

United States Court of Appeals  
For The District of Columbia Circuit

# Portrait Presentation Ceremony

J. SKELLY WRIGHT

October 25, 1985  
Ceremonial Courtroom  
United States Courthouse  
Washington, D.C.

THE HONORABLE SPOTTSWOOD W. ROBINSON, III, Presiding  
Chief Judge, United States Court of Appeals for the District of Columbia Circuit

THE HONORABLE WARREN E. BURGER  
Chief Justice of the United States

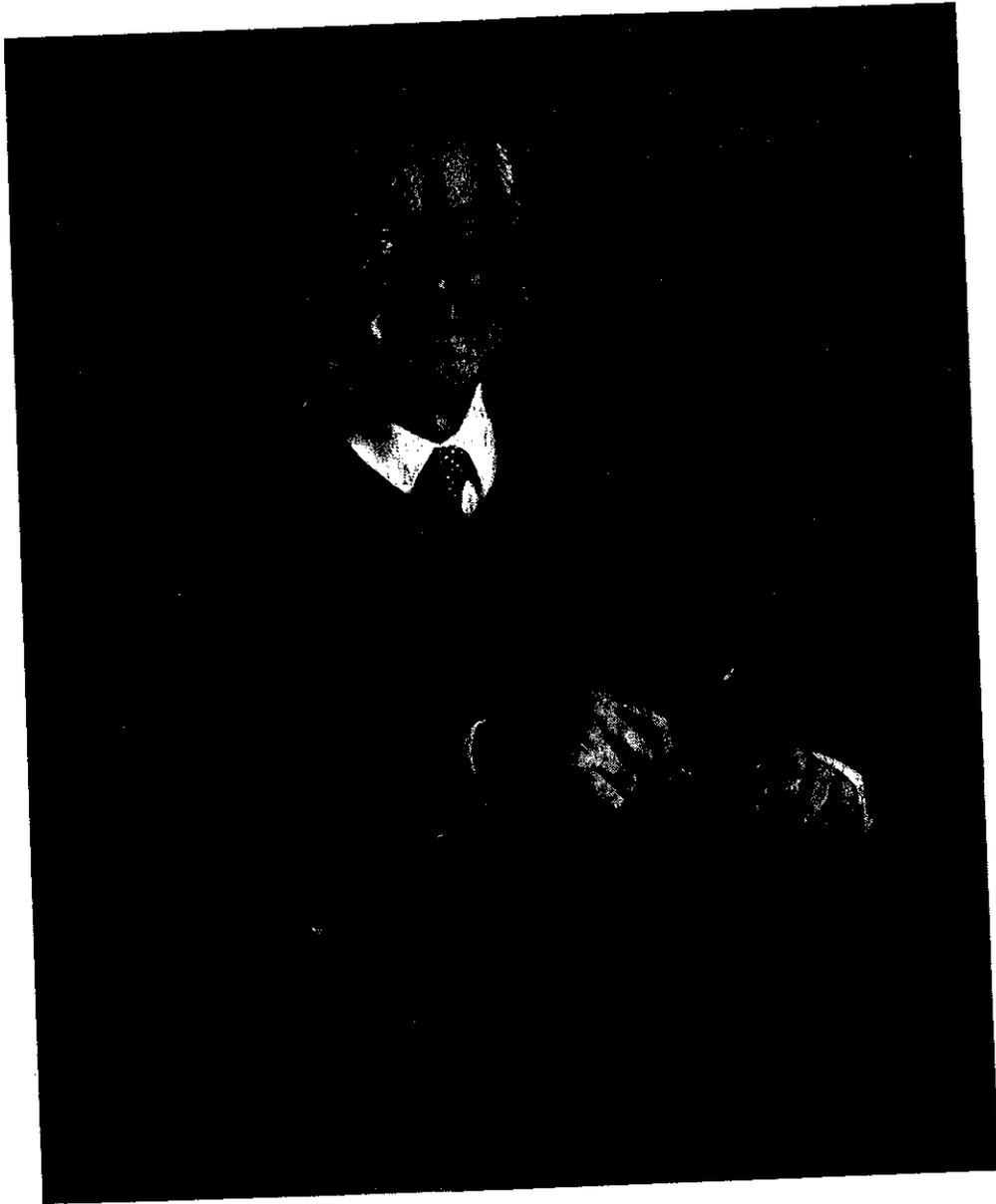
*Remarks*

THE HONORABLE WILLIAM J. BRENNAN, JR.  
Associate Justice of the United States Supreme Court

BILL MONROE  
NBC News Correspondent

THE HONORABLE ABRAHAM D. SOFAER  
Legal Adviser to the Department of State  
Former Law Clerk to Judge Wright

*Presentation of Judge Wright's Portrait*  
painted by  
Mr. Peter Stevens



HONORABLE J. SKELLY WRIGHT

# Proceedings

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**CHIEF JUDGE ROBINSON:** The Court is now convened in this special session for the presentation of the portrait of Judge J. Skelly Wright. We are privileged to have on the bench the Chief Justice of the United States, our Circuit Justice and a former member of this Court, and Justice Brennan, who, like the Chief Justice, is a longtime friend of Judge Wright. Their presence at this ceremony is a great honor, and a manifestation of the high esteem in which Judge Wright is held.

We extend a hearty welcome to the members of Judge Wright's family who are here: Mrs. Helen Wright, his wife; Mr. James S. Wright, Jr., his son, and Mrs. Wright; Mr. James E. Wright, Jr., his brother, and Mrs. Wright; Mr. James E. Wright, III, his nephew; and Mr. Stephen Wright, another nephew.

The importance of this occasion is further attested by the attendance of a large number of distinguished guests. Among them are: Mrs. Hugo L. Black, Mrs. William J. Brennan, Jr., Mrs. Harry A. Blackmun, Chief Judge Aubrey E. Robinson, Jr., of the United States District Court for the District of Columbia, and judges of that court, Judge William M. Fay, of the United States Tax Court, and Mrs. Fay; Chief Judge William C. Pryor, of the District of Columbia Court of Appeals; the Honorable Joseph E. diGenova, United States Attorney for the District of Columbia; and the Right Reverend John T. Walker, Episcopal Bishop of Washington, and Mrs. Walker. The Court also notes the presence of Judge Wright's secretary, Miss Martha Scallon.

There are other guests who will appear as participants on the program; there are spouses of a number of our circuit and district judges. And there are still other distinguished persons who join us today.

It is my privilege to now present to you Justice Brennan.

**JUSTICE BRENNAN:** I am highly privileged to be a participant in this ceremony, presenting this portrait of my warm and very close friend of more than 20 years, Judge J. Skelly Wright.

Lively, even acrimonious, debate about the proper role of judges in a democratic society is ever with us. The judge who believes that the judicial power should be made creative and vigorously effective is labelled "activist." The judge inclined to question the

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propriety of judicial intervention to address even the most egregious failures of democracy is labelled a "neutralist" or "passivist."

Now, those labels are not synonymous with conservative or liberal. Where yesterday "activist" was pinned on liberals, these days it's on conservatives.

If useful at all, those labels may be more serviceable to distinguish the judge who sees his role as guided by the principle that justice and righteousness is the source and the substance and the ultimate end of the law from the judge for whom the principle is that courts don't sit to administer justice, but to administer the law.

And such legendary names as Justice Holmes and Judge Learned Hand have been associated with a lot of you. Holmes' imaginary society of Jobists is limited to judges who hold a tight rein on humanitarian impulse and compassionate action, stoically doing their best to discover and apply already existing rules.

But judges acting on the former view believe that the judicial process demands a good deal more than that.

Skelly Wright has never doubted his proper role. He said in his Biddle Lecture at Harvard, and I quote him: "In the area of equal rights for disadvantaged minorities, I remain an uncompromising activist."

For him, in that area, a legal concept is most worthwhile when it becomes relevant to the homely experiences of individual human beings.

He is proud that he is accounted among judges who understand that the discretion given them in exercising judgment allows, indeed requires, more than the mechanical application of the law. That is why he was among the most highly regarded federal judges even before he was appointed to the Court of Appeals in 1962. For years before that, in the District Court in Louisiana, he was a legend, as one of a small valiant band of federal judges in the south who translated the Supreme Court's Brown decision into a revolution for racial equality.

One commentator has said that "Singlehanded, Skelly Wright broke the back of Louisiana's efforts at massive resistance and prevented the closing of the New Orleans public schools. He upheld federal supremacy under the Constitution by facing down the full force and power of the entire state of Louisiana."

Skelly is a quiet, modest man, more embarrassed than happy with praise. His strong sense of humanity, kindness, compassion, and respect for all human beings, whatever the color of their skin, you will see, shine through this portrait.

He has richly deserved the tribute we pay him today.

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CHIEF JUDGE ROBINSON: Thank you, Justice Brennan. The Court is pleased to recognize a well-known NBC news correspondent, whose friendship with Judge Wright goes back to the days when the judge served on the federal district bench in New Orleans, Bill Monroe.

MR. MONROE: My wife and I are honored to be here as friends of Helen and Skelly and as admirers of both of them, and I guess I am here also as a former New Orleans journalist. I am a little bit awed to be speaking in the presence of these justices and judges, and I notice that I am the only one on the speakers' list who by the terms of the protocol is not honorable. But I will do the best I can. [laughter]

Almost everyone in Louisiana was aware of Judge J. Skelly Wright by the time he left his home state in 1962 to accept President Kennedy's appointment to the Court of Appeals for the District of Columbia Circuit. He was known as the "integration judge" and by other, more pejorative terms, usually spoken in bitterness.

Before his ten-year struggle to desegregate New Orleans schools was over, federal marshalls had to protect the Wright home and escort the judge to and from his office. Most of his friends shunned him on the street. The state's politicians, civic leaders and newspapers, almost without exception, opposed him or kept silent, leaving him to wage the struggle alone—which he did, he and Helen.

Skelly Wright was born in New Orleans in 1911, the second of seven children. He went to public schools. He worked during the day to put himself through the Loyola law school at night. But when he got out, in mid-Depression, there were no jobs ready for young lawyers, so he taught high school for a couple of years. And then he got himself appointed to the staff of the United States attorney with the aid of a good Irish politician, Joe Skelly, who had no problem with recommending an able and hardworking nephew. He was a prosecutor specializing in narcotics. And, according to one book about Judge Wright—*A Capacity for Outrage* by Arthur Selwyn Miller—he handled 271 cases in 18 months, obtaining 268 convictions. One wonders whether any of these defendants had their rights read to them. [laughter]

In 1942 the young lawyer entered the Coast Guard. After commanding a subchaser briefly, he was sent to London as a legal aide to an admiral at the United States embassy. There he met Helen Patton, who was also on duty at the embassy, and the two of them got married early in 1945.

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I am going to gloss over Helen's role in ensuing events because we are here to celebrate her husband today, partly as an object of art. And before the two of them even left London, she was already the subject of two portraits and a sculpture by no less than Jacob Epstein. Even today Skelly is not attaining full equality in the art department. [laughter]

After the war, Skelly Wright, formerly an assistant in the office, became the United States Attorney in New Orleans. That came after he had practiced a year or so of law here in Washington.

In 1948, when most Louisiana Democrats were supporting a Dixiecrat for President, he was supporting Harry Truman. And in 1949 President Truman, aware of his growing professional reputation through Attorney General Tom Clark, as well as his political steadiness, made the 38-year-old Skelly Wright a federal trial judge, the youngest in the nation.

Before he even mounted the bench, there were signs he was moving away from the youthful mindset of an efficient prosecutor, if indeed he ever had it. A book about southern judges, *Unlikely Heroes*, written by Jack Bass, contains a chapter on Skelly Wright, which begins with a striking story, and I'd like to quote it:

"During a Christmas Eve party in the United States Attorney's office, J. Skelly Wright sat at a window in the post office building and looked across the street at the Lighthouse for the Blind, where sightless people from New Orleans were arriving for another Christmas celebration. He watched the blind people climb the steps to the second floor. There, someone met them. He watched a blind Negro led to a party for blacks at the rear of the building. A white blind person was led to a separate party."

Then the author of the book quotes Judge Wright as he recalled that scene 30 years later, in 1979, and said this:

"The blind couldn't segregate themselves. They couldn't see. There was somebody else doing it for them. It had an effect on me. It affects me even now. It didn't shock me. I looked at it twice, believe me, but it didn't shock me. It just began to eat at me. And it eats at me now. It began to make me think more of the injustice of it, of the whole system that I had taken for granted. I was getting mature, too, 35 or 36, and you begin to think of things. When you go to bed at night, you think of it. That was the beginning really."

Judge J. Skelly Wright, long before the Supreme Court's Brown decision, ordered L.S.U. to admit black law students because the black law school was not equal. One of the first two graduates was Ernest Morial, now the Mayor of New Orleans.

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Judge Wright also ordered desegregation of the New Orleans bus and streetcar system. As a radio reporter I was riding the St. Charles Avenue streetcar at the moment he set for desegregation. The motorman stopped the streetcar. He walked back and lifted from the top of a wooden seatback the movable sign that differentiated the white section in front from the black section in the rear. He returned to the front of the car, placed the sign on the floor and got the car moving again. Nobody, black or white, said a word. By that afternoon a few blacks were riding in the front seats of streetcars and buses.

The school desegregation crisis was not that peaceful. It began in 1952 with a suit by the black father of 13 children, who was supported by the NAACP's militant legal factory under Thurgood Marshall. Before it was over, in 1962, the case had required 41 different judicial decisions—in other words, an average of one decision every three months for ten years.

Louisiana did not have George Wallace standing in the doorway, but it had a brilliant racist demagogue, Leander Perez, who was dominating the state's politics and strategy. And public opinion, certainly the visible part of it, was behind Leander Perez. A referendum showed 80 percent of white parents favored closing the schools as opposed to desegregating them.

White Citizens Council leaders whipped up racial hysteria. For every move Judge Wright made, the state tried to interpose itself with a counter move. At one point the legislature officially took jurisdiction of the New Orleans schools away from the school board and declared the legislature itself in charge. Judge Wright, occasionally joined by colleagues in three-judge decisions, finally subdued the Louisiana Attorney General and the Superintendent of Education with contempt actions. He eventually had injunctions in force against the Governor, the Attorney General, the state police, the National Guard, the Superintendent of Education, all district attorneys, all sheriffs, all mayors and chiefs of police, anyone acting in concert with them, and, finally, the entire legislature.

And when he at long last established the supremacy of federal law, the immediate fruits of victory were not wholly exhilarating: two or three small, brave black children escorted into a largely empty school building in the face of a jeering white crowd. But gradually, over the weeks, the crowd faded away, and the black kids, morning after morning, kept showing up for school.

As Jack Bass put it in his book (I think we have heard the same quotation from Justice Brennan but I will repeat it) Skelly Wright, with the support of the federal judiciary and ultimately the Justice

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Department had faced down "the full force and power of the entire state of Louisiana."

It occurs to me that in the eventful lifetime of Judge Skelly Wright, and the lifetime of the rest of us of his generation, we have watched, among other things, the death of a revolution—the Russian revolution. What started out with enough glowing rhetoric to excite the hopes of millions of idealists and intellectuals around the world faded—grimly, wretchedly—into the ashes of the Gulag, captive nations, the Berlin Wall, Afghanistan.

But in the same lifetime we have experienced the quickening of that older revolution, the American Revolution, gathering new strength, new vigor, new youth from confronting its own rigorous ideals, equality foremost among them.

This is a country that can get excited 200 years later about individual dignity, about human rights, about equality between the races, about equality for women. This is a country whose courts take notice of the rights of obscure people with names like Gideon and Miranda and Noia.

This is a nation that is in touch with its history, a nation that eventually keeps its promises, a nation that has just dedicated a holiday to honor a troublemaker of only a few years ago, Martin Luther King, Jr., a nation where a man of conscience can have his sleep intruded on by the memory of a black blind man being led to the back of a building, and where a man like Judge Wright, equipped with a sense of humanity and with courage, can become an instrument to expand American freedom.

Any judge such as this, inevitably, is going to be accused of a rather exuberant activism. He has caused, and is causing, what I am sure he regards as a satisfactory amount of outrage and alarm.

But his critics, particularly those with the generosity and perspective to see him whole, should note that there has never been anything playful or casually combative about his activism. This is a serious man. There is, in his decisions, something stern. There is something fierce. There is something as radical as the Declaration of Independence. His work on the federal bench lets us know, with the clarity of a trumpet, that the flag is still there.

**CHIEF JUDGE ROBINSON:** Thank you, Mr. Monroe. The Court now recognizes a former law clerk to Judge Wright, a former United States District Judge, and now a Legal Adviser to the Department of State, the Honorable Abraham D. Sofaer.

**MR. SOFAER:** Mr. Chief Justice, Chief Judge Robinson, members of this Court, judges, distinguished guests.

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I wish the order of the speakers were arranged somewhat more felicitously in terms of my own favor. Following that act is going to be very difficult, your honors.

I am honored by the role assigned me: to speak on behalf of Judge Wright's fifty-three former law clerks. These lawyers now perform leadership roles in our profession—at the bar, on law school faculties, as judges, and as other government servants. Many are here today in person, and all are here in spirit, conveying their love and respect for the Judge.

I find the role of spokesperson for all of Judge Wright's clerks a somewhat painful honor. It makes final the process by which I moved from law clerk to senior former law clerk. Twenty years have gone by since I was in this court as a young graduate, listening to oral arguments in our cases.

Mr. Chief Justice, you were on this Court then, and many, many great men were here who are gone now. One of them, I may say, was Charles Fahy, one of the sweetest people any of us ever met, and I am proud to say a former Legal Adviser.

Clerking for Judge Wright was a great learning experience and a joy. He frequently cites a passage from Justice Black's opinion in *Chambers v. Florida*, 309 U.S. 277, 60 S.Ct. 472, 84 L.Ed. 716, that aptly describes his philosophy:

"Under our constitutional system, courts stand against any winds that blow as havens for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are non-conforming victims of prejudice and public excitement."

He is passionate about his calling. His keen sense of humanity, his strong commitment to equality and human dignity, enable him to see beyond the bare facts of a record to the real people involved in the matters that come before him. I was repeatedly struck by his sense of injustice. He cared so much about each case it made me feel old.

My fellow clerks are proud to have worked for Skelly Wright. His opinions have touched nearly every area of our law. And he has not only contributed, he has created.

He breathed life into our environmental laws with *Calvert Cliffs v. United States Atomic Energy Commission*, 449 F.2d 1109. He brought contract doctrine into the 20th century with *Williams v. Walker-Thomas Furniture*, 350 F.2d 445. His many opinions on criminal procedure evidence the deep concern of a former prosecutor that our system of criminal justice be fair, and that it be sensitive to the needs of the poor and of racial minorities.

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His many First Amendment cases have helped protect the most basic of all political freedoms. In the *Pentagon Papers* case, he dissented from the majority's order enjoining publication, since he believes that an injunction, even for the "shortest possible period," is impermissible in our constitutional system.

I remember with particular pleasure a case during my year with the Judge that reflects his ability to breathe life into what would appear to ordinary mortals as a lost cause. After we went to war against Japan, we froze the dollar accounts of many Japanese-Americans. When the war ended, we offered to pay those Americans in yen at the postwar rate. Everyone agreed that this situation presented a grievous miscarriage of justice. But the problem in granting relief seemed insurmountable. The affected group sued over six years after the statutory time limit had run.

Judge Wright decided there had to be a way. He figured out a couple of theories on which to grant relief, but could not convince anyone else on this Court that he was right. The Supreme Court was inspired by Judge Wright's effort, however, and ruled unanimously in favor of Mr. Kondo and his class.

Judge Wright contributed greatly to the jurisprudence and stature of this Court. So it is fitting that his portrait be hung here. He did so, moreover, without alienating any of his colleagues, whatever their own views of his work.

But with your leave, your honors, I want to spend a little time adding to what Bill Monroe has said about the truly historic contribution of Skelly Wright, the District Judge. His fame as a Circuit Judge must not be permitted to eclipse his great and lasting contribution to racial equality in America.

History called on United States District Court Judge Skelly Wright in New Orleans at a crucial time on a crucial issue. And he fought his particular battle to bring about an end to our very own system of *apartheid*—legally mandated segregation in America—against a State that was unmatched in its vigor, imagination, and frenzy in battling to maintain segregated public schools. Somehow, somewhere, Skelly Wright came to believe in racial equality. Something in his nature made him able to see that no difference of any materiality exists between human beings of the white and black races.

Even before *Brown*, as Bill Monroe has said, he desegregated several different schools of Louisiana State University. After *Brown* was decided, the *Bush* case became active before him. Mr. Bush sought from the Orleans Parish School Board an order desegregating the city's schools, and the Board's lawyer advised the Board members to comply. The Board did what many clients

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do when their lawyer tells them things they don't want to hear—they fired him. The Board's new lawyers reactivated the judicial proceeding, and the litigation that Bill Monroe described here commenced.

For the School Board, Judge Wright's initial opinion was just the beginning of the battle. He rejected all of their claims and said, in a memorable phrase, "We are all of us freeborn Americans with a right to make our way unfettered by sanctions imposed by man, because of the work of God."

By July 1959 the Board had exhausted all its appeals. Judge Wright ordered them to prepare a desegregation plan by May 1960. The Board hesitated. A poll showed that white parents would rather see the schools closed than desegregated.

In May 1960, since no plan had been submitted, the Judge imposed his own one-sentence design: beginning in September, first-grade students could attend formerly all-white or all-black schools nearest their home. This plan set off a fury.

There followed the battle between the Louisiana Legislature and many Louisiana law enforcement officials, on the one hand, and Judge Skelly Wright and the federal courts, on the other.

The Judge, under enormous public pressure, vilified and even physically threatened, held each of the legislature's bills unconstitutional. The legislature would not stop, and he finally enjoined them.

The next day, four six-year-old black girls began attending classes at two previously all-white elementary schools. It was a modest beginning, but it was one of those historic turning points where this nation demonstrated its capacity to move toward the realization of our most noble goals.

These decisions now appear clearly correct. But anyone who has heard the story of those years from Helen Wright, or has seen the family scrapbooks filled with the stories of hate, anger, and outrage expressed at the Judge's actions, knows how much courage it took to be Skelly Wright in those days.

His courage helped this nation turn a corner in the fight against racism. While his fame and his achievements continued to grow, his performance as a District Judge in Louisiana established his place in our history, and makes us all especially proud to be associated with him.

So, your honors, we, the law clerks of Skelly Wright, are proud to present this portrait of a noble and just man. We congratulate today his secretary, Martha Scallon, who has been with him since those New Orleans days, and whose formidable mind and ability

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each of us has witnessed. And we also extend our thanks and our love to Helen Wright, the "Sugar" of his life, and to their son, Jim.

We are proud to have been part of your story, Judge, as you served for more than 20 years on this great Court, in this greatest of all nations, where you are cherished and where your contribution will endure.

CHIEF JUDGE ROBINSON: Thank you, Judge Sofaer. The Court now recognizes Ms. Sally Katzen and Ms. Carol F. Lee, former law clerks to Judge Wright.

[The portrait of Judge Wright is unveiled]

[Applause]

Thank you, Ms. Katzen and Ms. Lee. Never have I been called upon to perform any duty more pleasant than to accept this excellent portrait on behalf of the Court. And I do so with great appreciation for the generosity of Judge Wright's law clerks in making this wonderful gift possible. It is a spontaneous expression of respect and admiration for the Judge and for his illustrious judicial career, an expression in which we all enthusiastically join, and it is also considerably more. This portrait will be a constant reminder of Judge Wright's long and dedicated service to the cause of justice, of the profound influence that he exerts on the jurisprudence of this Nation, and to his mighty contributions to the strength and vitality of this Court. It will be an enduring source of inspiration for the many who will gaze upon it over the years, and it will always occupy a place of honor in this Court. Thank you very much.

And now it is my privilege to present to you the Chief Justice of the United States.

THE CHIEF JUSTICE: Chief Judge Robinson, Skelly Wright, Helen, my colleagues of the Court, it is a privilege to be here both as the Circuit Justice of this circuit, and especially and particularly as a long, long-time friend of the guest of honor.

My colleague, Justice Brennan, Bill Monroe and Abe Sofaer have all spoken eloquently of the career of this splendid and dedicated man. It would be difficult to add anything more.

I think we should bear this in mind, however, that it is not one case or one opinion or one holding in the sensitive field that was discussed, but a series of holdings that preceded *Brown v. Board of Education*, the impact of which went on long after *Swann v. Charlotte Mecklenburg*, and continued to have an impact on our system for the good in a way that has brought great credit and honor on the judicial system of our country and on the political system of our country.

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I have known Skelly Wright as a friend since before he came to this Court. Our acquaintance, Skelly will recall, began in 1953. As a neophyte Assistant Attorney General, I attended the judicial conference of the Fifth Circuit. Skelly and I were both on the program. And that friendship, of course, ripened and expanded when we became colleagues on this Court some years later. It has, of course, continued with the close association I have with this Court, on which I had the honor to sit for more than a dozen years.

I can endorse heartily the sentiments that have been expressed here today about Skelly, and I know that I speak for all my colleagues on the Supreme Court with respect to that.

I, too, as Circuit Justice, if you will permit me, Chief Judge Robinson, join in accepting that splendid portrait that will remain in this Court as long as the Court stands.

CHIEF JUDGE ROBINSON: Thank you, Mr. Chief Justice. It is now my pleasure to present to you Judge Wright.

JUDGE WRIGHT: After hearing what I have heard this afternoon, I can first express my appreciation for all the kind words and the kind thoughts. These are my friends speaking for me, and I appreciate their doing so.

But since they are so eloquent and since I am less so, even though I had a few remarks prepared to make, I decided to quit when I was ahead. [laughter]

Which is right now. [laughter]

Thank you very much.

CHIEF JUDGE ROBINSON: Thank you, Judge Wright. The audience is invited to come to the well of the courtroom after the Court takes its adjournment to view the portrait of Judge Wright. A reception for invited guests will follow in the Judges' Dining Room on this floor of the building. The Marshal will now adjourn this session.

[The Court was adjourned at 4:15 p.m.]