

Felix Frankfurter Oral History Interview- JFK #2, 6/19/1964
Administrative Information

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Biographical Note

Frankfurter was Associate Justice of the United States Supreme Court from 1939 to 1962. In the interview Frankfurter discusses President Kennedy's Inauguration, Harold Laski's relationship with the Kennedy family, the problems with the Supreme Court, and President Kennedy's speech about Medical Aid.

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Felix Frankfurter – JFK#2

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Second Oral History Interview

with

JUSTICE FELIX FRANKFURTER

June 19, 1964
Washington, D.C.

by Charles McLaughlin

For the John F. Kennedy Library

McLAUGHLIN: Now, this is the husband of Ann McLaughlin, Charles McLaughlin, at our second interview with Justice Frankfurter. This is June 19, 1964. Justice Frankfurter, you said you had another story about the Inauguration.

FRANKFURTER: I just told you that the President [John F. Kennedy] and his party, meaning his father [Joseph P. Kennedy, Sr.] and his mother [Rose Fitzgerald Kennedy] and some others, and

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probably his sister, Mrs. Shriver [Eunice Kennedy Shriver], were sitting down, facing Pennsylvania Avenue, and during one of the intervals, I noticed those girls with bare legs and batons passing by. What do you call them?

McLAUGHLIN: Pompom girls? Maybe cheerleaders? Chorus girls?

A. McLAUGHLIN: Drum Majorettes?

FRANKFURTER: That's it --majorettes. And during one of those intervals, the

President came over and all the nine members of the Court were sitting together, and he shook hands with each one of them --I was at the end of the row. He shook hands warmly and I said, "Mr. President, I want to congratulate you on your Inaugural: I particularly

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want to congratulate you not on what you said—on what you didn't say. I congratulate you for making no promises."

McLAUGHLIN: How did he reply to that?

FRANKFURTER: Well, I was surprised that he didn't. Well, he thanked me, but he didn't seem to appreciate the compliment.

McLAUGHLIN: Maybe because of four hours of sleep the night before: Maybe he was just in a daze. What were your recollections of the talk you had with James Landis when he told you about his chat with Kennedy on Inauguration day.

FRANKFURTER: Well, he came to the house on Dumbarton Avenue, and he said he had about an hour with the President, and

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I forget whether he told me what time it was, but what interested me most, he said, "He's a queer fellow. Throughout the whole hour's talk, he constantly addressed me as Mr. Dean [Dean G. Acheson], and I always called him Jack [John F. Kennedy], and he continued to call me Mr. Dean." I didn't know they were intimate. I knew he and Bobby [Robert F. Kennedy] had been.

McLAUGHLIN: Bobby.

FRANKFURTER: Oh, he then told me, I don't know where you can get this from—I think he told me then. He didn't tell me whether the President said, "Would you like to serve in the Administration? And if so, for what purpose?" That would be the natural thing. Do you know who he was asking

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about when he said, "He'd like to be Ambassador to India?"

McLAUGHLIN: No.

FRANKFURTER: And I was thinking the other day, maybe, maybe he told the President

that he has familiar ties with the East, familiarity—and that he was born in Japan, and that might have prompted it. And then the President, as you know, appointed Galbraith [John K. Galbraith], and a day or so afterward I saw that they appointed him Chairman of one of the Administrative Agencies.

McLAUGHLIN: He was on a task force to study the regulatory agencies.

FRANKFURTER: Independent Regulatory Agencies. And when Jim came to see me after the report, in which he required that

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there should be some one central person on the White House, with oversight. I said, “Jim, when you were Chairman of the Securities and Exchange Commission, how would you have like to have had one of these youngsters, one of these squirts, tell you, sort of ask you about things—and say you should do it the other way? You wouldn't have liked it, would you? So why do you think other people would like it?”

McLAUGHLIN: How did he reply?

FRANKFURTER: This is a persistent—this is a—just like a—I mean—what do you call it?

McLAUGHLIN: Thumb screws?

FRANKFURTER: Thumb screws?

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McLAUGHLIN: Terrible, isn't it?

FRANKFURTER: I don't know that he replied. He probably said, “There's a difference.”

McLAUGHLIN: Actually most of your discussions, the other party is dumbfounded, by what you've just said. Now, Miss Kirschner has told me that you had told her a funny story about Joseph P. Kennedy, Jr. I wondered if you had, or was it somebody else?

FRANKFURTER: You have that in here [In a letter, Charles McLaughlin to Felix Frankfurter, June 1964]. I think I'd mentioned it, yes. And she doesn't remember it and I don't remember it.

McLAUGHLIN: What would you have liked to have written about Joseph, Jr. for the memorial volume that came out without anything by you?

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FRANKFURTER: I complained that they didn't ask me. You know, both the boys came down to lunch with us at Oxford.

McLAUGHLIN: In 1933, I guess.

FRANKFURTER: '33 or 1934—'33, '34. But I don't know, I just found him a very attractive young man. Have you found out how Joe, Sr. came to me to ask about—?

McLAUGHLIN: No, I haven't. That seems to be veiled in mystery. That's the cobra [micro- phone] right there. Did Joe, Jr. show great promise in Harvard Law School? Did he—

FRANKFURTER: He never went to the Law School.

McLAUGHLIN: He didn't go?

FRANKFURTER: You said that the last time. I should have corrected you. No, he went to Virginia, didn't he? University of

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Virginia Law School.

McLAUGHLIN: Bobby did. Maybe, well, I saw a picture of Jim Landis signing him in at Harvard Law School in the memorial volume. Maybe that's for something else, I don't know. The Magruder's [Calvert Magruder] thought highly of him, too. They said.

FRANKFURTER: That red book there is the Harvard [Directory]. See? See if you can find any Joseph Kennedy. I always wondered why they all went to inferior law schools. I withdraw that. If he went to the University of Virginia Law School—and that is a pretty good law school.

McLAUGHLIN: No, it would have to be Joseph P.

FRANKFURTER: Does it say LLB?

A.McLAUGHLIN: No, he probably left in the middle of

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the war. He was killed and never came back for his LLB.

McLAUGHLIN: Yes, that's it—I guess he didn't graduate.

FRANKFURTER: Well, I don't remember him there at all. And that's him in the book of record?

McLAUGHLIN: Yes.

FRANKFURTER: Does Calvert [Calvert Magruder] remember him as a student?

McLAUGHLIN: Yes. And was quite impressed with him. What did Harold Laski think of him? Is that quotation, "his mind was only just beginning to discover the enchantment of thought," true, would you say?

FRANKFURTER: Where did you get that from?

McLAUGHLIN: I got that from the James MacGregor Burns thing on Kennedy, and he quoted it from the Kennedy Memorial Volume.

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FRANKFURTER: Well, all I can tell you is, that Joe wrote a book *Why England Sleeps*—

McLAUGHLIN: Yes. That was Jack.

FRANKFURTER: That was Jack?

McLAUGHLIN: Yes.

FRANKFURTER: Well, there's a letter that Harold Laski wrote to the Ambassador that is a wonderful letter, because the Ambassador wrote to him, and he got favorable reviews for the book, and Harold wrote him a wonderful letter, saying that "you're doing the boy no favor by getting, by having anything he does puffed up artificially. Besides this book isn't much. I think I've available—I don't know how many men in my class who would do just as well, and I think it's a book of an

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immature man." I think that a copy of that letter is in the hands of Kingsley Martin who wrote the life of Harold Laski.

McLAUGHLIN: Who—?

FRANKFURTER: Kingsley Martin, the editor of the *New Statesman*.

McLAUGHLIN: Oh, yes.

FRANKFURTER: Who wrote the life of Harold Laski. I was very proud of Harold for writing that letter.

McLAUGHLIN: But he did love, at least according to James MacGregor Burns, he loved Joe, Jr.?

FRANKFURTER: I think he was very fond of him. But you know Harold Laski was a most affectionate and generous creature.

McLAUGHLIN: And a great teacher.

FRANKFURTER: Oh, a very great teacher.

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McLAUGHLIN: In your discussion of your visit to the White House on June 17, 1963, on our last tape, you said that the President asked you "Who the Raymond Moley of his Administration was"?

FRANKFURTER: Yes, and you had this all wrong. And he said, "If you'll tell me who the Mr. Buttinsky—

McLAUGHLIN: Butt -in -sky. Oh!

FRANKFURTER: Butt in. "Mr. Buttinsky of this administration is." And I said, "Who is he?" And he pointed to little Arthur [Arthur M. Schlesinger, Jr.], and I was surprised. And I suppose I thought that young Schlesinger must have been offended.

A. McLAUGHLIN: Yes.

FRANKFURTER: I didn't know that he was awfully amused. But what it meant to me:

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that he turned to the President things that the President didn't ask him about.

A. McLAUGHLIN: It was just as well that you [Mr. McLaughlin] didn't know that when you talked to him.

McLAUGHLIN: A. Schlesinger, Jr. I called him on the phone, and said he didn't hear what you said. So Mr. Blavatsky was our mystery! Or Littivsky—
Buttinsky!

FRANKFURTER: B-u-t-t-i-n-s-k-y!

McLAUGHLIN: I'm glad we cleared that up.

FRANKFURTER: Clear it up with Arthur. Tell him.

McLAUGHLIN: I will. He's very anxious to know who he has been identified with. When you told the President on June 17, that you didn't agree with Arthur Schlesinger's interpretation of the New Deal, did you go on to say that

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Arthur relied too much on the Diary of Harold Ickes?

FRANKFURTER: I can't tell you, Charlie. I've said it often and I'll say it now, because that book is full of lies and all you historians rely on it, because it's in print, you know.

McLAUGHLIN: Sacred.

FRANKFURTER: And he also relies on personal interviews with Tommy Corcoran [Thomas G. Corcoran] and Tommy Corcoran is incapable of telling the truth, because he's a romanticist, and he can't tell a straight story.

McLAUGHLIN: Did Arthur reply that he'd used the book, just used the diary just for mood?

FRANKFURTER: Is that what he said?

McLAUGHLIN: I think so, yes.

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FRANKFURTER: If so, I didn't hear it. But tell him, with my compliments, that conveying the mood is the most important thing that a historian can do.

McLAUGHLIN: And few historians do that. What did you mean by saying Harold Ickes was the second greatest egotist in the Twentieth Century?

FRANKFURTER: I didn't say Baruch [Bernard M. Baruch] was the first.

McLAUGHLIN: You didn't?

FRANKFURTER: Where did you get that from?

McLAUGHLIN: That was from Arthur; maybe that was just the mood. He said that you said it with great relish.

FRANKFURTER: Well, I've always thought so, and I think so now. But I don't—but I'm sure I didn't say it there.

McLAUGHLIN: Really?

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FRANKFURTER: No.

McLAUGHLIN: Maybe he remembered it from some other occasion.

FRANKFURTER: Or maybe he did it the first—that's conceivable.

McLAUGHLIN: Yes. But he said you laid down the requirements for what a good diarist should be—what he should be like.

FRANKFURTER: On that occasion?

McLAUGHLIN: Yes.

FRANKFURTER: Well, I don't remember that, but I have talked on that subject to a group of the American Historical. It's a favorite subject of mine and the one and indispensable resource which Ickes totally lacked was the capacity for self- obliteration.

McLAUGHLIN: Self-obliteration, even worse than self-abnegation?

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FRANKFURTER: You know, in most diaries, the diarist always comes out first.

McLAUGHLIN: He must have as little bias as possible.

FRANKFURTER: Not only bias but no ego, so that he's capable of recalling a good riposte against him; a good attack against him. But Ickes no more

could do that than I can fly. And I did say that Mr. Stimson [Henry L. Stimson] was the best of all. I once reviewed something like twelve or fourteen of the best American political biographies. I gave a talk to a circle within the American Historical on diaries as historically reliable evidence, and I did in that make a generalization that the most reliable of all the diaries by Presidents or Cabinet officers is the dullest. And that's James Polk [James K. Polk]; he had no imagination, so he

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couldn't draw on it. But Ickes drew on his all the time.

McLAUGHLIN: And Tommy Corcoran is a great artist.

FRANKFURTER: Oh yes. And—

McLAUGHLIN: Wilmarth Lewis [Wilmarth S. Lewis] told me that you had quoted something from A. Whitney Griswold [Alfred Whitney Griswold] which interested the President so much, that he wrote it down. Do you recall that?

FRANKFURTER: No, I haven't the slightest recollection.

McLAUGHLIN: He thought it was the key to the whole conversation. I haven't found it yet.

FRANKFURTER: It must be amongst the President's papers somewhere.

McLAUGHLIN: Yes, I've been trying to break through to Mrs. Lincoln [Evelyn N. Lincoln], but haven't made it yet. Another quotation which you are alleged to have given to the President was Brandeis' [Louis D. Brandeis] definition of legal judgment.

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FRANKFURTER: Not legal judgment; judgment generally.

McLAUGHLIN: Judgment generally. And that was "the most --almost instinctive correlation of a thousand imponderables."

FRANKFURTER: Invariables. Variables.

McLAUGHLIN: Variables.

FRANKFURTER: Not judicial judgment.

McLAUGHLIN: Do you remember in what connection you might have said this?

FRANKFURTER: No. It applies to everything: Viet Nam; missiles—to anything. Where we shall go this summer, if we should go anywhere. And for a girl, whether she should marry a man or not.

McLAUGHLIN: In Schlesinger's report of that gathering, he also said you stated that you hadn't seen eye-to-eye with Brandeis on everything and that you two couldn't or didn't have a clash of

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of views with Raymond Moley and Rexford Tugwell [Rexford G. Tugwell].

FRANKFURTER: That's true. I don't believe I ever saw eye-to-eye with anybody; that means complete agreement.

McLAUGHLIN: And then in your letter to Kennedy on July 5, 1963, you seemed to imply the President mentioned to you, when you were at the White House, that you would be the recipient of some kind of honor.

FRANKFURTER: It's this Freedom Medal.

McLAUGHLIN: It was? He did, and your quotation was wonderful. "Your statement to me that you had contemplated conferring an honor upon me as one of the group of honorands and that I would find myself in good company is the understatement of the year."

FRANKFURTER: Did I say that?

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McLAUGHLIN: Yes, in your letter. Which of the other medalists were you most happy to be in company with? I think you mentioned Pablo Casals—

FRANKFURTER: And there was Thornton Wilder, who is a great friend of mine, and Jean Monnet, and Bob Lovett [Robert A. Lovett] and Jack McCloy [John J. McCloy]. They were all Stimson men.

McLAUGHLIN: Did you feel that you'd been able to communicate to the President your feeling of patriotism and your love of country?

FRANKFURTER: I don't know. I should think so. Why should he have any doubt about it?

McLAUGHLIN: Well, I think we might go on into the other question; one that we were saving; how well did the President understand the role of the Supreme Court, do you think?

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FRANKFURTER: I never talked with him and he didn't indicate, and it wasn't clear that he had the slightest notion. No historian nor no man who has written on American History—go find me some book on American History that says anything about—that says anything at all about the American—about the Supreme Court, except the Dred Scott case. I think probably Sam Morison [Samuel E. Morison], because he read a good many opinions of the Court, but I was quite astounded and I went through many opinions. You see, not only the Supreme Court but the lower courts have had a terrific bearing on industrial development. And I remember Jim Landis was up with me in Cornell and we went through all the books on American history on the shelves to see what they took of

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it—of the Federal Judiciary and the American Statesmen series, state by state, not one of them even had a reference.

McLAUGHLIN: So you don't ah—Would you say this is true not only of historians but of Presidents? They don't understand the Court?

FRANKFURTER: Certainly. For one thing, it must be true of this man because, where would he get his understanding from? From the Attorney General? What does Bobby understand about the Supreme Court? He understands about as much about it as you understand about the undiscovered 76th star in the galaxy. Or maybe you understand about it?

A. McLAUGHLIN: No.

McLAUGHLIN: I think it's a good figure. Yes.

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FRANKFURTER: He doesn't understand the permanent consequences of Supreme Court decisions.

McLAUGHLIN: Would you say that Archibald Cox understands this? The Solicitor General.

FRANKFURTER: Yes. He has in some ways disappointed me, because he's allowed himself to be too much an alliance to the NAACP [National

Association for the Advancement of Colored People]. Therefore, he's making political decisions instead of legal decisions in deciding whether he should go into a case or not.

McLAUGHLIN: This would certainly be true of the Attorney General.

FRANKFURTER: But he doesn't know anything.

McLAUGHLIN: Would you say, though, that Kennedy, in his appointments, made some indication of knowing what he was doing?

FRANKFURTER: He said Arthur Goldberg [Arthur J. Goldberg] was a scholarly lawyer. I wonder where he got that

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notion from. Go and read Harlan's [Harlan F. Stone] dissent in Reynolds v. Sims, the Reapportionment cases and then read the Chief Justice's and White's [Bryon R. White] and Goldberg's, and see the difference. You know when the 14th amendment was passed, these questions were explicitly before the House and Senate, and they explicitly said it was not meant to cover it. Harlan made mincemeat out of the Chief Justice's opinion.

McLAUGHLIN: So you think he should have appointed a scholarly Justice?

FRANKFURTER: Throughout the history of the Court, there's always been one scholar on the Court—at least one.

McLAUGHLIN: Perhaps someone like Paul Freund [Paul A. Freund] would be?

FRANKFURTER: Well, obviously.

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McLAUGHLIN: What kind of influence would a scholar have, would you say?

FRANKFURTER: Well, he'd know the past, and he'd know the place of the Court --it's practices—and he'd prevent them from making decisions like this, because whenever the Supreme Court got into trouble, it got itself into a lot of trouble. In that wonderful phrase of Chief Justice Hughes [Charles E. Hughes]: “Unfortunately, the history of the Court is replete with self-inflicted wounds.”

McLAUGHLIN: So the Court is bleeding, you would say?

FRANKFURTER: And therefore, it is debilitating. Think of the goal of the income tax

as a case—we had to wait from nineteen—no, that is something like 1895 to 1913 before this country had

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the power to levy—were able to levy an income tax on the vote of the two houses. Do you suppose Jack Kennedy knew or heard that? I bet you a thousand dollars that I haven't got that he never heard of it and nobody told him. And it took from 1923 until 1960 something, before the states and the District of Columbia had passed minimum wage laws to prevent sweatshop wages. But that's an awful heavy price to pay and it's needless, because the Constitution doesn't require it. They thought. They always talked about Liberty of Contract as though they said Liberty includes Liberty of Contract; full of nonsense. I once asked Holmes [Oliver W. Holmes, Jr.]. I said to him, "Mr. Justice, I suppose if your brethren talked the same kind

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of nonsense in the conference, at the conference table, that they put in their opinions, don't you get bored?" He said, "No, because I've got a remedy against it. Whenever they begin that kind of stuff, I try to compose my mind and think of all the beautiful women I've known."

McLAUGHLIN: Were you consulted about Kennedy's appointments?

FRANKFURTER: No.

McLAUGHLIN: Do you know anybody who was?

FRANKFURTER: I'm sure no one on the Court was.

McLAUGHLIN: Is this unusual?

FRANKFURTER: I know it's unusual, but judge by the people that have been consulted. Look at Pringle's [Henry F. Pringle] *Taft of Life*, and how often Taft [William H. Taft]—and Hoover [Herbert C. Hoover] and Coolidge [John C. Coolidge, Jr.]—turned to the Chief Justice, not infrequently,

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about [framing] [Appointments (to the court)] (C. McLaughlin) throughout the history of the country.

MCLAUGHLIN: So this is again a tradition that Kennedy didn't follow.

FRANKFURTER: He didn't. How could he know it?

McLAUGHLIN: Has any President done better, would you feel, in this respect on his relations to the Court?

FRANKFURTER: You mean in consulting?

McLAUGHLIN: Yes.

FRANKFURTER: As I say, Taft consulted—Taft and Coolidge and Hoover. Hoover consulted.

McLAUGHLIN: Did FDR [Franklin D. Roosevelt]?

FRANKFURTER: Yes, he consulted me. When Hughes went off. And he said he consulted me because Hughes told him to do it; Hughes told him to talk to Felix Frankfurter about it. "He knows the history of the Court better

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than any man in the U.S. and therefore, he knows the need of the Court; that's what's interesting, because if you know the history of an institution, you know its needs."

McLAUGHLIN: Well, I thought we might go on to another one. You have been visited by both President Kennedy and President Johnson [Lyndon B. Johnson]—right in that chair. Do you think they are in fundamental agreement with each other or sympathy with each other?

FRANKFURTER: I have no basis for making a judgment.

McLAUGHLIN: Did Johnson mention Kennedy to you?

FRANKFURTER: Not in reference. One of my nurses made, I thought, a very intelligent remark. Who was here?—It was Dean Acheson asked her—and she said she was a Republican. She said, "I don't

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think any Republican had a chance." And then he asked her, "Are you for Johnson?" She said, "I can't tell you yes or no, because I don't know how much of Johnson is Johnson and how much Johnson is Kennedy." That was a smart answer, wasn't it?

McLAUGHLIN: So you wouldn't want to speculate on Ralph Gabriel's [Ralph H. Gabriel] remark to us, that Kennedy's Administration might be a foothill to Johnson's mountain.

FRANKFURTER: I dislike figures of speech, as long as one is dealing with complicated problems.

McLAUGHLIN: One thing I wanted to ask you from the other tape and that was, how did you arrive at the conclusion that Kennedy was not communicating with the people? This was the question that you put up

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for discussion when he came—

FRANKFURTER: Well, I listened to his speech on Medical Aid, and he certainly didn't communicate to me why I should vote for it.

McLAUGHLIN: Really? Why not?

FRANKFURTER: Because he didn't explain what the problem was or how it should be remedied.

McLAUGHLIN: Was his language sort of technical or—

FRANKFURTER: No. It was inadequate, and there was no excitement to what he said. He didn't ignite the mind.

McLAUGHLIN: Was there anybody else besides yourself, or was it a subjective reaction?

FRANKFURTER: You mean at that time?

McLAUGHLIN: Yes.

FRANKFURTER: Well, none of my nurses knew what the bill was about, and I had about nine of them. And not one of them knew what it was about, or why you should be for or against it.

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McLAUGHLIN: Then if nurses don't know about Medicare, not much communication—

FRANKFURTER: What?

McLAUGHLIN: If the nurses don't know. Was there anything that you would like to bring up yourself?

FRANKFURTER: The thing I wanted to bring up was what he said on Inauguration Day. Don't ask me for that, because I don't know whether he thought, he must have realized that I was praising him, when I said, "I congratulate you more on what you didn't say than on what you did say."

McLAUGHLIN: Did you think that was a good speech?

FRANKFURTER: I never think any speech written by somebody else, for somebody else, is any good. I don't want to listen to Ted Sorensen [Theodore C. Sorensen] and then I can buy it on

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a record. I'm against it: ghost originating literature.

McLAUGHLIN: Wasn't the last President who really wrote his own stuff, Herbert Hoover?

FRANKFURTER: Really?

McLAUGHLIN: Or would you say that FDR really—ah—

FRANKFURTER: Well, I've been in too many conferences when his speeches were prepared, and he had a keen sense of words, and he just often put in the word or two that made the difference.

McLAUGHLIN: So there's a real Roosevelt touch, but not a Kennedy touch?

FRANKFURTER: I don't know.

McLAUGHLIN: But Sam Morison would have been a good ghost, you thought.

FRANKFURTER: I said it—yes, but that was for the kind of thing I had in mind, to write

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six long addresses on why America should again be regarded as a noble nation, is a different thing than the stuff that Ted Sorensen gets off; all this immature, sophomoric, semi-poetic stuff, I don't go for.

McLAUGHLIN: You don't care for balanced opposites—

FRANKFURTER: The Sam Morison idea was a very different thing; I told you.

McLAUGHLIN: Yes.

FRANKFURTER: I told you the President said, "I want it firsthand what you told McGeorge [McGeorge Bundy]." "Why don't you ask him what I told him? 'Cause I talked with him at great length."

McLAUGHLIN: But he didn't take your advice?

FRANKFURTER: And he came and he said, "I want to hear it firsthand what you told Mac." So then I told him.

McLAUGHLIN: Well?

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FRANKFURTER: I think the time has come for us to stop.

McLAUGHLIN: This is the end of the interview with Felix Frankfurter on June 19, 1964, at his apartment on 2339 Massachusetts Avenue, Washington, D.C. And present were Charles McLaughlin, interviewer, and his wife, Ann McLaughlin.

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Felix Frankfurter Oral History Transcript – JFK #2
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The President's Call
On Justice Frankfurter
Thursday, July 26, 1962

The President called on F.F. on the President's own initiative. F.F. had asked D.A. to join him for this call. The President came at five o'clock and was received in the downstairs drawing room.

The President expressed pleasure at the extent of F.F.'s recovery, saying that he was in far better shape than Ambassador Kennedy, who was not as mobile as F.F. and was unfortunately wholly unable to speak. The President said that MacGeorge Bundy had spoken with the President about his call on F.F. and had passed along to the President some thoughts on the general trend of affairs which F.F. had expressed. The President would be delighted to hear them more fully and directly from F.F. himself.

F.F. said that these thoughts had grown out of many conversations which he had had during his illness with nurses, orderlies, doctors, attendants, etc., at the hospital -- a group of people whom he did not ordinarily see and who he thought were perhaps typical of much larger sections of the population. As he had thought about these conversations during his days of illness, it seemed to him that there was a lack of communication between the President as the leader of the American democracy and many intelligent and well-meaning people. He was not saying this in criticism

or to say what should or could be done. As he thought what he himself would try to do if the problem were his, he thought that the task was to connect in the minds of intelligent people what was currently being attempted to be done with fundamental purposes of the American democracy and with the basic nature of our institutions. Thinking of this as an educational process, he would like to see people reminded of the basic purposes and values of our democracy, in such a way as Professor Samuel Morison could do. Words became meaningless after a while and it was necessary to make them live again by the evocative powers of a great teacher. The same was true for our institutions. Professor Mark Howe could perhaps bring out that these were not merely peculiar or parochial, political mechanisms but were rooted in history, philosophy, and experience. It was only by having both these matters brought out that what was being done today could take on significance, meaning, and purpose.

The President said that this was most interesting to him, because he thought that this matter of communication was most perplexing in his problems. He said that he felt that what the Federal Government had to do today was far different, more complicated, and less understandable to the people than it was at a time even as recent as that of F.D.R. He said that F.D.R.'s legislation directly affected various groups

of citizens, or perhaps all citizens together, sometimes to their benefit; sometimes, they thought, to their detriment. But he was dealing with the farm problem in a way which was easy to understand, or with housing, or with public works, or with education, or with the right of labor to organize, or with the level of wages, and so on. Today, the President felt, his problems were more in the nature of complicated administrative measures, which people found it difficult to understand. His farm bill, for instance, is not simple and direct in its incidence and effect, as was that of F.D.R. The same was true of the complicated matters of trade, finance, depression, prosperity, etc. The only matter with which he had to deal which resembled earlier problems was medical care. This F.D.R. had not tackled. H.S.T. had tackled it and failed, and the President had now met with a reverse.

The President asked D.A. what his views were about this. D.A. said that he thought that he agreed with the President that his problems were more complicated than those of his predecessors. But he thought that this was not a sudden change in kind but the result of a steady progression into complexity as our domestic and foreign affairs became more and more interdependent and more and more involved. The task of the leader, as the task of the educator, was to give a sense of

direction and value by which a path could be found through these complexities.

The President said that, not only were those matters complex, but many people were willfully trying to add confusion to complexity.

F.F. said that much was said about the relations between the White House and business and about the necessity of building a bridge from Pennsylvania Avenue to Wall Street. However, F.F. thought that in the very nature of things a Democratic President who was doing his job was not going to have good relations with business. The President interjected that he had about come to this conclusion himself and asked why F.F. thought it was so. F.F. thought it was so because nearly all the purposes which a Democratic President had in mind and the ends he was trying to achieve were outside the experience of businessmen and, therefore, were regarded by them with doubt, if not suspicion. These ends and values were the noncommercially productive ones which occupy all that vast part of human life with which businessmen were not concerned. A Democratic President had to take funds, goods, and people and direct them to these ends. He also had to attach values to endeavors which were not economic values. The President could, therefore, be a molder of American life; and a strong Democratic President was likely to mold it in

ways which seemed alien, if not frightening, to businessmen. The President listened very attentively and sympathetically.

F.F. said that during his illness he had ruminated a good deal upon what made for greatness both in his own institution, the Supreme Court, and in the presidency. He had come to the conclusion that in both instances, if one picked out the outstanding Justices of the Supreme Court and the outstanding Presidents, one concluded that they were bound together by one factor. This was their conception of the nature of their offices. F.F. mentioned outstanding Presidents, specifically Jefferson, Jackson, Lincoln, and Theodore and Franklin Roosevelt. It was idle, he thought, to look to them for guidance in modern problems. But it was not idle to see how they had conceived of the nature of their office. The President agreed with this.

The call lasted nearly three-quarters of an hour, throughout which the President appeared to be keenly interested. Tea was served by Mathilda and Ellen, both of whom F.F. presented to the President, telling him that they had both helped at one time or another in his house. They spoke to the President briefly. He chatted most amiably with them. Finally an aide came to tell him that he had over-stayed his time and people were waiting to meet with him. As he rose to go, F.F. said that the President's call had not only been

a great honor but had been a great pleasure to him. The President said that he had wanted very much to come and would like to come again. He asked whether F.F. would be at home during August, when he hoped to pay another visit. D.A. escorted the President to his car.

DA:be

Supreme Court of the United States
Washington 25, D.C.

CHAMBERS OF
FELIX FRANKFURTER

June 18, 1963

Dear Arthur:

After leaving the White House on Monday, which was indeed an extremely pleasant occasion, and the President could not have been more gracious and agreeable, I reflected on the inadequacies of the answer I made to his question as to why I disagreed with your view on the Roosevelt Administration in the 30s, and more particularly that there were two New Deals. I did not tell him my basic reason for disagreement. It is that from your several references to your private interviews with Thomas G. Corcoran I gathered they had a considerable influence on the interpretation you give in your book about the two New Deals, for Tommy is a very persuasive raconteur.

I did not say what I wanted to say, for I did not think the occasion was an appropriate time for what might have turned into an argumentative discussion, especially since my doctor has restricted my engaging in controversial talk. But I feel free, indeed feel compelled, by my view of things to tell you that Tommy Corcoran's fairy tales are not a good source for historical writing. I so characterize his talks because by temperament he is a romantic and uncritical spinner of yarns. I say this after much experience with him and I am confident that Dean Acheson would not disagree in this estimate of Corcoran. As I have already indicated, he is a very persuasive talker and raconteur.

When you asked me if I would read the manuscript of your book since I am involved in much of it, it was for that reason that I felt compelled to decline to read it, because I have strong views that the undertow of personal interest disables a man to sit in disinterested judgment upon himself.

There are a few more things to be said. I must reject your assumption that there was a real clash of views between Moley-Tugwell and F.F.-Brandeis. This assumes that the respective parties

had coherent and systematic views on some of the problems that are involved in Roosevelt's policies.

You are also wrong in assuming that I saw completely eye to eye with Brandeis on socio-economic matters, any more than it is true that I was an echo of his outlook on the law, particularly constitutional law. Of course there is no doubt that Brandeis had a very important influence on me, particularly in his austere moral views, in matters where moral issues do not lie on the surface, for everybody, as for instance in the Profume affair. A good illustration of Brandeis's moral austerity and the expression he gave to his moral views was his vigorous protest to President Lowell against the continued retention in Harvard's portfolio of New Haven securities after evidence established financial misconduct by the New Haven.

As for myself, undoubtedly both Holmes and Brandeis influenced me in my constitutional outlook, but both of them derived theirs from the same source from which I derived mine, namely, Professor James Bradley Thayer, with whom both had personal relations but whose views influenced me only through his writings, as was indirectly true of the man who taught me constitutional law at Harvard Law School, namely, Professor Wambaugh, a pupil of Thayer. Moreover, Thayer's views were in the air at the Law School while I was there and I undoubtedly imbibed that atmosphere.

As for my general outlook on matters sociological and economic, I am by temperament not an ideologue but a stark empiricist.

One of these days, when my doctor's orders make it free for me to see you, I should like to tell you the extent to which Brandeis disciplined himself to carry out in his own conduct of life the definition I gave the President and you of what he **thought judgment** involved: "the almost instinctive correlation of a thousand imponderables." I should like to tell you how he safeguarded and disciplined himself to make sure that he penetrated the imponderables on matters that called for his judgment when the imponderables did not lie on the surface. I think I could interest you by what I would tell you.

I am so grateful to you for seeing to it that I had a word with your father on Monday and I am also indebted to you for the genuine pleasure which I derived from my visit to the White House.

With warm regards to you and affectionate regards to your Marion,

Very sincerely yours,

Hon. Arthur M. Schlesinger, Jr.