

REMARKS OF EDWARD H. HICKEY ON THE OCCASION
OF THE PRESENTATION OF THE PORTRAIT OF
JUDGE WALTER J. CUMMINGS
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

May it please the Court:

This is a most happy occasion for the Bench and the Bar of this Circuit - and for me particularly pleasant. I know of no assignment more agreeable than as a member of this Bar, to present to the Court, on behalf of the Bar of the Seventh Federal Circuit, the portrait of Judge Walter J. Cummings, our former president, now one of the distinguished members of this Court.

A quotation from Carlyle comes to mind, mentioned by Judge Learned Hand some years ago when he was presenting a portrait of Justice Holmes to the Harvard Law School. Carlyle remarked:

"That he would give more for a single picture of a man, whatever it was, than for all the books that might be written of him."

Although my role is to give a lawyer's view of the subject rather than that of the artist, I can't resist, by way of preview of the portrait, calling attention to an intriguing feature of this painting. Instead of a background of bookshelves with United States Reports, you will observe a medieval

tapestry containing a discernible unicorn and a lion. An unusual background for a judge to be sure, but not when he is a Knight of the Military Order of Malta, one of the oldest orders of chivalry in existence and a Knight of the Equestrian Order of the Holy Sepulchre. There is a gentleness to the unicorn and a strength to the lion that reflect the gentle firmness of the man we are honoring today.

While the portrait captures in a remarkable way the likeness of its subject, no portrait of a judge can limn the full measure of his essence and thought. Rather, the judge best portrays himself through his opinions and writings, for there we find his true essence. Even at this early stage, the opinions of Judge Cummings already indicate the work of a skilled craftsman and legal scholar.

Judges, it is said, are reflections of their past as lawyers. To a large extent this is true. The tapestry that has been woven from the life and professional pursuits of a lawyer does form an essential background for his role as judge. And so, we can, I think, in separating some of the threads that make up the tapestry of the life of Judge Walter Cummings, gain insight into his character and principles.

In a unique sense, the career of Judge Cummings can be said to have been preparation for the time when he would be

called to serve as a judge of this court. His intellectual capacity, his exceptional legal service in the government's highest law office, his extensive and varied private practice, his conscientious dedication to the public interest, his humanitarian, civic and professional activities make sound footings for the discharge of his judicial responsibilities.

Born in Chicago on September 29, 1916, his parents were Walter J. and Lillian Garvey Cummings. His father, a successful manufacturer and transportation executive, was chairman of the Federal Deposit Insurance Corporation at its inception in the dark days of 1933 and later became chief executive officer and chairman of one of the largest banks of the City of Chicago.

His mother, with grace and devotion, made a happy and close knit family for Walter and his two brothers, while expending considerable time and energy in helping the poor and helpless through the charitable causes of the many organizations of her faith.

Walter Cummings required no spur of economic necessity to further his energetic pursuit of academic excellence. By self-discipline and application he achieved in three years what was expected in four and received his bachelor's degree from Yale in 1937. He then went on to the Harvard Law School where he graduated in 1940; thereby, if I may emend the felicitous

words of the late President Kennedy, combining the best of all possible worlds, a Yale degree and a Harvard education.

Rather than begin what was an almost assured successful private practice in Chicago, he turned to public service and started his legal career as a young lawyer in the Department of Justice where he was assigned to the staff of the Solicitor General. There he began the training which was to fit him for the judicial responsibilities he has now assumed.

The Solicitor General, as we know, is responsible for and conducts all government litigation in the Supreme Court. His office can truly be said to be the highest law office in the land.

In this office, at this early stage in his professional career, Judge Cummings demonstrated the skill, intellectual capacity and mental discipline that mark the effective appellate advocate - an advocate who was appearing in the highest court of the land, marshaling the facts from intricate records, analyzing the legal issues underlying the appeal, and persuading the court by well-reasoned arguments to the government's view.

In his appearance before the Supreme Court, he had, according to Mr. Justice Frank Murphy, "a quiet eloquence"

grounded on thorough preparation. It is not surprising that of the nine cases argued he lost but one - a remarkable record for a young man during his first six years of practice after law school. He was later to argue four more appeals as Solicitor General and private practitioner in that Court - with no losses.

Thus, in six years, he had obtained an experience and a familiarity with the appellate functions of our Federal system that few lawyers receive in a lifetime of active practice.

When Walter Cummings resigned to enter private practice, Attorney General J. Howard McGrath wrote prophetically, "I have a strong feeling that you are cut out to be a public servant in many respects and trust that future years may develop in you an ambition for future service in public office."

In 1946 occurred a most important and happy event - his marriage to Therese Farrell Murray performed by Cardinal Spellman in New York City. The engaging and lovely "Teedy," as she is known to her family and friends, made a welcome and attractive addition to Chicago with her charm and good works. Now, the mother of three sons, she still finds the time to work on behalf of the city's sick and needy.

Upon resumption of private practice in one of the oldest firms in Chicago, Walter Cummings was engaged in many heatedly-contested cases involving railroads, public utilities, corporate problems, labor-management problems, anti-trust matters, and the myriad other legal problems that active practitioners meet in large metropolitan areas.

In spite of a busy practice, Judge Cummings found the necessary time to carry out his professional responsibilities in the cause of law and constitutional reform and the administration of justice. He served as chairman of the Special Committee of the American Bar Association dealing with revisions to the Federal Rules of Procedure. As Chairman of the International Law Section of the American Bar Association, he was responsible for the first Moot World Court Hearing ever held in Chicago. As a member of the Illinois Bar, he served as chairman of the Committee on Constitutional Revision and took a leading role in the constitutional reforms which resulted in the enactment of the Judicial Article. As chairman of the Anti-Trust Committee of the Illinois Bar Association, he spoke and wrote illuminating articles about the enforcement recommendations contained in the Report of the Attorney General's National Committee to Study the Anti-Trust Laws.

He was a member of the Board of Managers of the Chicago Bar Association and a member of its Grievance Committee.

As a member of the American Law Institute, he has participated in the development and revisions of the restatements of law, essential aids in the administration of justice to the Bench and Bar throughout the country.

His work and contributions to the Bar Association of the Seventh Federal Circuit are too well known to this Court and its Bar for me to relate. His scholarly paper on the history and treatment of summary judgments in this Circuit will long be remembered, and his election as president of the Bar Association of this Circuit attests to the confidence and esteem in which he is held by all its members.

Through the years, he took an active interest in providing legal services for the poor. In November 1963, he received from The Catholic Interracial Council of Chicago its award for his constructive and selfless work in the critical area of human relations.

It was as Solicitor General of the United States that Judge Cummings obtained his most intensive training for this Court. He served as Solicitor General during the transition of administrations from December 1952 to March 1953.

As characterized by Attorney General McGranery, his discharge of the duties and responsibilities "of this exalted office has been in the best tradition of the Bar."

And so, as we examine the threads of the tapestry that make up the fabric of Judge Cummings' professional life and career, we find a pattern of integrity and high moral purpose combined with an intellectual capacity and sympathetic understanding of his fellow man.

In the pattern of his past performance, and in the words of Justice Holmes, we can expect Judge Cummings, in carrying out his judicial responsibilities as a member of this great Court, "to hammer out as compact and solid a piece of work as one can, to try to make it first rate and to leave it unadvertised."

In making this motion, I wholeheartedly adopt the language of his commission. "Reposing special trust and confidence in the wisdom, uprightness, and learning of Walter J. Cummings of Illinois," and with the lasting affection and esteem of this Bar, I have the honor to move the Court to accept from the Bar the portrait of its past president, Judge Cummings.