DOWNLOAD PDF SUPREME COURT AND THE PUBLIC FELIX FRANKFURTER

Chapter 1 : Office History | USAO-SDNY | Department of Justice

Frankfurter was only the third Jewish Supreme Court justice, with Justice Cardozo and Justice Brandeis preceding him on the Court. Frankfurter was known for following a policy of judicial restraint. In , he wrote the majority opinion in Minersville School District v.

Giftshop Felix Frankfurter, Incorporation and the Willie Francis Case - William Wiecek By , the United States Supreme Court had discarded a concept of law and the judicial function that had dominated its work for the preceding half-century. Scholars have variously described this ideology of law as "formalism," "legal orthodoxy," or "classical legal thought. Its abandonment deprived the Justices of a powerful explanatory and legitimating paradigm that justified the power of judicial review. They quickly tried to come up with an equally persuasive substitute. One of the principal problems that classical thought had purported to resolve was the issue of objectivity. In exercising the power of judicial review, judges frustrate the will of democratic majorities. How can they legitimately do so without imposing their own personal values and political preferences? After , the Justices struggled to provide a plausible response to that challenge. Two major possibilities emerged. Felix Frankfurter urged a rigorous form of judicial self-restraint, deference to the judgments of legislative bodies, and reliance on the traditions of the American people as the criterion for evaluating the constitutionality of legislative policy choice. Black rejected that proposal as subjective and instead developed a literalist and absolutist approach to interpreting the text of the Constitution. Both men in their differing ways sought to answer the riddle of Lochner v. New York , which each saw as vesting too much power in judges. The vehicle for the Black-Frankfurter debate was the problem of "incorporation": New Jersey and through Justice Benjamin N. Cardozo invoked "a principle of justice so rooted in the traditions and conscience of our people" and "fundamental principles of liberty and justice which lie at the base of all our civil and political institutions. Black rejected both approaches as subjective, and insisted instead that all guarantees be incorporated. Frankfurter and Black fully articulated their positions in Adamson v. California , but they first explored the issues in a case decided earlier in the Term, Louisiana ex rel. In the end, their fidelity to those principles sent a boy to a cruel death. Louisiana tried Francis, a sixteen year old black male, for the murder of a white druggist, convicted him, and sentenced him to death in the electric chair. The trial was perfunctory: His conviction rested solely on two confessions that might well have been found to be coerced, if counsel had bothered to challenge them. But they did not, and Willie Francis went to the electric chair. But at the moment of electrocution, the chair malfunctioned: Neither of the men who had installed the portable electric chair were electricians, and the actual executioners were probably drunk at the time they threw the switch. Prison guards dragged Francis off to his cell and called an electrician. Meanwhile the NAACP and others mounted a crusade to prevent the state from trying to electrocute him a second time. Rutledge , four opposed Harold H. Burton, Black, William O. Douglas, and Stanley Reed. Jackson in Nuremberg, that was actually a vote in favor of granting cert. Black did not recede from his position either, while two Justices, Murphy and Rutledge, raised just the issue that Frankfurter and Black in their differing ways were trying to suppress: The labyrinthine internal politics of the Court are worth following in their own right, because they demonstrate how fractured the Court was at the onset of Chief Justice Fred M. Skelly Wright, then in private practice, argued the case before the Supreme Court. The original vote at conference after argument was to affirm, with Murphy, Burton, and Rutledge in dissent. Vinson assigned the opinion to Reed. Burton circulated an impassioned dissent, unusual both for its depth of feeling and for the fact that its author usually voted to sustain the government in criminal-procedure appeals. He argued that a re-execution would constitute cruel and unusual punishment, thereby implicitly assuming the incorporation issue. On this point, he stressed the mental anguish that Francis had faced, and would face again. He also found an equal-protection violation based not on the wretched state of criminal justice extended to African-Americans in the southern states at the time, but on the fact that Francis would be treated differently from other men

sentenced to death, who went to the electric chair only once. Murphy had committed himself to such an approach several years earlier, spurning formalistic approaches in order to do justice in a particular case. In a dissent in one of the wartime conscientious objector cases, he had written: He elaborated that view in his dissent in a right-to-counsel case decided while the Court was considering Francis: But the result certainly does not enhance the high traditions of the judicial process. Here the facts in question They serve to make any decision on the issue in the case more intelligent and more just. Our decision must necessarily be based on our mosaic beliefs, our experiences, our backgrounds and the degree of our faith in the dignity of the human personality. Burton persuaded both men to shelve their drafts and join him, along with Douglas, in a unified front. In his distinctive prose, he denied that the Framers "ever intended to nationalize decency. Yet perversely, he condemned the death penalty per se â€" an odd position for one who had been earnestly trying to hang Nazis just a year earlier. But whatever the shortcomings of his position may have been, Jackson had at least enunciated a clear standard, something Frankfurter failed to do. It was "not [an] easy case," he declared at Conference. But he resolved it for himself on the basis of a statement he attributed to Oliver Wendell Holmes Jr. He reminisced in after years that the Francis case "told on my conscience a good deal I was very much bothered by the problem, it offended my personal sense of decency to do this. Something inside of me was very unhappy, but I did not see that it violated due process of law. In his note to Burton, Frankfurter did not try to dissuade the dissenter; on the contrary, he warmly commended him for his position. This obliged him to explain his own position, though, and he did so at length: I have to hold on to myself not to reach your result. I am prevented from doing so only by the disciplined thinking of a lifetime regarding the duty of this Court in putting limitations upon the power of a State under the limitations implied by the Due Process Clause. He insisted that the Justices must exercise judicial self-restraint and defer to the judgment of the state. Then the resolution of that small question would be dispositive of the case as a whole. This was one way in which the law had traditionally sought to achieve objectivity in judging, but it avoided confronting all the other issues in the case that had been filtered out by the successive cascades. Having reached a resolution that satisfied his judicial conscience, Frankfurter then turned to formal doctrinal analysis. The due process criterion was to be "the accepted, prevailing standards of fairness and justice," defined as the standards of the state, rather than the nation or the locale of the trial the rural parish of St. Martin in the Cajun country of southern Louisiana. To this he superadded a reasonable-man test: In a subsequent note to Burton, declining his overture to join the dissenters, Frankfurter restated his basic position: Second, a judge must not impose his "own private view" of what fairness and justice might be, for to do so would be to repeat the error of the Lochner Court. There were at least two major problems with this position, but Frankfurter did not acknowledge or even recognize either of them. First, his standard of community consensus about fairness and justice was hopelessly subjective. Frankfurter never suggested how a judge determines what these community standards are, or how such a determination could ever be disciplined, not to say objective. Where was a judge to look for persuasive or even plausible evidence of what these standards were? Frankfurter would have been the first to condemn judging by reference to public opinion polls. But had he troubled himself to inquire just what the actual community consensus in the Francis case really was as opposed to speculating about what it might be, which is what he did , Frankfurter would have discovered that Governor Jimmie Davis the former country-western singer and composer of "You Are My Sunshine" had been "deluged with an unprecedented flood of mail Thousands of letters, telegrams and postcards poured in from [all parts of the United States] urging clemency for Willie Francis. Frankfurter had an answer to this challenge, which he had undoubtedly confronted in the privacy of his conscience countless times. He laid out his personal struggles in a letter to his friend and confidant, Learned Hand: To what extent may a judge assume that his own notions of right moral standards are those of the community[? How, then, could the utter subjectivity of his standard, which mocked all pretensions to objectivity, have eluded Frankfurter? The answer is to be found in the second flaw of his position. The self-discipline with which Frankfurter credited himself diverted his attention both from the subjectivity problem and from nearly all issues of law, fact, and conscience posed by the case before him. By

reining in his moral impulses, Frankfurter made it impossible for himself to recognize what the real community sentiment was, and forced himself to substitute some imagined, synthetic community view. This was for him, deliberately or not, first a strategy of avoidance, and then of self-justification. Nothing in the record remotely warrants such imputation. So when Frankfurter failed, he was not alone. And yet, and yet Did still another victim have to be sacrificed to the Moloch of White Supremacy and bloodlust that ruled the crossroads of race and the death penalty in southern legal culture? Frankfurter exonerated himself at a terrible price. But if History approved, Frankfurter did not. This effort was preposterous, and Frankfurter dropped it in his published concurrence. In doing so, he both doomed Willie Francis and provoked Black to the confrontation that played out in Adamson. In this sense, Francis v. Resweber was a dress rehearsal for the jurisprudential confrontation that was to come in the ensuing year. Invoking Twining, Hebert, Snyder, and Palko which by that time had become for him the controlling litany , Frankfurter reaffirmed due process as "the meaning of the struggle for freedom of English-speaking peoples [that incorporates] advances in the conceptions of justice and freedom by a progressive society. Rather, it withdrew "from the States the right to act in ways that are offensive to a decent respect for the dignity of man, and heedless of his freedom. One must be on guard against finding personal disapproval rooted in more or less universal condemnation. Strongly drawn as I am to some of the sentiments expressed by my brother Burton.

Chapter 2 : Felix Frankfurter - Wikisource, the free online library

Frankfurter left government service to accept a position on the faculty of Harvard Law School, where he remained, more or less, until his appointment to the Supreme Court in Frankfurter earned a reputation as an expert in constitutional law and federal jurisdiction.

In the s and s, he supported a number of liberal causes, including President franklin d. In , he was appointed to the U. Supreme Court as an associate justice. Throughout his twenty-three years on the Court, he was known for consistently applying the theory of judicial self-restraint. Frankfurter was born November 15, , in Vienna. At the age of twelve, he emigrated from Vienna to the United States with his parents and four siblings. The Frankfurters, like many other Jews in Vienna, had lived in Leopoldstadt, the center of the Jewish Ghetto, where they faced an undercurrent of hostility and a future of economic uncertainty. Along with 18 million other Europeans who immigrated to the United States between and , the family sought a fresh start. Yet, twelve years later, after earning his undergraduate degree from City College, in New York , Frankfurter graduated first in his class from Harvard Law School. Following a short stint with a private law firm on Wall Street , where he represented corporate interests, Frankfurter was appointed to serve for the next four years as assistant U. In , he was named solicitor to the federal Bureau of Insular Affairs. Frankfurter enjoyed working as an attorney for the government much more than representing corporations in private practice. He stressed that "the American lawyer should regard himself as a potential officer of his government and a defender of its laws and Constitution. Brandeis, who never had a son of his own, acted as a father and mentor to Frankfurter, who was twenty-six years his junior. During the s, acting as an informal adviser to President Roosevelt, Frankfurter cajoled the president into supporting liberal causes espoused by Brandeis. Although Frankfurter claimed that he was not a member of any political party , he supported many liberal causes. In , he became a charter member of the newly founded american civil liberties union, an organization created to protect the constitutional rights of members of ethnic, religious, and racial minorities. During the s, Frankfurter served as an adviser to the National Association for the Advancement of Colored People naacp. For example, he brought together the legislative engineers who drafted the Securities Act of 15 U. The physical evidence presented against Sacco and Vanzetti was tenuous. Sacco and Vanzetti were convicted and executed for the two murders. Frankfurter supported each accusation with passages from the trial record. His article was later published as a book titled The Case of Sacco and Vanzetti The article and the book have served as a starting point for subsequent generations examining the role that passion, prejudice, and politics played in the trial of Sacco and Vanzetti, as well as in the trials of members of other unpopular minorities in the United States. Supreme Court in However, by the time Frankfurter retired twenty-three years later, many of these same liberals were disappointed by his failure to embrace every religious and political minority that presented a claim before the Supreme Court. According to this theory, state and federal legislatures are the only legitimate government bodies empowered to make laws under the U. Constitution, which separates the powers delegated to each branch of government. The role of the judiciary in this system of checks and balances is simply to interpret and apply the laws passed by legislatures, and decide cases based on politically neutral principles regardless of how insensitive the outcome may seem. Advocates of judicial self-restraint believe that judges, many of whom are appointed to the bench for life and are therefore not accountable to the electorate, upset the democratic authority of the people when they overturn laws passed by elected officials in order to achieve politically palatable results. Many observers point to the two flag salute casesâ€”Minersville School District v. Separated by only three years, the two cases presented the same issue: In both cases, Frankfurter resolved the issue in favor of the government. Writing for the majority in Gobitis, Frankfurter recognized the first amendment right of members of religious minorities to exercise their religious beliefs free from government intimidation or coercion. But "the mere possession of religious convictions," Frankfurter cautioned, "does not relieve the citizen from discharge of political responsibilities. Yet Frankfurter, who had been excoriated in the

newspapers and by his former colleagues in academia for his decision in Gobitis, remained unwavering in his commitment to judicial self-restraint. In a vituperative dissenting opinion to Barnette, Frankfurter wrote, One who belongs to the most vilified and persecuted minority in history is not likely to be insensible to the freedoms guaranteed by our Constitution. But as judges we are neither Jew nor Gentile, neither Catholic nor agnostic. We owe equal attachment to the Constitution and are equally bound by our judicial obligations whether we derive our citizenship from the earliest or the latest immigrants to these shores. As a member of this Court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregardâ€¦. In the light of all the circumstances, including the history of this question in this Court, it would require more daring than I possess to deny that reasonable legislators could have taken the action which is before us for review. Frankfurter was again assailed for his failure to protect political minorities, in korematsu v. These relocation centers were authorized pursuant to joint presidential and congressional action initiated as part of an effort to tighten internal security in the United States following the December 7, , Japanese attack on Pearl Harbor. His legal career spanned over 50 years. Perceived as an advocate of liberal causes at the beginning of his career, Frankfurter is now remembered as much for his conservative judicial style. Regardless of political labels, Frankfurter remains one of the most respected Supreme Court justices in U. The Constitutional Jurisprudence of Hugo L. Black, Felix Frankfurter, and Robert H.

Chapter 3 : Felix Frankfurter | calendrierdelascience.com

Felix Frankfurter (November 15, - February 22,) was an Austrian-American lawyer, professor, and jurist who served as an Associate Justice of the Supreme Court of the United States.

In July , on the behalf of the President, Frankfurter interviewed Jan Karski , a member of the Polish resistance who had been smuggled into the Warsaw ghetto and a camp near the Belzec death camp in , in order to report back on what is now known as the Holocaust. There is a difference. Cardozo in July , President Franklin D. Roosevelt asked his old friend Frankfurter for recommendations of prospective candidates for the vacancy. Finding none on the list to suit his criteria, Roosevelt nominated Frankfurter. He wrote opinions for the Court, concurring opinions, and dissents. Dowd , Frankfurter stated what was for him a frequent theme: Something that thus goes to the very structure of our federal system in its distribution of power between the United States and the state is not a mere bit of red tape to be cut, on the assumption that this Court has general discretion to see justice done Frankfurter revered Justice Holmes, often citing Holmes in his opinions. In practice, this meant Frankfurter was generally willing to uphold the actions of those branches against constitutional challenges so long as they did not "shock the conscience. He rejected claims that First Amendment rights should be protected by law, and urged deference to the decisions of the elected school board officials. He stated that religious belief "does not relieve the citizen from the discharge of political responsibilities" and that exempting the children from the flag-saluting ceremony "might cast doubts in the minds of other children" and reduce their loyalty to the nation. Justice Harlan Fiske Stone issued a lone dissent. A frequent ally, Supreme Court justice Robert H. Jackson , wrote the majority opinion in this case, which reversed the decision only three years prior in poetic passionate terms as a fundamental constitutional principle, that no government authority has the right to define official dogma and require its affirmation by citizens. United States Supreme Court ruling. The decision affirmed, by a 6â€”2 margin, the conviction of eleven communist leaders for conspiring to overthrow the US government under the Smith Act. In it, he again argued that judges "are not legislators, that direct policy-making is not our province. It was argued, and was set for reargument when Chief Justice Fred M. Vinson , whose vote was crucial and who ostensibly disposed against overruling Plessy v. Holmes County Board of Education , the Court wrote, "The obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools. In the government case against DuPont , started because DuPont seemed to have maneuvered its way into a preferential relationship with GM , Frankfurter refused to find a conspiracy, and said the Court had no right to interfere with the progress of business. Frankfurter believed that the authority of the Supreme Court would be reduced if it went too strongly against public opinion: He sometimes went to great lengths to avoid unpopular decisions, including fighting to delay court decisions against laws prohibiting racial intermarriage. Other justices who received the Frankfurter treatment of flattery and instruction were Burton, Vinson , and Harlan. Both are fully open for research and have been distributed to other libraries on microfilm. However, in it was discovered that more than a thousand pages of his archives, including his correspondence with Lyndon B. Johnson and others, had been stolen from the Library of Congress; the crime remains unsolved and the perpetrator and motive are unknown. Frankfurter, Felix, and James M. A Study in Interstate Adjustments.

Chapter 4 : Felix Frankfurter - Wikipedia

Associate Supreme Court Justice Felix Frankfurter was a noted law scholar who served as the high court's leading exponent of the doctrine of judicial self-restraint. Felix Frankfurter was born on.

Contemporary Supreme Court confirmation hearings are both exciting and disappointing. They are exciting because they provide a chance to hear directly from the nominee, who otherwise may not be well known. On the other hand, the hearings are disappointing because the nominee tells us so little about what he or she actually thinks about the law â€" and especially about the hot-button legal issues of the day. Indeed, during the s and s â€" even after the failed nomination of Judge Robert Bork â€" nominees and senators engaged in serious discussions of judicial philosophy. Although since , such substance has faded, the history illuminates what we can realistically expect â€" and what we should demand â€" from what could be an important and meaningful public event. Perhaps the most important lesson of history is that the content and conduct of confirmation hearings have changed over time. Justice Harlan Fiske Stone appeared before the committee in to address allegations related to a political scandal, and Justices Felix Frankfurter and Robert Jackson also testified. But it was not until , with the nomination of John Marshall Harlan, that the current practice of routine appearances began. That timing does not appear to be accidental. Board of Education , declaring Jim Crow-era racial segregation of schools unconstitutional. James Eastland of Mississippi, who became chair of the committee in â€" a position he held until â€" as well as two other members of the Committee â€" Sen. John McLellan of Arkansas and Sen. Perhaps even more surprising to modern observers than the controversy over Brown, however, is that during the s and s, most senators on the committee asked very few, if any, questions of the nominees. Segregationist senators dominated the hearings. Justices Thurgood Marshall and Abe Fortas, for example, were grilled at length about such issues. But if these particular senators were not concerned about a nominee, the hearing was short and polite. At that hearing, none of the segregationists asked the nominee a single question; McClellan did not even attend. This pattern changed in the s, when the hearings began to be televised. The underlying norms of the hearings shifted, and most senators began to participate actively. Today, of course, every senator on the committee is present for the hearing and asks questions. Every senator gives an opening statement. Nowadays, in fact, the entire first day of the hearing is taken up by these opening statements, along with a statement by the nominee. And although one might wonder whether that particular allocation of time is worthwhile, the current intense attention of senators, media and the public alike is commensurate with the importance and influence of the Supreme Court. Of course, complaints about confirmation hearings are common. This assumption is wrong, even if the substantive questions once came from only a small number of senators who were preoccupied by specific issues. There is even hard data. Law professor Lori Ringhand and political scientist Paul Collins, in their excellent book Supreme Court Confirmation Hearings and Constitutional Change , report their findings from a large-scale qualitative and quantitative analysis of the hearings. And they find that senators have always asked questions about substantive areas of law. Of course, ethics and qualifications are not irrelevant during the hearings. From through , only about a quarter of questions asked focused on ethics, while from through , almost half did. Harold Carswell, who were both rejected in large part because of significant concerns about their ethics and qualifications. Thus, by the time Justice John Paul Stevens testified in , questions about ethics and qualifications were routine. Stevens, then a judge on the U. Court of Appeals for the 7th Circuit, was asked about, for example, his recusal practices and about whether he received income from any nonjudicial sources. And of course, committee members have continued to ask about ethics and qualifications when they deem it appropriate. While some complain that the hearings have veered away from a focus primarily on ethics and qualifications, others lament what they see as less candor by the nominees. More specifically, one current complaint is that nominees refuse to answer important questions. To the contrary, nominees have always declined to answer some questions because of an unwillingness to promise how they will vote on particular

cases or issues. Ringhand and Collins, as well as political scientists Dion Farganis and Justin Wedeking , have examined the extent to which nominees decline to answer questions. Perhaps surprisingly to many of us, the rate at which this occurs has remained more or less constant over time. Yet the tone and content of the hearings have changed in the new millennium, and not for the better. These observations are consistent with my argument that the hearings held during the late s and s were remarkably substantive. This is not to say that nominees during those years made commitments about how they would rule on contested legal issues. But they did discuss their judicial philosophies, their past writings and their beliefs about the role of judges. To give just two examples: Wade had been correctly decided, even as she criticized its reasoning. Specifically, she described the relationship between liberty, privacy and equality and discussed the necessity that government treat women as full human beings, all of which she believed required the outcome in Roe. Gorsuch even hesitated before eventually acknowledging, circuitously, that Brown v. Board of Education was rightly decided. Such reticence over even the most well-established precedents is, in my view, highly problematic. A Supreme Court nominee should be willing to share his or her most basic constitutional commitments with the senators. That Brown was correctly decided should not be controversial in or Without such conversations, we suffer a significant loss to a candid and robust public discussion of constitutional values, a discussion that we need now more than ever.

Chapter 5 : Felix Frankfurter | The First Amendment Encyclopedia

The Supreme Court Historical Society is dedicated to the collection and preservation of the history of the Supreme Court. SCHS promotes an active membership, public programs and events, and is the online source for Supreme Court history.

After all, advocates, including advocates for States, are like managers of pugilistic and election contestants, in that they have a propensity for claiming everything. In any event, mere speed is not a test of justice. Deliberate speed takes time. But it is time well spent. The course of decision in this Court has thus far jealously enforced the principle of a free society secured by the prohibition of unreasonable searches and seizures. Its safeguards are not to be worn away by a process of devitalizing interpretation. United States, U. It is not only under Nazi rule that police excesses are inimical to freedom. It is easy to make light of insistence on scrupulous regard for the safeguards of civil liberties when invoked on behalf of the unworthy. It is too easy. History bears testimony that by such disregard are the rights of liberty extinguished, heedlessly at first, then stealthily, and brazenly in the end. If one man can be allowed to determine for himself what is law , every man can. That means first chaos, then tyranny. Legal process is an essential part of the democratic process. Concurring, United States v. United Mine Workers , U. In law also the emphasis makes the song. The Procrustean bed is not a symbol of equality. It is no less inequality to have equality among unequals. Dissenting in New York v. It has not been unknown that judges persist in error to avoid giving the appearance of weakness and vacillation. Decisions of this Court do not have intrinsic authority. If one starts with the assumption that, in the absence of specific Congressional authority, a fixed rule of law precludes contracting officers from providing in a Government contract terms reasonably calculated to assure its performance even though there be no money loss through a particular default, there is no problem. But answers are not obtained by putting the wrong question and thereby begging the real one. Dissenting, Priebe and Sons v. If nowhere else, in the relation between Church and State, "good fences make good neighbors. Board of Education, U. The indispensible judicial requisite is intellectual humility. Concurring, American Federation of Labor v. A court which yields to the popular will thereby licenses itself to practice despotism, for there can be no assurance that it will not on another occasion indulge its own will. Wisdom too often never comes, and so one ought not to reject it merely because it comes late. Ambiguity lurks in generality and may thus become an instrument of severity. There is torture of mind as well as body; the will is as much affected by fear as by force. And there comes a point where this Court should not be ignorant as judges of what we know as men. It is a fair summary of history to say that the safeguards of liberty have frequently been forged in controversies involving not very nice people. It is a wise man who said that there is no greater inequality than the equal treatment of unequals. United States , U. The mark of a truly civilized man is confidence in the strength and security derived from the inquiring mind. Writing for the court, Rochin v. The unanimous decision reversed the conviction of an alleged drug addict because evidence was obtained by forced stomach pumping. The most constructive way of resolving conflicts is to avoid them. Concurring, Western Pacific Railroad Corp. Western Pacific Railroad Co. A license cannot be revoked because a man is redheaded or because he was divorced, except for a calling, if such there be, for which redheadedness or an unbroken marriage may have some rational bearing. If a State licensing agency lays bare its arbitrary action, or if the State law explicitly allows it to act arbitrarily, that is precisely the kind of State action which the Due Process Clause forbids. Board of Regents, U. Without a free press there can be no free society. However, freedom of the press is not an end in itself but a means to the end of a free society. The scope and nature of the constitutional guarantee of the freedom of the press are to be viewed and applied in that light. New York Times November 28, Time and experience have forcefully taught that the power to inspect dwelling places, either as a matter of systematic area-by-area search or, as here, to treat a specific problem, is of indispensable importance in the maintenance of community health; a power that would be greatly hobbled by the blanket requirement of the safeguards necessary for a search of evidence of

criminal acts. Congress is, after all, not a body of laymen unfamiliar with the commonplaces of our law. Convictions following the admission into evidence of confessions which are involuntary, i. This is so not because such confessions are unlikely to be true but because the methods used to extract them offend an underlying principle in the enforcement of our criminal law: Carr , U. Appeal must be to an informed, civically militant electorate. Other writings[edit] The eternal struggle in the law between constancy and change is largely a struggle between history and reason, between past reason and present needs. Twenty Years of Mr. That is number one. Reported in Proceedings in honor of Mr. Gratitude is one of the least articulate of the emotions, especially when it is deep. I can express with very limited adequacy the passionate devotion to this land that possesses millions of our people, born, like myself, under other skies, for the privilege that that this county has bestowed in allowing them to partake of its fellowship. No judge writes on a wholly clean slate. The Commerce Clause , p. It is true of opinions as of other compositions that those who are seeped in them, whose ears are sensitive to literary nuances, whose antennae record subtle silences, can gather from their contents meaning beyond the words. The words of the Constitution â€¦ are so unrestricted by their intrinsic meaning or by their history or by tradition or by prior decisions that they leave the individual Justice free, if indeed they do not compel him, to gather meaning not from reading the Constitution but from reading life. The Supreme Court, vol. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called dominating humility. Foreward, to "Memorial issue for Robert H. Jackson", 55 Columbia Law Review April, p. One is entitled to say without qualification that the correlation between prior judicial experience and fitness for the Supreme Court is zero. The mode by which the inevitable is reached is effort. Quoted by Garson Kanin in Atlantic March I came into the world a Jew, and although I did not live my life entirely as a Jew, I think it is fitting that I should leave as a Jew. All our work, our whole life is a matter of semantics , because words are the tools with which we work, the material out of which laws are made, out of which the Constitution was written. Everything depends on our understanding of them. Litigation is the pursuit of practical ends, not a game of chess. News summaries August 9, As a member of this court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard. Judicial judgment must take deep account Of Law and Life and Other Things: Papers and Address of Felix Frankfurter Morals are three-quarters manners. In the interview, Phillips quotes the line to Frankfurter from a letter written by the Justice, and Frankfurter attributes the phrase to a friend named Matthew Arnold. Holmes said Emerson had a beautiful voice, and, of course, Holmes had one of the most beautiful voices the Lord ever put into a throat. On Oliver Wendell Holmes, Jr. Emerson said to him, "Young man, have you read Plato? You must read Plato. What have you to say to me? Plato in one of those ephemeral literary things at Harvard. He laid this, as it were, at the feet of Mr. And the next day and the next and the next â€” no sign of life. No acknowledgment from Mr. When he saw him, this, that, and the other thing was again talked about. Emerson said, "Oh, by the way, I read your piece on Plato. Holmes, when you strike at a king, you must kill him.

Chapter 6 : Putting Supreme Court confirmation hearings in context - SCOTUSblog

The only naturalized American to serve on the U.S. Supreme Court, Felix Frankfurter (), immigrated from Austria to New York in He graduated from Harvard Law School in , and.

Other articles in Judges and Justices Felix Frankfurter Public domain via Wikimedia Commons Felix Frankfurter â€" championed civil rights during 23 years as a justice on the Supreme Court, but he frequently voted to limit civil liberties, believing that government had a duty to protect itself and the public from assault and that the Court should exercise judicial restraint to promote democratic processes. They lived in a Jewish ghetto on the Lower East Side of Manhattan, where his father became a door-to-door salesman. Adapting quickly to his adopted nation and its language, Frankfurter entered City College of NewYork in as part of a program that allowed him to finish high school and to earn a college degree. He graduated magna cum laude in and briefly attended New York Law School. He then transferred to Harvard University, became editor of the Harvard Law Review, and graduated at the top of his class in After a stint in private practice, Frankfurter became an assistant U. In Frankfurter accepted a position teaching at Harvard Law School. Throughout his tenure at Harvard, Frankfurter was known nationally as the consummate teacher and scholar, an outspoken advocate of liberal causes, as well as a skilled participant in public affairs. President Woodrow Wilson appointed him as a judge advocate to investigate labor unrest, and then as counsel to the Mediation Commission. He also served as a Zionist delegate to the Versailles Peace Conference, and he urged Wilson to incorporate the Balfour Declaration into the treaty. Two years later, in , he published, along with Roscoe Pound, Criminal Justice in Cleveland, a study of crime reporting in Cleveland newspapers. The study concluded that the recent crime wave in Cleveland was a fiction created by the press that resulted in inflated punishments and gross miscarriages of justice. His vigorous criticism of the conviction and execution of Nicola Sacco and Bartolomeo Vanzetti, the anarchists accused of bank robbery and murder in Braintree, Mass. In all, Frankfurter authored or edited 12 books and many scholarly articles for law journals, and he frequently contributed articles to the New Republic, which he helped to found. In his speeches and writings, Frankfurter remained a steady and passionate champion of the poor, the downtrodden, the persecuted, and the wrongly convicted. Frankfurter also conveyed an unshakeable love for his adopted country and its laws and institutions. He had a fine sense of the American democratic process that emphasized the supremacy of the legislature, and he held to a belief that appointed judges should not inject their personal viewpoints into law. He increasingly advocated that the will of the people be exercised through their elected legislatures and not by an appointed judiciary. Frankfurter influenced both his students and the government. He was a nationally recognized expert on labor law, constitutional law, and civil procedure. Justices Oliver Wendell Holmes Jr. Brandeis relied on Frankfurter to appoint their law clerks, who usually were his top students. Many of them went on to serve important posts in the New Deal. He enthusiastically supported the social and economic engineering of the programs Congress adopted, some of which he helped to formulate. When Justice Benjamin N. The Senate confirmed his appointment on January 16, , and he was sworn in on January As justice, Frankfurter favored judicial restraint, precedent On the Court, Frankfurter initially voted to uphold the constitutionality of New Deal programs. He generally supported the civil rights of minorities, personally opposed the death penalty, and often voted to rein in the powers of the police. He became the most fervent proponent of judicial restraint, often lecturing in his opinions on the propriety of allowing the elected branches of government great leeway in their interpretations of the Constitution and frequently quoting Holmes and Brandeis in his opinions as a tribute to their judicial self-restraint. He also tended to sustain precedents as a matter of principle. In a notable majority opinion in Minersville School District v. Gobitis , Frankfurter upheld the constitutionality of a Pennsylvania law requiring schoolchildren to salute the American flag. Douglas, and Francis W. Murphy stated in a dissent that Gobitis should be overturned. Barnette , a similar flag-salute case, in which the Court reversed Gobitis. Frankfurter felt compelled to justify his earlier opinion by writing a

vigorous dissent that is now a classic in its own right. By contrast, Justice Hugo Black and others advanced the idea of total incorporation â€" that is, applying all the provisions of the Bill of Rights, including those of the First Amendment, to the states by means of the due-process clause of the 14th Amendment. Frankfurter generally preferred to evade exercises of judicial review and to protect civil liberties through statutory construction rather than through constitutional interpretation. Not a big First Amendment defender Frankfurter was not one of the great defenders of the First Amendment during his long tenure on the Court. Illinois , which upheld an Illinois group-libel law. Brown , which upheld a New York law allowing city officials to seize material alleged to be obscene before a judicial hearing. Although he was regarded as a liberal, Frankfurter is not easily categorized. Intensely loyal to his adopted country, he firmly believed that the elected representatives of the people should be as free as possible of judicial intervention. He was a brilliant scholar and an opinionated advocate of ideas, often appealing to his supporters and yet irritating to his adversaries. Vinson at times caused tension on the Court. In an obscure admiralty case, Justices Owen J. Eventually, Black and Frankfurter reconciled their differences. Douglas, however, never resolved his conflict with Frankfurter. Frankfurter resigned from the bench in after a severe stroke and died three years later.

Chapter 7 : Felix Frankfurter - Wikiquote

Felix Frankfurter () - Progressive, Adviser to Presidents and Associate Justice on the Supreme Court Introduction: Felix Frankfurter was born in Vienna, Austria, on November 15, When he was twelve years old, his family emigrated to the United States and settled in New York City.

Chapter 8 : The Supreme Court Historical Society - Timeline of the Court - Felix Frankfurter

Urofsky, Melvin I. "Conflict among the Brethren: Felix Frankfurter, William O. Douglas and the Clash of Personalities and Philosophies on the United States Supreme Court." Duke Law Journal, vol.

Chapter 9 : Felix Frankfurter | United States jurist | calendrierdelascience.com

Felix Frankfurter b. November 15, , Vienna, Austria d. February 22, , Washington, D.C. Associate Justice of the Supreme Court () Born in Austria, where his family lived in the.