would find a position with him very satisfactory and I hope you will decide to come.

Thank you for coming to see me. If I can be of any assistance to you I shall be very glad to do so.

Yours sincerely


Harlan F. Stone

Supreme Court of the United States
Washington, D. C.

May 22, 1945

Emanuel G. Weiss is hereby designated and
appointed to serve as my law clerk
from the first day of August, 1945
at a salary of \$4,080, per annum.

Harlan Reed
Associate Justice of the Supreme Court of the United States.

Approved:

Harlan Stone
Chief Justice of the United States.

Supreme Court of the United States
Washington, D. C.
May 31, 1946

Loca 1 Board No. 2
304 Old York Road
Jenkintown, Pa.

Dear Sirs:

I am writing this to inform you of a
change in my status. On May 28, 1946 I became
the father of a boy.

Very sincerely yours,

Emanuel Weiss
Order No. 3190

Supreme Court of the United States
Washington, D. C.

June 26, 1946.

Dear Manny:

The Justice was in on Saturday and was sorry not to see you. He wanted particularly to talk with you about your arrangements with Aley, and asked me to have you get in touch with him about it.

I'm enclosing a letter which came in for you this morning.

Also you may be interested in knowing that there is a small pile of certs--ten or a dozen.

I hope you are having a pleasant time and that the family is well.

Regards,

W. H. H. H.

Mr. Emanuel Weiss,
314 South Sterling Road,
Elkins Park, Penna.

March 16, 1946.

Mr. Aley Allan,
Judge Learned Hand's Chambers,
United States Court House,
New York 7, New York.

Dear Mr. Allan:

I am happy that you are joining those of us who have been law clerks to Justice Reed. I am sure you will enjoy the experience of associating with him as much as I have.

In response to your specific questions, as you know my work will be finished up on August 1st and you are scheduled to come and work with me for two weeks starting July 15th. I realize that it will be difficult for you to leave Judge Hand at that time and I should be glad to stay an extra week or two if my own personal plans do not interfere. I can't say at this time whether I would be able to stay because I want to arrange for a vacation before taking up my new work which I expect will be in Philadelphia. If matters so arrange themselves that I can do this for you, I shall be glad to. However, I cannot make any definite commitment at this time.

As to apartments, the situation is frankly dismal and desperate. It is exactly the same as it is in New York and elsewhere. Miss Gaylord's suggestion that you take over my apartment was not inappropriate since I am married and we do have a very nice, modern apartment. However, in view of the housing shortage in Philadelphia and the indefiniteness of my plans, I cannot promise any particular date on which my apartment would be available. The other problem is that I have no control over the disposition of my apartment. My landlord might have other plans for it. However, I shall be glad to speak to him about it and I think he might be agreeable to letting you have it. As to other possibilities of obtaining living accommodations, I really have no suggestions other than personal contacts if you have any. There is just too much demand to meet the supply. It might be well to put your name down on the waiting list of any particular apartments you happen to know about. There is a vague possibility that instead of moving to Philadelphia, we will move to New York. Do you have an apartment at present? I thought perhaps if we do move there, we might affect an exchange.

I think it would be good if you could come down to Washington. I should like very much to meet you and you could familiarize yourself with some of the duties you will have. Justice Reed doesn't think

it essential for you to come if it interferes with your work, but I think it would be desirable. Any time will do, just let us know when you are coming.

If I can do anything further for you, please feel free to write me.

Very sincerely yours,

May 24, 1946

No. 274. Robertson v. California

TO MEMBERS OF THE CONFERENCE:

In view of the conference discussion and the nature of this case I have had some difficulty in settling on the best way to treat it. The opinion as written represents my own views concerning this.

The principal questions concerning which I have debated are how to treat the McCarran Act in this criminal case and whether or not it is necessary to go into the matters treated in Part III of the opinion. My own preference is for treatment of the McCarran Act as set forth on page 15. As to the remainder of Part III, my own conclusion is that these problems are inescapable on the present record. I do not think we would be squarely facing the real issues without meeting those questions.

I submit this draft, of course, not with any idea of having the case come down Monday but possibly for discussion at conference tomorrow after opinions coming down are disposed of.

Wiley Rutledge

SUPPLEMENTAL LIST

FOR CONFERENCE, WEEK OF OCTOBER 1, 1945.

- 160 O.T. 1944 ELGIN, JOLIET AND EASTERN RAILWAY CO. VS. BURLEY,
ET AL.

Motion of the Congress of Industrial Organizations
for leave to file brief as amicus curiae in
support of petition for rehearing.
(Rehearing listed page 15 of conference list.)
- 337 O.T. 1944 INTERNATIONAL UNION OF MINE, MILL AND SMELTER
WORKERS, ETC. VS. EAGLE-PICHER MINING AND
SMELTING CO.

Counsel have advised Clerk that case has been
settled and that motions to withdraw both
petitions for rehearing will be filed during
week of October 1st.
(Rehearings listed page 15 of conference list.)
- 16 ALMA MOTOR COMPANY VS. THE TIMKEN-DETROIT AXLE
COMPANY AND THE UNITED STATES OF AMERICA

Motion to continue.
(No print. Correspondence with the Chief Justice.)
- 34 UNITED FEDERAL WORKERS OF AMERICA (C.I.O.), ET AL.
VS. MITCHELL, ET AL.

Motion for continuance.
(No print. Original with the Chief Justice.)
- 62 THE EAST NEW YORK SAVINGS BANK VS. HAHN

Motion of the State of New York for leave to argue
as amicus curiae. (Appellee will not file brief
nor participate in oral argument.)
(No print. Original with the Chief Justice.)
- 254)
)
255) S. R. A., INC. VS. STATE OF MINNESOTA.

Petition of Bancroft Investment Corporation for
leave to file statement in support of petitions
for writs of certiorari.
(Petitions listed page 9 of conference list.)
(No print. Original with the Chief Justice.)
- 315 JENNINGS VS. SMITH, WARDEN

Petition to be dismissed on motion of petitioner
October 1st.
(Listed page 14 of conference list.)
- 411 THE UNITED STATES OF AMERICA VS. RICE, DISTRICT
JUDGE

(On certificate.) Request of Circuit Court Judges
that entire record be sent up and that this Court
"Decide the whole matter in controversy."
(Page 4 of printed certificate.)

May I add "Compare Yakus v U. S." to the last sentence in the dissent where you say unambiguous legislation is needed for the majority result?

Manny

Sam
SR

~~Fortna~~
~~Breed~~

M. Weiss

Supreme Court of the United States
Washington, D.C.

March 12, 1957

Dear Manny:

As there is not room on the 19th Anniversary Dinner picture for inscribing my appreciation of your hospitality and generosity to me, I send my thanks and best wishes by this note.

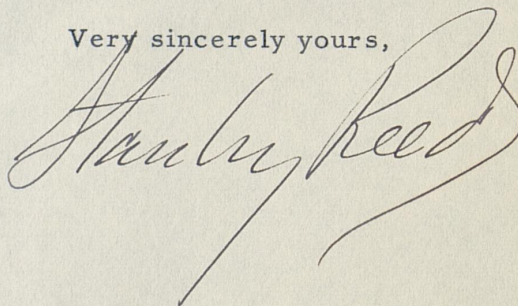
Our group has reached its allotted number. You have steered me safely through the rapids and guarded my steps. I am grateful to each one for his able assistance and loyalty. Your help enabled me to accomplish my tasks.

I named the University of Kentucky as the recipient of your generous gift of books in my honor. Their appreciation has been expressed by word and arrangements for a formal presentation.

My plans look forward to opportunities for aiding in improvements in the law, its administration, and its adaptation to new conditions. After more than fifty years in its study and practice, our Lady of the Law retains my deepest affection.

I am proud of my law clerks and their accomplishments. May we have many years to rejoice together over those successes that the future will bring.

Very sincerely yours,

A handwritten signature in cursive script, reading "Stanley Reed". The signature is written in dark ink and is positioned to the right of the typed name.

Mr. Emanuel G. Weiss,
1616 Walnut Street, Suite 2103,
Philadelphia 3, Pennsylvania.

MEMORANDUM FOR THE CONFERENCE

At the end of my dissenting opinion in Case No. 704, *Morgan v. Virginia*, I feel that it would be appropriate to include some reference to the attitude of the Chief Justice in this case. However, I wish to be guided by the conference in this matter in the light of the special situation presented.

Because of the large part which he took in writing the opinions of this Court establishing the principles involved, I am sure that he felt a great interest in this case. My personal notations as to his remarks in conference in presenting this case are as follows:

"Segregation statute. [Appellant] pins her faith on *Hall v. DeCuir*. Interferences with interstate commerce are not great. Attacks it only on interstate commerce grounds. Under Fourteenth and Fifth Amendments there may be segregation. It is peculiarly for state regulation. Only question is whether it is that kind of local regulation that does substantially interfere with interstate commerce. In line with recent decisions states have wide power. Precedent in *Covington* case. Should *affirm*."

The discussion in the conference later clarified whatever reference he made to the *Covington* case and he voted for affirmance.

My suggestion for a statement which I appropriately might include at the end of my dissenting opinion is as follows:

"The late Chief Justice participated in and wrote many opinions on the extent to which a state may validly proceed in placing a burden upon interstate commerce in the absence of Congressional action. He participated in the hearing and consideration of this case and although his sudden death took him from the Court before the opinions in it were written, it is appropriate, in the light of his many decisions in this field, to record that he dissented from the result reached by the majority."

H. H. B.

FOR ARGUMENT - WEEK OF APRIL 22ND

625 HUST V. MOORE-McCORMACK LINES, INC.
9)
to) UNITED BROTHERHOOD OF CARPENTERS AND JOINERS
13) OF AMERICA, ET AL. V. UNITED STATES
40 DEFENSE PLANT CORP. V. COUNTY OF BEAVER, PA.
627 HOWARD HALL CO., INC. V. UNITED STATES
(Summary Docket)
631)
) WOODS V. NIERSTHEIMER, WARDEN
671)
696)
) UNITED STATES V. HOLPUCH CO.
697)
719 PINKERTON V. UNITED STATES
809)
810) UNITED STATES V. LOVETT, ET AL.
811)
793 PORTER V. WARNER HOLDING CO.
843 SECURITIES & EXCHANGE COMMISSION V. HOWEY CO.
630 ✓ UNITED STATES V. CAUSBY
970 ✓ FISHGOLD V. SULLIVAN DRYDOCK & REPAIR CORP.

April 2, 1946.

Supreme Court of the United States,
Justice's Chambers.

March 1, 1946.

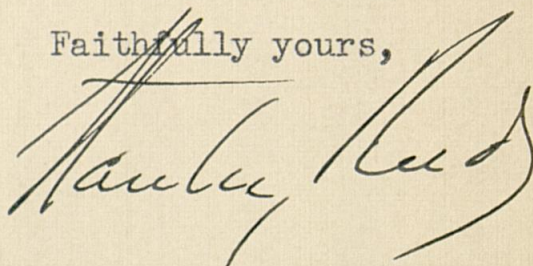
My dear friends:

The desk stand came in a few days ago, properly marked, and with an inscription to me which I appreciate. It looks even better than it did when we made the choice.

I am most grateful to all of you for coming to this meeting which no one enjoyed more than I. We shall certainly not wait eight years for another session.

With all good wishes for each and every one,

Faithfully yours,

A handwritten signature in dark ink, appearing to read "Stanley Reed". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.

Harold Leventhal
John Sapienza
Philip L. Graham
Bennett Boskey
David Schwartz
L. Earle Birdzell, Jr.
Byron E. Kabot
Emanuel Weiss

Supreme Court of the United States,
Justice's Chambers.

Mr. Emanuel Weiss,

Cable Mayflower



Telephone District 3000

Monday

The Mayflower

CONNECTICUT AVE. AND DE SALES ST.

Washington 6, D.C.

Dear Manny —
Sorry to miss you
Saturday. Had expected to
hear from you today with
cents and appeals up to now.
Suppose they will cross in
mail.

Be sure to write me
your final arrangements
with Allen. Arrange to have
the cents come weekly to me.

Please pass this letter to
Miss Gaylord. Will she please

arrived
called bus company and say I had
heard nothing from a small
accident to my car by bus #259,
driver #98 at 5⁵⁰ P. M. Monday
June 3 on K St by Statler. The driver
said he would repair it.

Bus pulled out from curb, going
West with me. Disregarded my horn
and ran into my front fender,
mashing it in. I could not escape
as a solid line of cars was moving
East.

I do not know the bus company's
name, if more than one operates on K.

Of course, I want no talk a
argument. They should repair fender.
Car is here.

Regards to all

Stanley Beck

August 22 - 1945

Supreme Court of the United States
Washington, D. C.

My dear Miss -

Thank you for your letter of the 20th. Some cuts were returned to you a few days ago. There are some comments on a few of the memos which you should examine.

Your memos are quite satisfactory. I assume that you carefully note timeliness which is a factor in an appreciable percentage of cases. It might be better to indicate controlling decisions when there are any available. This you usually did.

I suggest, too, that when grounds for review seem important, you indicate the places in the record where the point is made. For example - violation of 14th amendment, due process, by search & seizure, point out the place in the record that the point was made. So often the constitutional arguments are afterthoughts.

Now as to renegotiation. You would have learned nothing from me through Muschany. I believe that U. S. contracts should be enforceable like private contracts except for certain sovereign rights - eg *Lynch v. U. S.* 292 U. S. As the facts in

Muschany showed no excessive price, it was only a normal contract suit unless public policy forbade a cost-plus of the type involved. The argument advanced by some of my brethren that Muschany was a precedent against the validity of renegotiation left me cold. It could only be true, if one claimed the divine right of Government to disregard agreements.

"Unjust enrichment" is an undeveloped field. I hesitate to urge it too strongly with you for fear you will undertake to help me with it even tho you think it unsound. Let that come later. Now I am interested merely in exploration.

Referring specifically to your letter. It cannot be that "unjust enrichment" is a wholly "unbargained" relationship. There was a bargain in *Perry v. U.S.* 294 U.S. See at bottom of p 354 & at 358. This is the only U.S. S.C. case I know.

Is there not a doctrine of excessive consideration in contracts? — Consider equity's action in releasing or in adjudicating excessive consideration. Some contracts are "against public policy." Something more "lax" than due process. See my discussion in Muschany. Has the Congressional declaration on "Renegotiation" established a public policy against excessive profits in times of peril. See "Bethlehem Steel." Does that override the Fifth Amendment. See *Blairdell v. Minn. Home Bldg. Co.* 290 U.S. Does it violate the Fifth when "just compensation" is paid? Look at U.S.

Supreme Court of the United States
Washington, D. C.

briefs in the gold cases. They are on my shelves bound in black by the door.

My mind is running like this. U.S. is bound by its contracts. Lynch v. U.S. But there must be ways out for Governments. They cannot commit national suicide. Therefore we have sovereign immunity, *Wayo v. U.S.* 219 U.S. While it is true contracts cannot be taken without compensation, it does not mean that the compensation must be more than "just." Even where the earnings of contract were \$4K, "just" may mean \$1K to avoid unjust enrichment of a contractor.

Thanks for your comments on my proposed remarks. I quite agree that the executive and legislative bodies are as likely to protect our governmental system as the judiciary. My point is different. One avoids arbitrary government best by a separation of powers. Therefore if the executive + legislative determined constitutionality, you would more nearly approach totalitarianism. It is not an answer to this to say the Court can be "packed." A President may refuse to enforce a law. Congress may refuse to appropriate. A Court may refuse to judge. Government would break down. Force is the ultimate answer but we can conduct government only on the theory that

each branch conscientiously performs its duty.

Tell Miss Taylor a broken envelope came in from her and no letter from Ambassador Caffery.

I am glad that you and Mrs Weiss are comfortably located. Your conferees should be getting in now and I do hope that you find them congenial and cooperative.

It will only be another month until, I am back. Already I am anxious to get started tho I have enjoyed my time this summer

Yours
Stuyvesant

Supreme Court of the United States
Washington, D. C.

Supreme Court of the United States
Washington 13, D. C.

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Mr. Emanuel Heiss
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