Twenty fateful years have elapsed since Professor Frankfurter became Mr. Justice Frankfurter on January 30, 1939. Never in the history of this nation has the Supreme Court played a more vital role than during this period. And no member of the Court—certainly during this time—has brought to the solution of the difficult problems which have confronted it a greater intelligence or a broader intellect than has the Justice. Because the Court, throughout its history, has been so largely staffed by politicians and practitioners of limited vision and understanding, it has been of immeasurable importance that the qualities of wisdom and learning be well represented on it. For even if they cannot always command a majority, they can often help to temper decisions which might otherwise rest solely on considerations of expediency or power. And it has fallen largely to the occupant of the chair now filled by Mr. Justice Frankfurter to supply these elusive values: among his predecessors in title, so to speak, were Joseph Story, Benjamin R. Curtis, Horace Gray, Oliver Wendell Holmes, Jr., and Benjamin N. Cardozo.

When Mr. Justice Cardozo’s tenure was prematurely terminated by his death, long before he had full opportunity to make felt on the Court the exquisite talents which were his, Mr. Justice Stone and Solicitor General Robert H. Jackson told President Roosevelt that Frankfurter, because of his understanding of the function of the Supreme Court as an institution of government as well as by

* Articles on Mr. Justice Frankfurter by Professors Paul A. Freund and A. M. Sacks of the Harvard Law School will appear in a subsequent issue.

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reason of his talents, was the appropriate successor. When Roosevelt appointed Frankfurter, he well understood, as his cousin Theodore had not when he appointed Holmes, that he was putting an independent on the Court, that for Frankfurter there could be no loyalties greater than those owed to the Court itself. And it is this independence, in the tradition of Holmes and Brandeis and Cardozo, which the Justice has demonstrated ever since. He has never been either a leader or a member of any judicial faction, dominant or subordinate. And though historians will be able to measure the imprint on constitutional doctrine which his opinions will have made, none except those who have served with the Court will be able to know or understand the influence he has wielded in assuring that the Court framed the right question for resolution, an aspect of constitutional jurisprudence not less important than framing the right answer.

To know the Justice is to feel strongly about him. His admirers are legion, but his detractors are also numerous. This might be expected of one so outspoken as he. Popularity has never been a goal to which he has aspired. He has never suffered fools gladly, if at all. He has admired intellectual capacity only when it is matched by intellectual integrity. Neither as a teacher nor as a jurist has he been a “man of the people.” As a Justice, he has had no object other than the able performance of his duties.

A twentieth anniversary for a Justice is not an extraordinary event in the history of the Supreme Court. Twenty-five others have passed that milestone in their judicial careers. But perhaps it is noteworthy that among these were Marshall and Johnson and Story and Taney and Holmes and Brandeis and Stone. The occasion does, of course, call for felicitations from the world of legal education both to the Justice and the institution which he has served so well. And with these must go the earnest wish that the service which Mr. Justice Frankfurter has so well rendered for the last twenty years will continue for many years into the future.

JUSTICE DOUGLAS: AN ANNIVERSARY FRAGMENT FOR A FRIEND

FRED RODELL†

SUPREME COURT justices, by and large, are a pretty dull and anonymous lot to the average man. An occasional Holmes may become a legend on a Civil War record, a Back Bay claque, longevity, and flowering moustachios. An occasional Hughes may become familiar by running for the presidency and sporting a full-rigged beard. But the nine men in their marble temple, even when they are Dred Scotting or anti-New Dealing or desegregating, usually make the news en masse; it is not they but the Court that has done this wonderful

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