

White House Social Call (1939)

*John Q. Barrett**

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On Monday, October 2, 1939, the Supreme Court of the United States began its new term.

The Justices—Chief Justice Charles Evans Hughes and Associate Justices James C. McReynolds, Harlan Fiske Stone, Owen J. Roberts, Hugo L. Black, Stanley Reed, Felix Frankfurter and William O. Douglas—took the bench at noon. Justice Pierce Butler, hospitalized with a bladder ailment, was absent.

The Court's session lasted only twelve minutes. It admitted a number of attorneys to practice before it. The Solicitor General of the United States, Robert H. Jackson, moved the admissions of two of these attorneys, new Assistant Attorneys General Samuel O. Clark, Jr. (heading the Tax Division) and Francis M. Shea (heading the Claims Division). The second was personally meaningful to both Jackson and Shea—they were good friends from western New York, and Jackson had recruited Shea to the Department of Justice from his previous position as dean of The University of Buffalo School of Law.

During its session, the Court received a report on one substantive matter. Charles Warren, the Court-appointed special master handling a Texas-New Mexico-Colorado boundary dispute, told the Justices that he had nothing left to do in the matter because the states had agreed to the settlement that he recommended two years earlier. After hearing Warren's report, the Court adjourned until the following Monday.¹

That brief session did not mark the end of the Supreme Court's day. Late that afternoon, seven justices—Chief Justice Hughes and Justices Stone, Roberts, Black, Reed, Frankfurter and Douglas—went to

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¹ See generally JOURNAL OF THE COURT, Oct. 2, 1939, at 1-2.

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the White House. They were accompanied by Attorney General Frank Murphy and Solicitor General Jackson. Each wore formal attire. The occasion was a visit, and tea, with President Franklin D. Roosevelt. The ailing Justice Butler and the Roosevelt-hating Justice McReynolds did not attend.² For all who did, the occasion was relaxed and enjoyable.



October 2, 1939: L-R, Solicitor General Jackson, Justice Frankfurter, Justice Black, Justice Stone, Chief Justice Hughes, Justice Roberts, Justice Reed, Justice Douglas and Attorney General Murphy, standing outside the White House.

This 1939 White House visit marked the first time in four years that the Supreme Court made its then-traditional call to pay respects to the president at the start of the Court term.³ In 1936, 1937 and 1938, FDR had been absent from Washington on the first Monday in October. 1937 also

² Cf. Associated Press report, *Justices Call on Roosevelt, Opening Supreme Court Term*, WASH. POST, Oct. 3, 1939, at 2 (reporting Justice McReynolds's non-attendance at the White House event, and that he, age 77, "frequently absents himself from functions where his presence is not mandatory").

³ See *High Court Opens; Visits President*, N.Y. TIMES, Oct. 8, 1939, at 20.

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had been the year of his Court-packing proposal, starting that February and continuing into the summer. Perhaps the resulting bruises, on both president and Court, were still there in Fall 1937, and even a year later.

The tradition of the President inviting the Justices to visit him in this fashion lapsed many years ago. On this first Monday, when the Supreme Court begins its new term and all wish it well, that lapse is something to remember and, in my view, to regret.