

April 25, 1935

[Justice Holmes]

FDR Speech File

0776

April 25, 1935

CAUTION -- HOLD FOR RELEASE

CONFIDENTIAL: To be held in STRICT CONFIDENCE and no portion, synopsis, or intimation to be published or given out until its READING has been begun in either House of the Congress. Extreme care must therefore be exercised to avoid premature publication.

STEPHEN EARLY

Assistant Secretary to the President

TO THE CONGRESS OF THE UNITED STATES:

The Congress is aware that Mr. Justice Holmes bequeathed his residuary estate to the Government of his country. It is the gift of one who in war and in peace, devoted his life to its service. Clearly he thereby sought, with a generous emphasis, to mark the full measure of his faith in those principles of freedom and justice which the country was founded to preserve.

I shall, I think, be interpreting aright the feeling of the country and the wishes of the Congress if I suggest that this striking gift be devoted to some purpose worthy of the great man who gave it. Mr. Justice Holmes was fond of saying that we live by symbols. Our fellow-citizens of this generation would, I am confident, desire the Congress to translate this gift into a form that may serve as a permanent impulse for the maintenance of the deepest tradition that Mr. Justice Holmes embodied.

That tradition was a faith in the creative possibilities of the law. For him law was an instrument of just relations between man and man. With an insight into its history that no American scholar has surpassed; with a capacity to mould ancient principles to present needs, unique in range and remarkable in prophetic power; with a grasp of its significance as the basis upon which the purposes of men are shaped, Mr. Justice Holmes sought to make the jurisprudence of the United States fulfill the great ends our nation was established to accomplish. Our generation will not soon forget, as the learned the world over will long remember, his extraordinary achievements as judge, as historian, and as philosopher of the law.

The Congress will, I am sure, agree that it is fitting to utilize this opportunity to remind those who will come after us of our sense of the eminence of Mr. Justice Holmes. In so doing we do not merely commemorate the distinction of an American to whom the whole world has paid tribute. We also mark for posterity our pride in his faith in American democracy, his confidence in the power of our legal institutions to realize, when rightly used, the highest American ideals. Posterity which learns the significance of a life such as that of Oliver Wendell Holmes, Jr. draws inspiration from its understanding.

I therefore commend to the Congress that the bequest of Mr. Justice Holmes be not covered into the general fund of the Treasury but that it be set aside in a special fund at this time, and at a later date be devoted to purposes which will effectively promote the contributions which law can make to the national welfare. Once it is decided that the Holmes bequest be set apart for special use the precise object may await ample deliberation. A select committee of the Congress, acting in collaboration with a committee of the Supreme Court of the United States, will doubtless evolve the wisest uses to which this noble bequest should be put.

FRANKLIN D. ROOSEVELT

572
The Congress is aware that Mr. Justice Holmes bequeathed his residuary estate to the Government of his country. It is the gift of one who in war and in peace, devoted his life to its service. Clearly he thereby sought, with a generous emphasis, to mark the full measure of his faith in those principles of freedom and justice which the country was founded to preserve.

I shall, I think, be interpreting aright the feeling of the country and the wishes of the Congress if I suggest that this striking gift be devoted to some purpose worthy of the great man who gave it. Mr. Justice Holmes was fond of saying that we live by symbols. Our fellow-citizens of this generation would, I am confident, desire the Congress to translate this gift into a form that may serve as a permanent impulse for the maintenance of the deepest tradition that Mr. Justice Holmes embodied.

That tradition was a faith in the creative ^{possibilities} ~~capabilities~~ of the law. For his law was an instrument of just relations between man and man. With an insight into its history that no American scholar has surpassed; with a capacity to mould ancient principles to present needs, unique in range and remarkable in prophetic power; with a grasp of its significance as the basis upon which the purposes of men are shaped, Mr. Justice Holmes ^{sought to make} ~~made~~ the jurisprudence of the United States ~~a means of~~ fulfill ~~the~~ the great ends our nation was established to accomplish. Our generation will not soon forget, as the learned the world over will long remember, his extraordinary achievements as judge, as historian, and as philosopher of the law.

The Congress will, I am sure, agree that it is fitting to utilize this opportunity to remind those who will come after us of our sense of the eminence of Mr. Justice Holmes. In so doing we do not merely commemorate the distinction of an American to whom the whole world has paid tribute. We also mark for posterity our pride in his faith in American democracy, his confidence in the power of our legal institutions to realize, when rightly used, the highest American ideals. Posterity which learns the significance of a life such as that of Oliver Wendell Holmes, Jr. draws inspiration from its understanding. ~~Its capacity to serve the traditions which it has inherited is thereby refreshed and invigorated.~~

but that it be set aside in a special fund at this time, and at a later date be
I therefore commend to the Congress that the bequest of Mr. Justice Holmes be ^{not carried into the general fund of the Treasury} devoted to purposes which will effectively promote the contributions which law can make

to the national welfare. ~~The Smithsonian Institution illustrates how permanently~~
~~fruitful such a bequest may become.~~ Once it is decided that the Holmes bequest be
 set apart for special use the precise object may await ample deliberation. A select
 committee of Congress, acting in collaboration with a committee of the Supreme Court
 of the United States, ^{will} doubtless evolve the wisest uses to which ^{this} noble bequest
~~of Mr. Justice Holmes~~ should be put.