

This Week IN WASHINGTON

Washington, Nov. 28 — The Washington prognosticators, who usually come closest to guessing right, picked Attorney-General Frank Murphy as the President's most likely choice for the Supreme Court as soon as the news came out that Associate Justice Pierce Butler had passed on.

The choice of Mr. Murphy seems logical for several reasons. For one thing, it is geographically right; Mr. Murphy hails from Michigan, which is in the same section of the nation as Justice Butler's home in Minnesota, as Washington looks at the political map. Then Mr. Murphy is a Roman Catholic and so was Justice Butler. Not that the question of religious beliefs has ever counted for much in picking Supreme Court nominees, but as the court is now constituted it contains one Jew and seven Protestants and not a single Catholic. Justice Butler was the only one of that faith to sit on the high bench after the late Chief Justice White died.

Senate Would Approve

The prophets pointed out that Mr. Murphy could hardly fail of confirmation by the Senate. He has achieved a high standing in general esteem since he came to Washington, and his attainments as a lawyer are unquestionable. Moreover his experience as an administrator in the Philippines and as Governor of Michigan have given him points of view on Far Eastern affairs, which may easily give rise to questions coming before the Supreme Court, as well as of the relations of the state to the Federal government. The most compelling reason, as the forecasters saw it, for the selection of Mr. Murphy, is that his political philosophy runs closely parallel to that of the President. He is definitely a Liberal, though he does not lean so far to the Left as to justify the appellation of Radical. He is definitely less radical than some of the other Justices, but much more on the radical side than some of the others.

A staunch upholder of the Bill of Rights in many public utterances, Mr. Murphy is held by some competent lawyers to be much more a strict constructionist of the Constitution in general than the public gives him credit for being. It is predicted that once on the Supreme Bench he would be found more often lined up with the actually Liberal Chief Justice Hughes than with either the extremely Conservative Justice McReynolds or the decidedly Leftish Justice Black.

THANK GOD, WE'RE AMERICANS!



Fifth Appointment
In any event, the death of Justice Butler gives the President his fifth chance to fill a vacancy on the Court with a man of his own choosing, which is what he was aiming at when he proposed his ill-fated Court Reorganization Bill, on which his own party split more definitely than on any other New Deal proposal.

A clear majority of the Court will bear the Democratic label, not to count Justice McReynolds, who was President Wilson's Attorney-General and politically is more akin to Vice-President Garner than to President Roosevelt. If party politics played any im-

portant part in influencing Supreme Court decisions, the three lone Republicans on the bench would be in a hopeless minority. But with a very few notable exceptions, justices of the Supreme Court have uniformly been chosen because of their high personal character and legal ability and it cannot be fairly said that the Court follows the election returns. Another reason which cynical commentators put forward as a sound one for Mr. Roosevelt's nomination of Attorney-General Murphy to the Court is that it would remove from the Presidential race a man who is credited with ambitions to live in the White House. The likelihood of Mr. Murphy's Presidential nomination, however, is considered remote.

So, too, is the likelihood that either he or any other justice will feel under the slightest obligation to take orders from the man who appointed them. They have been removed from all control by either the Executive or the Legislative branches of the Federal Government and have become the third major branch, with power

to check the actions of either of the others.

Functions of Court

It is their function, among other things, to decide whether an Act of Congress conforms to the Supreme Law of the Land, which is the Constitution, and their decision to the contrary instantly nullifies any such law without further procedure and without recourse or responsibility of its revival by Congress. And whenever the President oversteps the bounds of his authority, delegated to him by the Constitution or by statute, the Supreme Court's duty is to check him in his stride and make him retrace his steps. That was notably the case when President Roosevelt undertook to dismiss a Federal Trade Commissioner and the Court held that he could not do it.

Washington observers believe that Frank Murphy would measure up to that high standard, particularly as he is not merely a member of a religious sect which teaches the highest standards of personal honor and conduct, but is an especially active and avowed

practitioner of the code of his faith.

To sit on the Supreme Court of the United States is the unexpressed ambition of almost every young lawyer. It not only confers the highest honor and dignity that one of his profession can achieve, but it is a life job from which he cannot be removed except by impeachment by the House of Representatives and conviction by the Senate. And it carries a salary of \$25,000 a year as long as he lives.

Blame Cold Weather

Boogy—As soon as cold weather comes I have to stop playing billiards.

Woogy—Why?

Boogy—Every time three balls get together they remind me of my overcoat.

Latest Picture

Artist Scram—This is my latest picture: "Builders at Work." It is very realistic.

Visitor—But they aren't at work.
Artist Scram—I know. That's the realism.

Hit Collar Button

"Here's something queer," said the dentist, who had been drilling and drilling into a tooth. "You said this tooth had never been filled, but I find flakes of gold on the point of my drill."

"I knew it," moaned the patient, "you've struck my back collar button."

Stones are mentioned 293 times in the Bible and rocks 135 times. Palestine was, and still is, full of limestone rocks, large and small.

There were six times as many persons murdered in Chicago last year as were killed in airplanes in the whole United States.

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