

# **Answering the Call: Leaving the Bench to Serve the President—James F. Byrnes and Franklin D. Roosevelt, 1932–1945**

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Perhaps no President in American history has figured so prominently in the development of constitutional democracy as did Franklin D. Roosevelt. At no point in the country's history did its leaders grapple with challenges more profound than those faced during the 1930s and 1940s, as they sought to come to terms with the disruptive effects of industrialization, mass migration, and the rise of totalitarian-populism overseas. Given the ambitious reform program he envisioned, Roosevelt could not have acted alone. There was his "Brains Trust"—the group of university professors who formulated some of the most revolutionary schemes to revive the nation's economy. There were Roosevelt's famed administrators—Harry Hopkins as the chief engineer of the Works Progress Administration; Harold Ickes as the relief coordinator for the Public Works Administration; Frances Perkins,

the first woman ever to serve as a Cabinet Secretary, and who used her office to secure the rights of organized labor; and, of course, the indomitable First Lady Eleanor (the White House's gadfly in its reluctance to take on the most controversial liberal causes, especially civil rights). These and other stalwart New Dealers were critical FDR allies in constructing a liberal Democratic Party and forging an executive-centered administrative state that would make the aspirations of its partisan objectives possible.

However, only one New Dealer worked as diligently, persevered for so long, and remained so committed to the success of Roosevelt's "revolution," as he routinely referred to the New Deal: James Francis Byrnes. Only he was bedizened by Roosevelt as "The Assistant President." Byrnes and FDR were an odd couple: Roosevelt, the

New York patrician who relished the exercise of power, and Byrnes, raised in South Carolina by his widowed mother—a hard-working dressmaker of such modest means that her son dropped out of school at fourteen to seek gainful employment—who styled himself an honest broker, rather than a first mover, of government action. Yet, in spite of their economic and cultural differences—or perhaps because they so well complemented each other—Byrnes and Roosevelt formed a relationship that, although largely forgotten today, is of immense importance for understanding the scope of New Deal reform at home and the eventual triumph of American liberalism abroad. Their partnership and genuinely warm friendship also personifies the extraordinary tension within New Deal liberalism—a conflict between its nationalist aspirations and a reverence for America’s constitutional legacy that still animates our political travails today.

Roosevelt—the President of the United States who audaciously broke the two-term tradition set by George Washington and served for just over twelve years—was the center of American life around which the fundamental political controversies of the 1930s and 1940s swarmed. Byrnes remained behind the scenes yet omnipresent—serving in all three branches of the federal government while Roosevelt was President. A first-term junior Senator from South Carolina at the birth of the New Deal, he rose to become one of the most important leaders in steering key reform legislation through a fractious Congress. In 1941, he moved to the Supreme Court and, although his tenure on the bench was a brief 452 days (only one other Justice in American history, Thomas Johnson, has spent less time on the Court), he wrote several important opinions during his brief stint that helped codify the new constitutional order.<sup>1</sup> But Byrnes’ most important duty occurred in the wake of Pearl Harbor, which pulled America into the

Second World War just three months into his tenure on the Court. After months of informally advising the President and the Attorney General on the most important matters related to economic mobilization for total war, Justice Byrnes left the Court to serve officially in the administration: first as Director of Economic Stabilization and then as Director of War Mobilization, both positions having been intentionally created to take advantage of Byrnes’ rare combination of savvy politician and astute legal mind.

FDR’s and Byrnes’ fruitful partnership was so strong because, as different as they were, they shared the view that the New Deal represented a new understanding of the social contract—one that required the national government to assume new responsibilities at home and abroad. FDR gave voice to this new understanding of rights in his iconic State of the Union message of 1941. Traditional freedoms like speech and religion, he argued, needed to be supplemented by two new rights: “freedom from want” and “freedom from fear.”<sup>2</sup> These new freedoms, representing for all intents and purposes the charter of the modern American state, were given institutional form by the welfare and national security states. Imbedded in a modern executive office and a growing national bureaucracy during the presidencies of Roosevelt and Truman, these pillars of the New Deal political order transcended partisanship. The New Deal state was embraced by Democrats and Republicans alike in the aftermath of World War II. President Dwight D. Eisenhower, the first Republican elected after the New Deal, bestowed bipartisan legitimacy on the liberal political order. Two years after his 1952 campaign victory, with bipartisan cooperation, he pushed through Congress an expansion of Social Security. The popular “Ike” also sustained Roosevelt’s and Truman’s commitment to liberal internationalism, the view that America and her allies (particularly

in the North Atlantic Treaty Organization) could be—must be—a force for good in the world.

Yet this partisan consensus eventually unraveled, in large part due to the emergence of civil rights as a contentious, riveting drama during the 1950s. When Byrnes resigned as Truman's Secretary of State in January 1947, he returned to his home in South Carolina to become a vociferous critic of the President and the Democratic Party. Elected as Governor in 1950, he became a leader of the massive resistance to the *Brown v. Board of Education* decision, which saw a unanimous Supreme Court denounce the invidious myth that separate could be equal. Byrnes not only joined most other Southern governors in lambasting the decision, he also became a leading architect of the Southern Strategy the Nixon Administration pursued to realign partisan politics below the Mason-Dixon Line. Having abandoned the New Deal Democratic Party he had so diligently worked to build, Byrnes supported Republican presidential candidates until his death on April 9, 1972.

It is only by taking stock of this momentous time in history that we can begin to make sense of this special relationship between Byrnes and Roosevelt, a critical but uneasy partnership that illustrates both the great potential and stifling limits of progressive reform in twentieth and twenty-first century America. Viewing history through the lens of this alliance sheds important light on the effort of a President and his assistant president to meet the profound challenges of economic catastrophe and the rise of totalitarianism in Europe. And it leaves us with a new vantage point to better grasp the causes of our present political discontents: to understand how a transformed Democratic Party almost succeeded in forging a new national community, but in the end, tragically failed to make the South an enduring partner in the New Deal political order.

### A Junior Senator Becomes a President's Trusted Ally

Byrnes was such a critical ally to Roosevelt because in Congress, the Court, and the executive branch he provided a critical link between the White House and the bloc of impregnable Southern Democrats who posed the greatest opposition to the New Deal. As Thomas Stokes, the Pulitzer Prize-winning journalist from Georgia, wrote, Southern Democracy (dedicated to the states rights philosophy of Jefferson) was the "ball and chain which hobbled the Party's forward march."<sup>3</sup> Among the few Southerners who supported the New Deal through thick and thin, Byrnes was the President's most important ally in his determination to keep the South in the fold of a transformed, reimagined nation. Furthermore, Byrnes' pragmatism—his willingness to support what Roosevelt dubbed "bold persistent experimentation"—expressed the President's hope that the New Deal might forge a transformed coalition in the South dedicated to economic security. Byrnes shared Roosevelt's belief that the New Deal could work just as well for the sharecropper in low country South Carolina or the millworker in the state's new boomtowns as it could the urban factory worker. Both hoped that this new politics would compete with and then perhaps displace the virulent racial conflict that long had dominated democracy below the Mason-Dixon Line. Central to Roosevelt's New Deal Southern strategy, Byrnes was a permanent fixture in the White House during the early years of FDR's presidency, even spending Thanksgiving with the President before his inauguration to advise on Cabinet appointments and their prospects for Senate confirmation.<sup>4</sup>

Byrnes' political savvy proved indispensable to Roosevelt as the President sought to bring the executive office closer to the American people in a time of want and desperation. During the first press

conference of his administration, which inaugurated the practice of inviting participation by all correspondents regardless of their political posture toward the White House, Roosevelt requested that Byrnes attend and evaluate his performance. After all the newspapermen had left, Roosevelt asked him how he did. Byrnes, having watched the President handle a cascade of inquiries on a wide range of topics with seeming aplomb, responded that “it was fine for the reporters, but I fear the effect [on you].” In this display of wit and policy dexterity, Byrnes saw clearly that Roosevelt intended to lead—to draw unprecedented attention to the executive office. This ambition would give Roosevelt the unique opportunity to “enlist support for his programs”; at the same time, Byrnes, seeing the President’s hand trembling and his shirt drenched in perspiration, recognized the strain this enhanced responsibility would place on Roosevelt and the hard challenges he would face in laying the cornerstone of a modern executive office.<sup>5</sup>

The strengthening of the presidency in the face of the imposing domestic and international issues the country confronted bespeaks the special importance of the Roosevelt-Byrnes alliance. The relationship between FDR and Byrnes only grew stronger and more essential to the preservation of the New Deal during Roosevelt’s controversial second term. Roosevelt’s first term was dedicated to the enactment of programs like Social Security and the Wagner Act (Labor’s Magna Carta). These new programmatic rights were the signature New Deal policies that would secure freedom from want. In the midst of terrible economic despair, these innovations drew widespread support, even among many recalcitrant Southern Democrats. But Roosevelt pursued an institutional program during his second term that cast a brighter light on the constitutional transformation that he sought. Startling allies and enemies alike, he pursued two highly

controversial measures that sharply divided the Democratic Party and aroused cries that he was a “dictator”—an indictment so resonant that the President had to go on the radio and formerly deny it. This program included the Executive Reorganization Act, announced in January 1937, and the “Court-packing” plan, proposed just a few weeks after the administrative reform program.

The plans to reorganize the federal judiciary and executive branch were bold efforts to increase the President’s personal influence over a rapidly expanding national government, one that laid greater claim to promoting its citizens’ welfare. They marked an effort to transform a decentralized polity, dominated by localized parties and court rulings that supported property and states’ rights, into a more centralized, bureaucratic form of government that could deliver the goods championed by the New Dealers. Programmatic rights like Social Security and collective bargaining, Roosevelt believed, would not amount to anything—would not fulfill the freedom from want—unless new institutional arrangements were established to redistribute powers within the government and permanently secure these new commitments inside the federal bureaucracy.<sup>6</sup> Moreover, as early as 1937, Roosevelt anticipated that it would be impossible to stay out of the battles erupting in Europe and Asia: as he told Byrnes, the rise of fascism and imperialism, even more than the challenge posed by the Great Depression, required the strengthening of executive power—to give it the capacity to protect the freedom from fear.

Byrnes had serious reservations about Roosevelt’s institutional reform program. He was an adamant defender of Congress and its constitutional prerogatives, which Roosevelt’s commitment to executive dominion threatened. When reflecting on his long career in politics, he most fondly remembered his time in the Senate—a place where “there was independence of action,

and there was the pleasure of competing with men who displayed good sportsmanship, and whose friendships enriched my life.” Coincidentally, his office was the former robing room of the Old Supreme Court chamber in the Capitol. He loved this place, one of the perks that came with being a committee chairman. His memoirs detailed the fine historical eccentricities that decorated his legislative domain, especially the old White House chandeliers and the painting that hung on his wall of Henry Laurens, a South Carolinian and the only American ever to be imprisoned in the Tower of London.<sup>7</sup> Byrnes even enjoyed the chore of responding to constituent letters, taking the time to draft lengthy responses to inquiries whether they came from mayors of South Carolina towns or factory workers in the textile mills. When he joined the Supreme Court, he had to confess dutifully that it was inappropriate for a Justice to interfere with the same matters as he did when he was a Senator. Yet, taking advantage of the knowledge he had gained on the front lines of legislative oversight, Byrnes usually made sure to point his fellow South Carolinian to the appropriate source of influence deep inside the federal bureaucracy.

Despite his love of congressional politics and its traditions, Byrnes nevertheless shared Roosevelt’s belief that the national government needed to be strengthened, lest the United States fall prey to a more radical solution to the crises at home and abroad. The first true test of the Roosevelt-Byrnes alliance developed during FDR’s ill-fated Court-packing plan in the spring and summer of 1937. Almost all of Byrnes’ fellow Southern and border state Senators, as well as many very vocal South Carolina constituents, viewed the Court as Horatio at the Bridge—the final line of defense against the rising tide of national statism. Significantly, the two Supreme Court decisions that enraged Roosevelt the most—handed down on May 27, 1935, soon known to New Dealers as “Black Monday”—were *Humphrey’s*

*Executor v. United States*<sup>8</sup> and *Schechter Poultry Company v. United States*,<sup>9</sup> both of which imposed constraints on the President’s personal power. Byrnes was not the only Southern congressman to support Roosevelt during the Court-packing ordeal, but the esteemed Senator from the front lines of opposition to the New Deal was the most important.

In fact, FDR chose Byrnes to give a nationally broadcast speech to defend the Court-packing plan against the fierce attack of his close friend, the unreconstructed opponent of the New Deal, Virginia’s Senator Carter Glass. For Glass and other influential Southern and border-state Senators, such as Josiah Bailey of North Carolina, Harry Byrd of Virginia, and Millard Tydings of Maryland, the Court-packing plan exposed the President’s dangerous centralizing ambitions that threatened not only judicial independence but also the constitutional prerogatives of Congress. The South, as the vanguard of a “conservative manifesto” proclaimed in 1937, was largely united in seeking to “restore to Congress its proper responsibilities in making laws and enunciating policies for the country.”<sup>10</sup> Southern resistance to legislation that would result in a more liberal Supreme Court, which proponents and adversaries alike anticipated would issue decisions more favorable to African Americans in civil rights litigation, placed Byrnes squarely in opposition to powerful political strains in his home state. The entire Supreme Court of South Carolina wrote directly to Byrnes in opposition to the President’s plan. And, as a testament to how public and rancorous the Court-packing issue became, a missive arrived shortly thereafter at Byrnes’ Washington office that was an ominous reminder of local politics back home: a single sheet of paper displaying an image of the Hooded White Knight of the KKK, with the red boldfaced words, “Hand’s Off the Supreme Court,” written underneath a watchful eye.<sup>11</sup>



Senator James F. Byrnes received this ominous missive from a constituent in South Carolina in 1937 after he announced his support for Franklin D. Roosevelt's proposal to enlarge the Supreme Court.

Despite the political pressure to oppose Roosevelt's controversial second-term initiatives, Byrnes remained committed to the institutional bulwarks of New Deal liberalism. Roosevelt argued that the Court had to be transformed to restore effective government in the face of aggressive totalitarian forces in Europe—at a time when representative democracies were widely thought to be weak and incompetent as compared to asserting regimes led by new dictators. Echoing the President, Byrnes argued that court “reorganization” was indispensable to the preservation of representative constitu-

tional government. “The real dangers of dictatorship will not come from the most democratic President we have ever had,” Byrnes argued:

Nor will they come from younger men on the Federal courts. The real dangers of dictatorship will come from Justices who forget the warning of Chief Justice Marshall that the Constitution should be “adapted to the various crises in human affairs.” They will come from those lawyers, who, jealous

and fearful of the loss of prestige of their profession, want us to postpone social justice for years while they strive to block it forever. They will come from those who are blind to the fact that at this stage of world history time is of the essence, and that the difference between keeping faith with the people in 1937 and hoping to keep faith with them in future years may be the difference between a triumphant democracy, which works, and a disillusioned democracy, which fails.<sup>12</sup>

Although the Court-packing bill died in Congress, Roosevelt claimed that the highly contested initiative did its work. By April 1937, the Supreme Court began to uphold the constitutionality of important New Deal legislation. “A switch in time saves nine,” was the by word of relieved congressional Democrats who viewed the pivot of Associate Justice Owen J. Roberts from the conservative to the liberal side of the Court a prudential strategy that would defuse the constitutional crisis. There is considerable scholarly dispute about whether Roosevelt’s assault on the Judiciary influenced Roberts; but there is no gainsaying that in rapid succession the Justices approved a minimum wage law in Washington state very similar to a New York statute they had found unconstitutional just a year earlier and, more significantly, upheld both the Wagner Labor Relations Act and the Social Security Act. “I know not what effect the Wagner decision will have on the court plan,” Byrnes told reporters, “but it seems that the court plan already had some effect on the Court.”<sup>13</sup>

With the Court’s apparent acceptance of the New Deal interpretation of the Constitution, Byrnes thought Roosevelt had little reason to continue his fight, especially after one of the President’s nemeses, Associate Justice Willis Van Devanter, announced his retirement in May. As Byrnes asked

Roosevelt, “why run for a train after you’ve caught it?”<sup>14</sup> But recalling the Court’s 9-0 decision in the *Schechter* decision, Roosevelt believed that he still needed at least a modified version of the plan, which would allow him to appoint two or three Justices, to secure a majority that would accept the constitutionality of the New Deal state. “The unanimity of the Court,” Barry Karl observed about the judiciary’s firm rejection of the administrative discretion Congress granted the President to deal with the economic crisis, “properly emphasized the singularity of the issue among the many divided opinions of the opposition between the Court and the New Deal.”<sup>15</sup>

It is a testament to the strength of the Byrnes-Roosevelt relationship that neither bore the scars of a protracted and bitter fight. Byrnes was frustrated by Roosevelt’s refusal to declare victory and withdraw the highly contentious bill. However, he continued to support the President’s court-packing plan through July, when the death of Democratic majority leader, Joseph Robinson, who had been promised a Supreme Court appointment if he obtained Senate passage of a revised court bill, effectively killed any hope that Roosevelt’s plan would ever pass the Congress. Nevertheless, starting with the retirement of Van Devanter, Roosevelt was able to appoint a total of eight new Justices to the Supreme Court, thereby transforming the judiciary into a critical partner of the New Deal, and cementing the “Constitutional Revolution of 1937.”

### From the Senate to the Supreme Court

Roosevelt rewarded Byrnes’ stalwart loyalty by making him one of those new Justices in 1941, replacing conservative stalwart James C. McReynolds. FDR knew that appointing Byrnes would pay off a large political debt and save Byrnes from facing a possible difficult re-election in 1942. But,

like his appointment of another Southern Senator, Hugo Black, in 1937, Roosevelt's selection of Byrnes testified to his belief that it was especially important to have loyal allies below the Mason-Dixon Line. Many ardent liberals urged FDR to forget about the North-South alliance—first forged during the 1790s in the mating dance between Thomas Jefferson and Aaron Burr—that underpinned a national Democratic coalition. Yet Roosevelt was hopeful that, with the help of effective allies like Byrnes, the deep South would support a liberalized Democratic Party—and remain in the fold—even if it celebrated Roosevelt rather than Jefferson as its patron saint. Roosevelt and Byrnes shared the belief that conservative democracy in this poorest part of the country was not an economic conservatism but rather was firmly established in reaction to the Populist movement at the end of the nineteenth century and by the near-constant exploitation of racial prejudice. As Byrnes stated in a speech in Charleston on August 8, 1936:

It is my opinion that for the last twenty-five years, we have, in South Carolina, in political discussions, devoted too much time to "likker [liquor] and nigger," and too little time to those matters that vitally effect the welfare and happiness of the men, women and children of the state. In the heart of each of us there are certain prejudices. It is the duty of a good man to endeavor to control and subdue those prejudices; and I have little respect for a man who knows better, and for political gains, is willing to appeal to that which is worst in men, rather than that which is best in men.<sup>16</sup>

During his short stay on the Court, Justice Byrnes showed that this was not merely rhetorical flourish. He vindicated

FDR's faith that the New Deal could hold the North and South together—and that eventually New Dealers could build a national state dedicated to extending the new constitutional order and overwhelm the stubborn tumor of racial prejudice. Byrnes did not have as substantial an influence on the Court as did Black, but two of his important majority opinions supported Roosevelt's reformist aspirations.

In *Edwards v. California*, Byrnes upheld the rights of individuals to travel freely from one state to another.<sup>17</sup> As poignantly depicted in John Steinbeck's **The Grapes of Wrath**, during the Great Depression, California treated desperate migrants, many of them victims of the Dust Bowl, harshly. A prime example of California's hospitality was the so-called "Okie Law," which made it a misdemeanor to bring into California "any indigent person who is not a resident of the State, knowing him to be an indigent person."<sup>18</sup> In pursuance of this statute, California prosecuted as a criminal offense attempts by its residents to bring unemployed relatives or acquaintances to live with them if the residents were unable to provide for the migrants' cost of living. The law was a deliberate attempt by the California government to reduce its relief roles, even though the federal government provided much of the social welfare benefits that indigent Californians received. Edwards was a Californian who had driven to Texas and returned with his unemployed brother-in-law. He was tried, convicted and given a six-month suspended sentence.

Departing from the advocacy of states' rights and opposition to an expansive welfare state, to which most of his Southern brethren adhered, Byrnes, in his first majority opinion, declared the California law unconstitutional. He argued that the Interstate Commerce Clause of the Constitution guaranteed individual men and women the right to move freely from one state to another. More to the point, Byrnes tied this broad defense of





President Roosevelt chose Senator Byrnes to give a nationally broadcast speech to defend his Court-packing plan against attacks by other Southern senators who felt the President's plan threatened not only judicial independence but also the constitutional prerogatives of Congress. While Byrnes was not the only Southern Senator to back FDR's initiative, he was probably the most powerful. This cartoon shows FDR asking Congress to allow him to add up to six new justices under the plan.

the Commerce Clause to the New Deal's reinterpretation of the social contract. Pushing back against California's argument that economic relief was purely a local affair, Byrnes, taking note that the plaintiff had been supported by the New Deal relief agencies, wrote in a revealing *obiter dicta*:

The nature and extent of [California's] obligation to afford relief to newcomers is not here involved. We do, however, suggest that the theory of the Elizabethan poor laws no longer fits the facts. Recent years, and particularly the past decade, have been marked by a growing recognition that, in an industrial society, the task of providing assistance to the needy has ceased to be local in character. The duty to share the burden, if not

wholly to assume it, has been recognized not only by State governments, but by the Federal government, as well.<sup>19</sup>

Byrnes also wrote a majority opinion that dovetailed with the work of the Fair Employment Practices Committee, which Roosevelt had created in 1941 to address racial injustice in the defense industry and the criminal justice system. In *Ward v. Texas*, decided in 1942, police in Texas had taken an accused African American, William Ward, from the church he was attending in the county where a white man had been murdered. Handcuffing the defendant and moving him without a warrant, police carried Ward more than a hundred miles, over a period of three days, to a series of Texas jails, ostensibly to protect him from pursuing lynch mobs. Such good intentions, however,

were suspect, given that, during this odyssey, Ward was deprived of sleep and allegedly tortured until he confessed—an admission of guilt that led a jury to convict him of murder. Byrnes wrote for the Court, which reversed the murder conviction on the grounds that moving “an ignorant Negro by night and day to strange towns and telling him of threats of mob violence and questioning him continuously” had resulted in an “inadmissible confession.” The use of such a forced confession, Byrnes concluded, “is a denial of the due process and the judgment of the conviction must be reversed.”<sup>20</sup>

The term “ignorant Negro” grates, a sign that Byrnes—and the Court—still held a patronizing attitude toward African Americans. But Byrnes’ decisions on civil rights, which included a concurring vote in a case finding an all-white grand jury to be *prima facie* evidence of racial discrimination against a black defendant, appeared to support FDR’s belief that the Court’s insulation from South Carolina politics—so rooted in race—would free his valued ally to confirm his commitment to the New Deal ambition to foster a new sense of national community.<sup>21</sup>

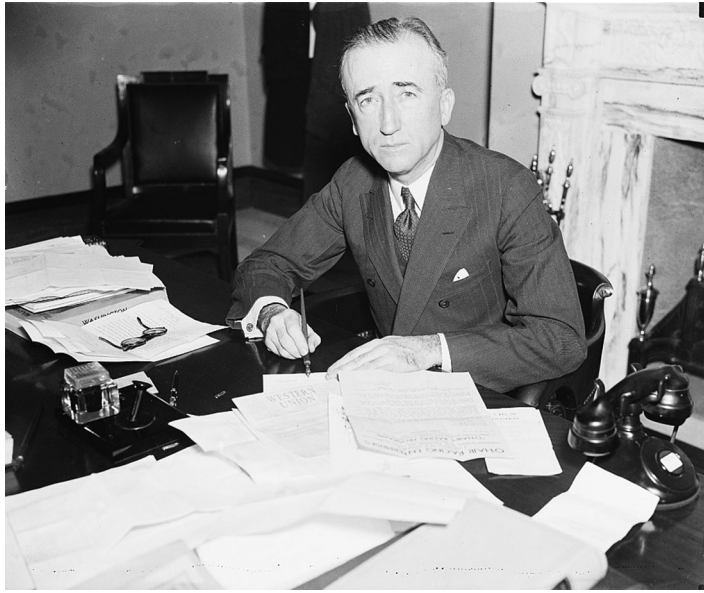
Byrnes’ brief stint on the Supreme Court was important, but in truth, he was never at home in this chamber, perhaps seen in that only eleven pages, of the over 400 pages in his memoir, are devoted to his time on the bench. Unlike Hugo Black, another self-made lawyer who passed the bar without going to college or law school, Byrnes did not participate actively in the formulation of a new interpretation of the nation’s legal doctrine. Throughout his brief tenure, Byrnes was more dedicated to the broader constitutional issue raised by the New Deal: how America could accept the authority of a national state and still stay true to its deep-rooted commitment to individualism and regional diversity. Preoccupied with that challenge, which was made all the more important with the approach of war, Byrnes wrote few opinions (he never wrote a

concurring one), seldom participated actively in the discussion of cases in Conference, and was impatient with—indeed alienated from—judicial procedures that were so far removed from the hurly-burly of politics that he had mastered.

To be sure, Byrnes found his colleagues convivial. “Contrary to popular impression,” Byrnes wrote in his memoirs, “justices are very human, and during my service, at least, they were very sociable.”<sup>22</sup> Moreover, he believed that someone of his background could make an important contribution to a judicial system increasingly faced with the task of making legal sense of a modern state and its expanding and complex body of programs and policies. As an ever-increasing amount of the Court’s work involved interpreting congressional statutes, Byrnes argued, “When the language of a statute is such as to create doubt as to the intent of the law-making body, it seems to me a knowledge of the mechanics of legislation should be helpful.”<sup>23</sup> Nonetheless, he fretted that an individual who served on the bench for years “necessarily becomes, to a degree, isolated from the people.”<sup>24</sup> When the Mississippi born reporter, Turner Catledge of the *New York Times*, paid him a social visit at his Supreme Court chambers, Byrnes urged him to stay longer than the journalist—sensitive to a judge’s busy schedule—thought appropriate. Yet Byrnes urged him to stay a while—admitting: “I get so damn lonely here.”<sup>25</sup>

### From the Supreme Court to the White House

Roosevelt also experienced a strong sense of loss when his hitherto constant political companion entered the Court. Yet, Byrnes’ leave of absence from political matters was short lived. In fact, part of his isolation in chambers was due to his “answering the president’s call” to help with the war effort. With the formal



Two days after the Japanese attack on Pearl Harbor, FDR called Associate Justice Byrnes to the White House to ask him to lend his legislative expertise in shaping the laws and executive orders that would mobilize the government and economy for total war. After months of unofficially assisting the chief executive, Byrnes resigned from the Supreme Court on October 5, 1942 to become director of the Office of Economic Stabilization. FDR created the agency for Byrnes (pictured), who led the task of arbitrating the near constant government infighting over program jurisdiction and the distribution of resources between civilian and military production.

declaration of war in December 1941, it is not at all surprising that Roosevelt came calling on the sitting Justice. The impending war would stress the capacity of presidential government, just as it had for previous executives. And, just as he had been at the vanguard of Court reform, so Byrnes had been essential to modernizing the presidential office. Indeed, few knew the inner mechanics of modern administration better, because few had such a hand in crafting them. Administrative reform—embodied by the 1937 executive reorganization bill—was, as Roosevelt put it, at the “heart” of the New Deal’s constitutional re-founding. Enacted only after a bitter two-year struggle in Congress, the 1939 Executive Reorganization Act created the Executive Office of the President, which included the newly formed White House Office (the West Wing) and a strengthened and refurbished Bureau of the Budget. The administrative reform law also strengthened the Chief Executive’s control over what was becoming a maze of

departments and agencies. Transforming what had been a modest office into an institution, administrative reform gave the President the power and support staff to truly become the Constitution’s national office, an office capable of fulfilling the promise of the New Deal to provide security at home and abroad.

Byrnes helped to imagine and reify Roosevelt’s vision of an executive-centered administrative state that would be accountable to, but not dominated by, Congress. Ever sensitive to the “conservative” aspect of the New Deal revolution, he drafted a lengthy history of administrative organization that contributed to Roosevelt’s argument that an energetic and independent presidency would renew and enlarge rather than destroy the American Constitutional tradition. In spirit, if not in name, he tapped into Alexander Hamilton’s claim that Presidents should pursue “extensive and arduous enterprises for the public benefit.”<sup>26</sup>

The Hamiltonian executive forged by the Byrnes-FDR partnership was firmly established as an essential feature of American constitutional government during World War II. Franklin Roosevelt called Byrnes to the White House two days after the Japanese attack on Pearl Harbor, hoping the Associate Justice would give him the benefit of his legislative expertise in shaping the laws and executive orders that would mobilize the government and economy for total war. Byrnes had just written his first Court opinion, but after the White House called on him to assist in the war effort, he devoted every available minute to the “extracurricular activities” of his justiceship, as he called them. The relationship between the President and the Justice marked the sort of rare partnership that James Madison, at the time of the writing of the Constitution, hoped would become a regular feature of American constitutional government. Byrnes not only had the constitutional acumen from years of service in the U.S. Congress, but now as an Associate Justice, he was particularly well-suited to advise the administration on the constitutionality of proposed administrative actions. Roosevelt’s Attorney General, Francis Biddle, was in constant communication with Byrnes throughout December 1941 and the following January. Their task was to weed out all “serious interferences with our war effort” and to strengthen the executive’s control of the federal apparatus. Indeed, Roosevelt insisted that all persons proposing new executive powers or the reorganization of different departments had first to “talk to Jimmy Byrnes and Francis Biddle about it.”<sup>27</sup> Roosevelt even gave Justice Byrnes final approval on the wording, legal rationale, and message to Congress explaining an executive order on wage freezes. But most important to the administration was Byrnes’ active involvement in getting the set of War Powers Acts through the Congress. Here Justice Byrnes responded just as Senator Byrnes

would have: telephoning Senators and House leaders, whipping votes, and taking pleasure that the bills “passed Congress in record time.”<sup>28</sup>

After months of unofficially assisting the Chief Executive, Byrnes resigned from the Supreme Court on October 5, 1942, writing each of his “dear Brethren” that “only a sense of duty impelled me to resign from the Court.”<sup>29</sup> Using the power granted by the 1939 Executive Reorganization Act, Roosevelt created a new agency designed for and by Justice Byrnes: the Office of Economic Stabilization. As director of this agency, Byrnes assumed the task of arbitrating the near constant government infighting over program jurisdiction and the distribution of resources between civilian and military production, all of which threatened to hamstring the administration’s wartime efforts. While Roosevelt was dedicated to the art of diplomacy in his dealings with Churchill and Stalin, and the art of war in liberating North Africa, and then Europe, he needed the impartial leadership only a former Justice could provide. It was more than a courtesy owed to a former member of the Supreme Court that the memoranda that poured into Byrnes’ small White House office always were addressed to the “Justice.” As Roosevelt put it to Byrnes, “In these jurisdictional disputes, I want you to act as a judge and I will let it be known that your decision is my decision, and that there is no appeal. For all practical purposes you will be assistant President.”<sup>30</sup>

As his title foretold, Byrnes commanded an extraordinary amount of power to oversee the nation’s economy. The *New York Times* labeled him “Our No. 1 Stabilizer,” while the liberal newspaper, *PM*, celebrated this Southerner as “America’s No. 1 Inflation-Stopper.” “He simply went to work,” the papers reported, “He did not make a radio speech or pose for pictures”; “No one has taken a job in the war machine with less

fanfare.”<sup>31</sup> Byrnes’ willingness to operate behind the scenes, his attention to detail, and his mastery of both administrative and parliamentary procedure helped the federal government stabilize the nation’s economy.

Although Roosevelt had delegated prodigious authority to Byrnes, the assistant president was in constant communication with the President. Roosevelt was especially dependent on the success of the controversial war-time production policy that Byrnes implemented—the President’s “Hold the Line” order. As the name suggests, during the war the overarching mission of every federal agency was to prevent price increases on the home front. This meant that wages would hold constant, even if defense industries were ordered to work a forty-eight-hour week or if unions had negotiated annual increases; rationing would continue to prevent the hoarding instincts of a generation who lived through the Depression; and prices for crops would be set by the government, even if market demand allowed farmers to charge more.<sup>32</sup>

The greatest challenge in enforcing Roosevelt’s Hold the Line Order—the most troublesome task in negotiating the tension between Dr. New Deal and Dr. Win the War—was the coal miner strikes of 1943 and 1944. Led by the powerful and controversial head of the United Mine Workers, John L. Lewis, the strikes threatened to upend the President’s war efforts and Byrnes’ economic policies.<sup>33</sup> By the end of April 1943, Byrnes feared that the United States might not have enough coal to continue to fight a world war. At his urging, President Roosevelt issued an executive order on May 1, followed the next evening by a powerful fireside chat, ordering the Interior Department “to take possession and operate the coal mines for the United States Government” and to “call upon all miners who may have abandoned their work to return immediately to the mines and work for their Government.”<sup>34</sup>

A compromise agreement was eventually secured, but official and unofficial

strikes, including four general walkouts, continued, at times involving over a half million coal workers. Consequently, steel output dropped and unrest over wage demands spread to rubber and engineering plants. The government’s battle with the United Mine Workers and federal control of many mines persisted well into 1944. During this long struggle, Roosevelt relied on Byrnes not only for his efforts to control organized labor—a nettlesome but valued political ally—but also to deal with the mine owners, who deeply resented the government’s operation of their property. Caught in the middle of this contretemps, Byrnes began to fear that his principal role in enforcing wage and price controls would hurt Roosevelt’s political standing, especially with labor. It did not help that he hailed from the South, which was at the forefront of opposition to an emerging industrial labor movement. As a supporter of the New Deal, Byrnes was relatively sympathetic to workers’ rights. He had voted for the Wagner Act and, while on the Court, had written an opinion that circumscribed the scope of the Anti-Racketeering Act of 1934, a key initiative in the government’s efforts to prevent strong-arm union tactics.<sup>35</sup> But his long-standing opposition to sit-down strikes, which were so central to labor’s triumphs in the late 1930s, and the leading role he played in enforcing FDR’s “Hold the Line” order placed Byrnes in a vulnerable position.

A sign of how important the assistant president was to Roosevelt is that the President not only kept Byrnes in charge of war mobilization, but he also increasingly sought to draw on his valued partner’s vast experience in foreign affairs. With the support of Cabinet members like Harry Hopkins and the Attorney General, Byrnes sketched out a new role as Director of War Mobilization, a position he officially assumed on May 27, 1943. It is hard to imagine that Byrnes’ charge in serving the President could expand, but as Director of



On May 27, 1943, FDR appointed Byrnes Director of War Mobilization, a newly created position in which he would be at once responsible for controlling wartime wages and prices while simultaneously managing the nation's defense industries. On behalf of the President, he oversaw the addition of \$20 billion worth of industrial investments to speed up production; the manufacture of nearly \$64 billion worth of armaments; the additional employment of 18 million persons in war industries; and the exportation of \$24 billion worth of goods to America's allies.

War Mobilization, he enjoyed a realm of discretion unavailable to him when he was brokering disputes between different department heads and competing economic interests. Byrnes was now at once responsible for controlling wartime wages and prices while simultaneously managing the nation's defense industries. On behalf of the President, he oversaw the addition of \$20 billion worth of industrial investments to speed up production; the manufacture of nearly \$64 billion worth of armaments; the additional employment of eighteen million persons in war industries; and the exportation of \$24 billion worth of goods to America's allies.<sup>36</sup>

Indeed, with Roosevelt increasingly abroad in late 1943 and 1944, Byrnes in effect became the Czar of the wartime economy. Significantly, as an extra precaution, the President before traveling out of the country left Byrnes with "an interesting form of blank check." These were official papers, signed by the President and locked in Byrnes' safe, on which executive orders might be issued in case of emergency. If such a grave situation arose, Byrnes, after consultation with Roosevelt by cable, was to unlock the safe and fill out the executive order, calling for whatever actions he thought necessary.<sup>37</sup>

Byrnes' lead role in mobilizing the economy and the arsenal of democracy was a dramatic success. However, this was not the first time in modern history that the American economy had successfully demonstrated itself on the battlefield. Both Byrnes and Roosevelt experienced the economic and social convulsions at the end of the First World War and they understood the challenge of restoring some separation between state and society, a barrier breached by the pressures of total war. It was with the particularly difficult problems of de-mobilization, or reconversion, where the assistance of Byrnes made the greatest difference. Failure to maintain high levels of employment as millions of men came back to work, failure to keep prices stable when the Army and Navy stopped buying goods, and the "economic defeatism" that would no doubt affect many returning veterans adjust to the uncertain conditions of peace were challenges that, as Byrnes put it, created a "crossroads" to "nobly gain or meanly lose the hope of the world."<sup>38</sup>

With hindsight, we know how this story ends: nearly twenty years of unparalleled prosperity and the crystallization of New Deal liberalism. But it was a fraught transition that preoccupied the President and his assistant president for the remainder of Roosevelt's life. The last memorandum

Byrnes sent to Roosevelt, six days before the President's death, concerned the need to avoid duplication in the federal government's planning obligations, a redundancy Byrnes proposed to solve by making an example of himself. Given the President's desire to bestow planning authority on the Bureau of the Budget after the war, Byrnes declared his intention to resign from the administration.<sup>39</sup> In returning to a peacetime footing, in restoring a degree of separation between government and business, these two strange bedfellows confirmed that a strong presidency, one that could provide for a greater sense security at home and abroad, need not become a dictatorship.

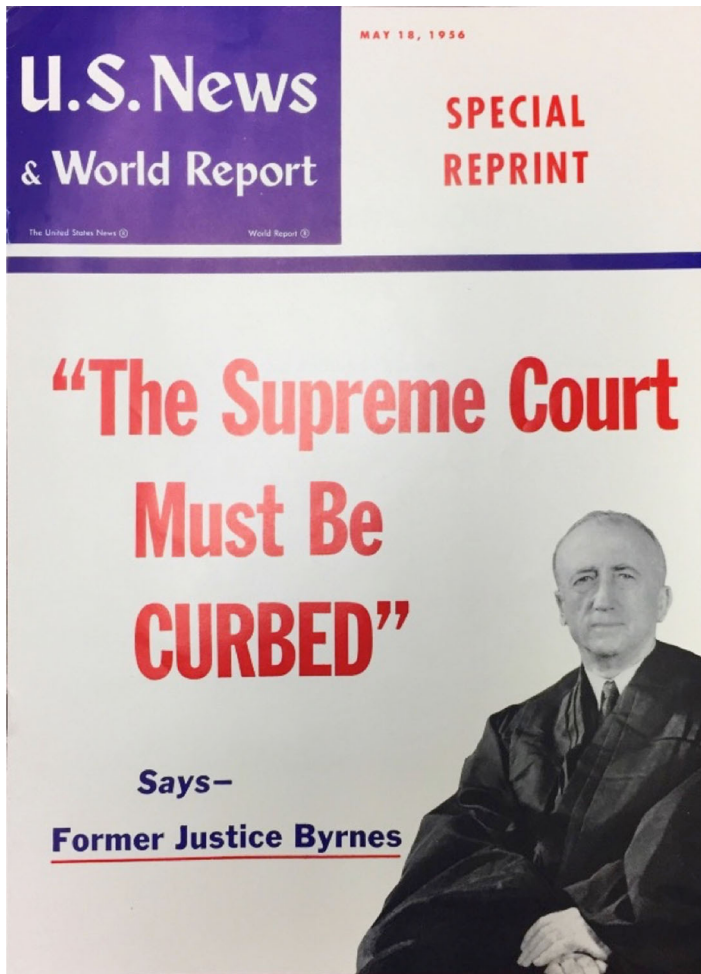
### **Conclusion: Byrnes, Roosevelt, and Partisanship in Modern America**

The Byrnes-Roosevelt partnership revealed both the great strength of the New Deal and a powerful fault line that eventually fractured it. This odd coupling of two men was so essential because Roosevelt's constitutional revolution might never have gotten off the ground without an ally from the South, which was ground zero of the opposition to Roosevelt's grand experiment in forging a presidency-centered democracy. Byrnes' partnership with Roosevelt did not prevent Southern resistance to his most ambitious plans. But support by the highly regarded Byrnes for the constitutional transformation Roosevelt heralded—in particular his support of the Constitutional Revolution of 1937 and the Executive Reorganization Act—went far to ensure that the New Deal would not, like Lincoln's Republican Party, be confined to the North. Rather, the New Deal was born and became part of America's living Constitution with, for a time, strong multi-regional support—the embodiment of a newly imagined national community.

The national scope of the New Deal was especially important with the approach of

war. Southern Democrats, with deep-rooted ties to Great Britain and great faith in an assistant President who was a South Carolinian, gave Roosevelt steadfast support as he maneuvered an isolationist country toward support of England in its desperate hour, participation in World War II, and plans to maintain a strong presence in world affairs after the struggle with fascism in Europe and imperialism in Asia ended. Just as the North and West invested their faith in Freedom from Want, so the South became a bedrock of Freedom from Fear. Would a partnership between Roosevelt and Felix Frankfurter—clearly a competent and trusted ally to the New Deal—have accomplished this delicate joining of the two pillars of the New Deal Charter? This is a counterfactual worth pondering, one that offers insights into the indispensable alliance between the patrician and, as the *Saturday Evening Post* described Byrnes, the “sly and able” politician from the heart of the Confederacy.<sup>40</sup>

Of course, the “Negro Question”—as New Dealers described the obstinate practice of racial segregation—was the serpent in the New Deal Garden of Eden. Knowing this, Roosevelt took pains to avoid a direct confrontation with the race issue, even maintaining a deafening silence as an anti-lynching bill, which had been before Congress since the beginning of his presidency, was killed by a Senate filibuster in 1938. The Fair Employment Practices Committee he formed was a modest measure—one that ultimately disappointed civil rights activists, such as A. Philip Randolph, who pressured Roosevelt to create the Committee as a sign that the New Deal really could advance a greater sense of security. In truth, FDR shared Byrnes' position that Jim Crow was a problem “to be solved by the White people of the South.”<sup>41</sup> Roosevelt's so-called 1938 purge campaign, which saw the President interfere in several primary campaigns with the objective of defeating Southern and border state conservative Democrats, especially those



Secretary of State Byrnes left the Truman administration in 1947 and returned to South Carolina to become governor. He became a leader of the massive Southern resistance movement to civil rights reform and criticized the Supreme Court's *Brown v. Board* decision in an interview with *U.S. News and World Report* in 1956. He also became a leading architect of the Southern Strategy the Nixon Administration pursued to realign partisan politics below the Mason-Dixon Line.

who voted against the court-packing and executive reorganization initiatives, showed all too clearly that there would be strong resistance below the Mason-Dixon Line to a national effort to breach the color line. Although he focused intently on economic issues in that campaign, Roosevelt's effort to purge Byrnes' South Carolina colleague, "Cotton Ed" Smith, the sort of race-baiting politician whom Byrnes scorned, brought, as two journalists reported, "racial hatred to a peak which had not been reached since the palmiest days of Pitchfork Ben Tillman."<sup>42</sup>

Seeing how intransigent was the tension between his Northern and Southern flanks, Roosevelt accepted the civil rights leaders' veto of his desire to place the assistant president on the ticket with him in 1944, turning instead to the border-state moderate Harry Truman. Deeply embittered by Roosevelt's spurning of his candidacy, made worse when Truman so quickly ascended to the White House, Byrnes had a troubled relationship with the new President. He served Truman well as Secretary of State for two years, playing a key role in negotiating



difficult deals with an expansionist Soviet Union in the lead up to the Cold War. But when Truman, pressured by a rising civil rights movement, made the first important assaults on the ramparts of Jim Crow, most notably in integrating the armed services and supporting an *amicus curiae* brief in the Supreme Court in favor of the NAACP's suit against forced segregation in education, Byrnes cut his ties with the President.

It was this extension of the New Deal to civil rights, above all, that aroused Byrnes' desire to return to South Carolina, a hotbed of the fierce resistance to civil rights reform. Four years into his term as governor, the Supreme Court, in the landmark case of *Brown v. Board of Education*, ordered the end to the egregious "separate but equal" doctrine that sustained white supremacy in the South. Like many Southerners, Byrnes lambasted the decision.<sup>43</sup> But he drew on his experience as a former Justice of that Court, to showcase its supposed folly. Sounding a message that resembled more the idea of a "concurrent majority" that his home state's fabled Senator John C. Calhoun prescribed than FDR's New Nationalism, Byrnes urged the South to adhere to its states' rights doctrine and to abandon the Democratic Party in presidential elections. When Eisenhower won in 1952, Byrnes declared it the South's new "Independence Day"—freed from the trappings of a wayward, progressive Democratic Party.<sup>44</sup> Proudly proclaiming himself an "Independent Democrat," Byrnes helped to groom a generation of would-be segregationists and abandoned the New Deal coalition he had long nurtured.<sup>45</sup>

Byrnes' final political act was to help Richard Nixon and his political allies devise a Southern strategy that encouraged the growth of the Republican Party in the South. With the erosion of the Democrats' lock on Southern politics, the party's national standing faltered and the extent of the New Deal revolution waned. Officially spurning the Democrats in 1960, Byrnes became a

senior Republican leader who in partnership with Nixon achieved "in only eight years what Republican leaders since Rutherford B. Hayes in 1876 had desired: the retrenchment of the Republican Party from a position of racial issues more liberal than that of the Democrats, and the rebuilding of the South as a solid GOP electoral base."<sup>46</sup>

The fulfillment of Byrnes' ambition to end the Democrat's Southern monopoly ultimately led to the dramatic political realignment that pulled the modern executive into the vortex of a fierce partisan struggle for the services of the executive-centered national state—a state that he, as Senator, Justice, and assistant president, had played such a pivotal part in creating. Yet amid this struggle, which has left the North and South as estranged as these regions have been since the Civil War, the institution of the modern presidency remains at the center of the current political storm. All elected Republican Presidents since the cosmic crack-up of the New Deal state—Nixon, Ronald Reagan, the Bushes, and Donald Trump—have embraced the modern presidency, even as they have sought to redeploy it as a force for conservative causes: wars against communism and terrorism, law and order, and the protection of "family values." This is the ironic denouement of the highly consequential relationship between Franklin Roosevelt and Jimmy Byrnes. This is the political conundrum they left us to solve.

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## ENDNOTES

<sup>1</sup> Thomas Johnson served nearly a year before being officially sworn in. But at 436 days his tenure is still shorter than Byrnes' by several days.

<sup>2</sup> Franklin Roosevelt, Annual Message to Congress on the State of the Union, January 6, 1941, <http://www.presidency.ucsb.edu/ws/?pid=16092>.

<sup>3</sup> Thomas L. Stokes, *Chip Off My Shoulder* (Princeton, NJ: Princeton University Press, 1940), p. 503.

<sup>4</sup> James F. Byrnes, *All in One Lifetime* (London, UK: Museum Press Limited, 1958.), pp. 66-69.

<sup>5</sup> *Ibid.*, p. 74.

<sup>6</sup> Sidney M. Milkis and Marc Landy, "The Presidency in History: Leading from the Eye of the Storm," in Michael Nelson, ed. *The Presidency and the Political System*, Eleventh edition (Washington, D.C.: CQ Press, 2018), 114: 93-130.

<sup>7</sup> Byrnes, *All in One Lifetime*, p. 135. In 1935, the Supreme Court moved from its quarters in the Senate to "the veritable palace of white marble" on First Street just across from the Capital Plaza. As Byrnes recounted, the shift from his Senate quarters, although commodious, to the Supreme Court Building marked a great change. The new judicial quarters "reflected a dignified strength and even aloofness far removed from the organized confusion of the Hill." As we shall see below, Byrnes was greatly honored by his appointment to the Court, but disconcerted by its insulation from the rest of government and public opinion.

<sup>8</sup> *Humphrey's Executor v. United States*, 295 U.S. 602 (1935).

<sup>9</sup> *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935).

<sup>10</sup> *Congressional Record*, 75th Congress, Second Session, 1: 934-937.

<sup>11</sup> Note is preserved and contained in the *James F. Byrnes Papers*, Series 2, Box 44, Folder 9.

<sup>12</sup> "Reorganization of the Federal Judiciary: Radio Address of Hon. James F. Byrnes." February 17, 1937. Printed in *the Appendix to the Congressional Record*, 75<sup>th</sup> Congress, Session 1. February 19, 1937, pp. 276-278.

<sup>13</sup> Quoted in David Robertson, *Sly and Able: A Political Biography of James F. Byrnes* (New York: Norton, 1994), 260.

<sup>14</sup> Cited in: James T. Patterson. 1967. *Congressional Conservatism and the New Deal: The Growth of the Conservative Coalition in Congress, 1933-1939* (Lexington, KY: University of Kentucky Press), p. 120.

<sup>15</sup> Barry Karl, "Constitution and Central Planning: The Third New Deal Revisited," *The Supreme Court Review*. Eds., Philip B. Kurland, Gerhard Casper, and Daniel Hutchinson (Chicago and London: University of Chicago Press, 1989), 197: 163-201.

<sup>16</sup> James F. Byrnes, Senate Campaign Speech in Charleston, South Carolina, Radio. In *James F. Byrnes*

*Papers*, Series 9, Box 2, Folder 18. "Likker" is the colloquial spelling of "liquor," and refers to anti-Catholic prohibition ordinances.

<sup>17</sup> *Edwards v. California*, 314 U.S. 160 (1941).

<sup>18</sup> § 2615 of the Welfare and Institutions Code of California, St. 1937, p. 1406.

<sup>19</sup> 314 U. S. 175.

<sup>20</sup> *Ward v. Texas*, 316 U.S. 547, 555 (1942).

<sup>21</sup> Robertson, *Sly and Able*, p. 302. The case was *Hill v. Texas*, 316 U.S. 400 (1942).

<sup>22</sup> Byrnes, *All in One Lifetime*, p. 136.

<sup>23</sup> James F. Byrnes to Clint T. Graydon. July 25, 1941. In *James F. Byrnes Papers*, Series 3, Box 3, Folder 5.

<sup>24</sup> Byrnes, *All in One Lifetime*, p. 140.

<sup>25</sup> Robertson, *Sly and Able*, p. 307.

<sup>26</sup> Alexander Hamilton. 1788. "Federalist 70: The Executive Department Further Considered, March 18." Available through the Avalon Project: [http://avalon.law.yale.edu/18th\\_century/fed70.asp](http://avalon.law.yale.edu/18th_century/fed70.asp).

<sup>27</sup> Francis Biddle to James F. Byrnes. December 16, 1941. In *James F. Byrnes Papers*, Series 3, Box 2, Folder 12.

<sup>28</sup> James F. Byrnes to Alben Barkley. January 10, 1942; Oscar Cox to James F. Byrnes. January 14, 1942; Oscar Cox to James F. Byrnes. January 20, 1942. In *James F. Byrnes Papers*, Series 3, Box 6, Folder 16; Byrnes, *All in One Lifetime*, p. 149.

<sup>29</sup> James F. Byrnes to Members of the Supreme Court. October 5, 1942. In *James F. Byrnes Papers*, Series 3, Box 7, Folder 3.

<sup>30</sup> Byrnes, *All in One Lifetime*, p. 155.

<sup>31</sup> Delbert Clark. "Our No. 1 Stabilizer," October 18, 1942, *The New York Times*, Oct. 18, 1942, p. SM5; the *PM* article is one of few clippings saved by Byrnes: Henry Lieberman. "America's No. 1 Inflation Stopper," *PM*, Oct. 23, 1942, in *James F. Byrnes Papers*, Series 2, Box 1, Oversize File.

<sup>32</sup> "The War Against Inflation." February 9, 1943. In *James F. Byrnes Papers*, Series 9, Box 5, Folder 18; "Hold the Line Order." April 1943. In *James F. Byrnes Papers*, Series 9, Box 5, Folder 20; Walter Brown to James F. Byrnes. April 16, 1943. In *James F. Byrnes Papers*, Series 4, Box 10, Folder 10.

<sup>33</sup> James F. Byrnes to Franklin D. Roosevelt. May 14, 1943. In *James F. Byrnes Papers*, Series 4, Box 1, Folder 4.

<sup>34</sup> Executive Order 9340 on Seizure of Coal Mines, May 1, 1943.

<sup>35</sup> *United States v. Teamsters Local 807*, 315 U.S. 521 (1942).

<sup>36</sup> *Problems of Mobilization and Reconversion: First Report to the President, the Senate, and the House of Representatives*, January 1, 1944. Office of War Mobilization. In *Walter Brown Papers*, Clemson University Archives, Box 9, Folder 24.

<sup>37</sup> Byrnes documents in his memoirs how Roosevelt left him blank checks and the practice is corroborated in his personal papers, **All in One Lifetime**, p. 239.

<sup>38</sup> "Problems of Reconversion." September 27, 1944. In *James F. Byrnes Papers*, Series 9, Box 6, Folder 13.

<sup>39</sup> James F. Byrnes to Franklin D. Roosevelt. April 6, 1945. In *James F. Byrnes Papers*, Series 4, Box 12, Folder 2.

<sup>40</sup> Joseph Alsop and Robert Kintner, "Sly and Able: The Real Leader of the Senate, Jimmy Byrnes." *Saturday Evening Post*, July 20, 1940.

<sup>41</sup> *Congressional Record*, Appendix. 76<sup>th</sup> Congress, Session 1. January 4, 1939, p. 16.

<sup>42</sup> Allan Michie and Frank Ryhlick, **Dixie Demagogues** (New York, NY: The Vanguard Press, 1939) p. 266.

<sup>43</sup> James F. Byrnes. "The Supreme Court Must Be Curbed." May 18, 1956. *U.S. News & World Report*, *Special Reprint*.

<sup>44</sup> "Victory for Eisenhower." November 5, 1952. In *James F. Byrnes Papers*, Series 9, Box 13, Folder 8.

<sup>45</sup> Robertson, **Sly and Able**, Chapter 19.

<sup>46</sup> *Ibid.*, p. 540.