

WHY I BROKE WITH ROOSEVELT

*The Supreme Court Fight
and Its Repercussions in
Congress*



BY JAMES A. FARLEY

MUCH has been written, some of it true, and much more has been spoken, most of it untrue, about my break with Franklin D. Roosevelt. Actually there was no sharp, clean fracture of friendship, but rather a slow, imperceptible drifting apart of political principles. I am certain neither of us knew how far we had drifted apart until the gap yawned unbridgeable.

Looking back through the years, I find it hard to put the finger of memory on the beginning. Almost before I knew it, I was no longer called to the White House for morning bedside conferences, my phone no longer brought the familiar voice in mellifluous familiarity and months dragged between White House luncheon conferences. Soon I found I was no longer being consulted on appointments, even in my own state. Then, too, I found I was as much in the dark about the President's political plans as was the chairman of the *Republican* National Committee. White House confidence on politics and policies went to a small band of zealots, who mocked at party loyalty and knew no devotion except to their leader.

At first this did not disturb me. What few people realize is that relationship between the into the bosom of the family, even though everyone agreed I was more responsible than any other single man for his being in the White House. Never was I invited to spend the night in the historic mansion. Only twice did I make a cruise on the Presidential yacht. Both cruises were political. Never was I asked to join intimate White House gatherings; my appearances there were for official social functions or for informal dinners followed by exploration of political and patronage President and me had been basically political and seldom social. Strange as it may seem, the President had never taken me into the bosom of the family, even though everyone agreed I was more responsible than any other single man for his being in the White House. Never was I invited to spend the night in the historic mansion. Only twice did I make a cruise on the Presidential yacht. Both cruises were political. Never was I asked to join intimate White House gatherings; my appearances there were for official social functions or for informal dinners followed by exploration of political and patronage problems. Mrs. Roosevelt once said, "Franklin finds it hard to relax with people who aren't his social equals." I took this remark to explain my being out of the infield.

The first ripple across the placid pond of our friendship came and went, almost unnoticed, in the 1936 campaign. On October 14th, I met the President when he arrived in Chicago, where he was given a tremendous reception. I came in for a share of the ovation. The next day Marvin H. McIntyre, the President's secretary, came to me, somewhat ill at ease, to tell me that "they thought it best" that thereafter I should not appear on the platform with the President because of the Tammany situation.

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I bristled with indignation. I knew my presence would not have been resented by anyone except those disturbed by the widespread friendships I had gained. At that time there was no situation in Tammany, and if there had been one, I could not have been involved in it. I knew then that the President did not want me on the platform, but I could only guess why.

The taste of ashes was not long in my mouth, however, because when the President came to the Biltmore Hotel in New York City on October 31st, to address committee workers, his reference to me was most generous.

"I have known Jim Farley for a great many years and I have never known him yet to do or say a mean thing."

A few weeks later the pendulum of Presidential favor had swung back against me. Basil O'Connor, Roosevelt's former law partner, reported that the President thought I was nursing Presidential aspirations for 1940. This simply was not true at that time. Yet, I have often wondered whether this uneasy suspicion colored my subsequent relations with the White House.

Evidence of further friction was not long coming. Late in January, 1937, Charley Michelson, head of public relations for the Democratic National Committee, told me that I was going to be given a testimonial dinner by the committee at the Mayflower Hotel on February 15th. He wanted a letter from the President thanking me for my services, to reproduce for the program. I told him I hadn't received such a letter since 1930. Charley growled that, knowing Roosevelt, he wasn't surprised to hear it, but he decided to demand a predated letter of gratitude. This turned up a few days later, and Charley brought it in with a wry smile. It read:

"Dear Jim,

"You were right—so right that I thought you were more of an optimist than a prophet. I find I am the one who needs to have his long-range spectacles adjusted. But in this instance, Jim, I don't mind being wrong at all.

"Very sincerely yours,
"FRANKLIN D. ROOSEVELT"

There was no mention of my services, even after a special request. However, as Charley observed acidly, he had admitted he was wrong for the first time since he entered the White House! In his remarks at the dinner a few nights later, the President was most generous in saying:

"History has recorded, and will continue to record, a great many interesting facts about Jim. In due time history will talk out loud about his organizing of campaigns in state and nation. It will speak of his fine service as a member of the Cabinet of the United States—as administrator of an important department of the federal government.

"But there will be something more important in the book of history than the mere chronicle of success in public office. Loyalty will be written there—that loyalty to friends that results in loyalty from friends."

Discussing Mr. McNutt

During the dinner, the President, Vice-President Garner and I chatted between courses. One exchange involved Paul V. McNutt, former governor of Indiana, and his impending appointment as United States High Commissioner to the Philippines.

"I'm not so sure," the President mused, "because McNutt is inclined to be dictatorial and he might not be the right fellow to send out there. Maybe he ought to go on the Maritime Commission."



Although the Supreme Court fight defeat rankled in the President's breast, he had a hearty laugh with Farley at the Jefferson Island Club only a few days after the bill was lost. This gathering of Democrats was calculated to promote party harmony, which had been disrupted by the split over Roosevelt's policies

"I don't know him very well," Garner put in, "but I know he is a candidate for the Presidency in 1940, so it might not be a bad idea to send him out there."

The President smiled thoughtfully.

"Do you think the Philippines will be far enough?" I asked.

"Yes, yes," he laughed.

Later he confided to me: "You know, Jim, it's a great comfort to me to know that no campaign is lying in wait for me at the end of this four years. Yes, sir, nothing but a nice, long rest at Hyde Park."

Yet, in the months to come, he was to find fault with a long list of suspected and actual aspirants to his succession. They were either too old or too young; too ambitious or too unknown; too conservative or too radical, or too poor in health or too lacking in personality. In many cases his displeasure stemmed from the Supreme Court reorganization battle; I am not sure it was not so in my case. Although I supported him to the hilt in the drive for Court reform, I could not and did not go along with him a year later on the no less disastrous attempt to purge the Democratic party of those who had opposed his will. I believe that deep down inside, he never forgave me for putting party welfare above the personal allegiance he considered his due.

I was away when he sent what came to be known as the Court Packing Plan to the Senate. Like members of the Court, I first learned the details of the plan from a news ticker. When I returned, I lunched with the President, who was in the best of humor.

"Boss," I asked him, "why didn't you advise the senators in advance that you were sending them the Court bill?"

"Jim, I just couldn't," he answered earnestly. "I didn't want to have it get out prematurely to the press. More than once when I've had groups of senators and congressmen down here, reporters have gathered a detailed account of what went on within forty-eight hours. I didn't want it to happen again."

"Well," I yielded, "I suppose it's all



When Jack Garner, then Vice-President, went home to Texas in the midst of the Court fight Roosevelt was miffed

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right, but I wouldn't let it happen again."

"I'll watch out for it in the future," he promised. "This is very important to me; it's something that affects the heart of my program. I'll keep them here all year to pass it, if necessary. I want you to help."

"You can count on me, Boss. I will keep in contact with those who are supporting you on the Hill and do my best to bring the others around." •

"First off," continued the President, "we must hold up judicial appointments in states where the delegation is not going along. We must make appointments promptly where the delegation is with us. Where there is a division we must give posts to those supporting us. Second, this must apply to other appointments as well as judicial appointments. I'll keep in close contact with the leaders."

The Controversial Clause

During the next few weeks I was busy seeing senators and congressmen urging support of the program. Serious opposition arose over these words in the President's message: "I therefore earnestly recommend the appointment of additional judges in all federal courts, without exception, where there are incumbent judges of retirement age who do not choose to retire or resign." This would have empowered him to increase the Supreme Court, in the event those of retirement age would not leave, by six justices. As the opposition put it: He would pack the Court with six New Dealers to give him a majority over the conservatives.



In 1940, Edward J. Flynn (seated, right) was picked to succeed Farley as party chairman in a jovial session at the White House. Vice Presidential candidate Henry Wallace sits next to the President

The battle lines developed slowly. Early in the game it was apparent that some thirty senators, holding the balance of power, were lying low to see how the wind would blow from home.

About this time, at the Washington Democratic Victory Dinner, the President publicly avowed his intention to retire at the end of his second term, as he had confided to me. His address at this dinner, and a fireside chat a week later, did much to hearten his supporters, but the Court plan also gave his scattered opponents a common ground to mobilize on.

Later, from Warm Springs, where he was vacationing, the President telephoned me to say that he was feeling great; that he was ready and eager for the fray. I reported the Senate was divided into almost equal thirds—one group in favor of the bill, another

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opposed and a crop of fence-sitters. He said we would have to get the fence-sitters back into the barnyard. He said he was sending Tommy the Cork (Thomas G. Corcoran, RFC counsel) around to "turn the heat on" the opposition. He expressed himself certain that he had the situation under control, refusing to discuss the various alternative and compromise proposals floating around the Hill.

On his return to Washington the President closeted himself with Vice-President Garner, Speaker William B. Bankhead, Majority Leader Joe Robinson and House Leader Sam Rayburn to be brought up to date on the Court fight. On April 1st, I had lunch at the White House with the President. Senator Hugo Black was a third at the Chief Executive's desk. Our conference was largely devoted to the progress of the Court fight. The President reported that the vast majority of letters he had received on his Victory Dinner speech and on his fireside chat were in support of his plan.

In an Exultant Mood

"The thing to do," he said happily, "is to let the flood of mail settle on Congress. You just see. All I had to do was deliver a better speech and the opposition will be beating a path to the White House door."

We analyzed the testimony being given before the Senate committee. The President said the proponents of the plan unquestionably were having the better of the argument; that the program would soon be brought to the Senate floor, where it would be passed. In general I agreed, but noted that it might take longer than he expected. Black cautioned that the opposition was most determined and would exercise every means of delay, knowing that their only hope lay in avoiding a vote.

"We'll smoke 'em out," the President said. "If delay helps them, we must press for an early vote."

Black had expressed displeasure over the appointments of Rear Admiral Emory S. Land and Rear Admiral H. A. Wiley to the Maritime Commission. He was irked because the appointments were announced without his having been advised, when he had understood that he was to be consulted. The President soothed him and soon had him smiling and promising to go along with the appointees, whose capacities he had questioned.

On April 12th, I talked with him by phone from New York City after the Supreme Court validated the Wagner Act by a five-to-four decision. He was jubilant.

"We did it," he chortled. "I am very, very pleased. You ought to see Homer Cummings, who's sitting with me now. He looks like a Cheshire cat."

"I am convinced more than ever that the proposals for reform of the Court are warranted. It's the same four justices who have dissented all along that are against me this time — McReynolds, Butler, Sutherland and Van Devanter."

The decision did serve to support arguments for the need of a change. None of us then had any doubt of passage of the program.

Impending Defeat for the Plan

But in May the handwriting on the wall, which had been regarded as favorable to the Court plan, was translated into bitter reality by Congressional leaders.

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They were forced to conclude that defeat was certain unless Democratic senators could be persuaded to support the President. There was still hope that a compromise might be effected.

The President however was undaunted. He would not consider compromise. When I told him polls were showing the Senate so evenly divided that Garner might have to cast the deciding vote, he snapped, "Let him do it." I counseled that he must consider the possibility that the party would be split beyond repair, which provoked the surprising declaration: "And good riddance, too." At one point he looked out of the window and said, almost to himself, "This comes from telling them I would not be a candidate again." He said with all the finality at his command that he would not withdraw so much as an inch and he would not compromise.

The Court Packing Plan was defeated by a one-two punch. The paralyzing blow was delivered in the resignation of Justice Willis Van Devanter, stanch member of the "Old Guard" bloc. The knockout blow was the death a few weeks later of Joe Robinson, who had kept the plan floating in troubled Congressional currents with no little aid from Senators James F. Byrnes and Pat Harrison, by the sheer force of a remarkable personality.

Van Devanter's resignation weakened support for the President's plan by voluntarily breaking up the bloc which had troubled him. The President accepted the resignation in a friendly note to Van Devanter, adding: "Before you leave Washington for the summer, it would give me great personal pleasure if you would come in to see me."

When I saw the letter on the office news ticker, I called the President. "I thought you wrote a most interesting and amusing letter," I said, "particularly in the line extending an invitation to him to call before he leaves."

"If I receive the resignation of a certain other judge on the bench, you can be sure he won't get a similar invitation," he said meaningfully.

"It wouldn't happen to be a certain Southern gentleman answering to the name of McReynolds?" I asked.

"Still the prophet, Jim. That's exactly the one I had in mind. I'd love to write him a letter, even though he wouldn't go where I'd like him to go—not yet."

In June, Vice-President Garner packed up and went home to Uvalde, Texas. He had told me he was going to take a vacation, so I thought nothing of it until newspaper stories began to attribute Garner's absence to a rift with the President precipitated by the Court fight. At a White House luncheon on June 18th, I found the President smoldering over the missing presiding officer of the Senate. "Why in hell did Jack have to leave at this time?" he fumed through a cloud of cigarette smoke. "I'm going to write and tell him about all these stories and suggest he come back. This is a fine time to jump ship. What's eating him?"

"Well, Boss," I said, "I'm sure Jack isn't peeved at all. I do know he was annoyed when his friend in the HOLC, a fellow named Tullis, wasn't reinstated because he campaigned against Congressman Maverick."

"Send for Maverick and try to work it out. He's got to come back."

"Okay, but I think you'll find Jack just went on a vacation and dropped off to see his son, Tulley."

"He ought to be back. I'll have Mac call him." The President called McIntyre in from the outer office and gave him orders.

"Let him spend a couple of weeks in Uvalde," I suggested.

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"All right, if you insist; a couple of weeks more won't make any difference," he grumbled.

I don't think the President ever forgave Garner. I believe this marked the beginning of stiffness on his part. In the past he had accepted criticism from Garner good-naturedly, evidently aware that Jack would finally support him even against his own judgment. Thereafter things were never the same between them; so I judged from my seat at the Cabinet table. I wrote Garner, inclosing several pertinent news clippings and suggesting he return. On July 1st, he wrote from Uvalde the following reply:

The Vice-President Replies

"Dear Jim: When I see articles saying that there is a break between the 'Boss' and myself, it peeves me, and yet I know that you and the 'Boss' and the others who are acquainted with the facts know that there isn't any truth in it.

"I have never said a word touching the Administration that the 'Boss,' you and the others could not have been present and heard. Frankly, Jim, I have almost gotten to love Roosevelt from a personal standpoint.

"I think he has overreached himself in some things, or else he has arrived at conclusions which to my mind can't be sustained from a standpoint of statesmanship or patriotism. I refer particularly to the sit-down strikes and mass lawlessness, which, to me, are intolerable and will lead to great difficulty, if not destruction.

"The 'Boss' apparently makes up his mind that he is going to follow a certain line of economy, but within three to six months somebody has talked him into a different policy or, by making so many exceptions to the policy, the exceptions become the rule.

"Along about last March you will recall that I announced I was going to take my vacation all at once, beginning about the first of June. Everyone thought we would be through about then, for the program was short. Later on the 'Chief' decided he would enlarge the program very materially. I didn't see any reason why I should change my vacation plans.

"It made me unhappy when Marvin McIntyre told me that the 'Boss' was annoyed by my leaving. If he had told me, at any cost I would have made other arrangements. I plead for his unlimited confidence since he has mine to the fullest extent. I am subject to his call at any moment.

"Sincerely your friend,
"JNO. N. GARNER"

Friday morning I attended the funeral services for Senator Robinson in the Senate chamber. In the President's room, there was muttering about the "Dear Alben" letter Roosevelt had addressed to Senator Barkley. This letter denounced rumors that the Court bill was to be abandoned. Friends of Senator Harrison, who was campaigning against Barkley for the leadership, felt the Chief Executive had employed the letter to indicate he favored Barkley. The letter was the more aggravating to many because only a few hours after the death of his loyal majority leader, the President decided against attending the funeral. Frankly I considered this a grave mistake.

Urges Fight for Amended Bill

In the letter, the President called on Barkley to fight to the finish for the amended bill Robinson had presented in the Senate after he had persuaded the President to compromise. This measure called for one new justice for every Court

member over the age of seventy-five, but limited the President to one appointment a year.

When debate opened, I came in for a heavy verbal barrage for an off-the-record remark I made on leaving the President. A reporter put me on the spot by asking how the Court fight stood. I dodged by countering with an off-the-record question as to how such senators as McCarran of Nevada and O'Mahoney of Wyoming could afford not to vote for the bill if they ever wanted anything from the Administration. My remark lost no news value in the reporting.

McCarran rose from a sickbed to make a dramatic appearance before the Senate. He announced that he was speaking against his doctor's orders and sealing his own political death.

"I think this cause is worthy of any man's life," he cried, most effectively. "When Farley said that if I asked for something for my humble state, there would be a different viewpoint, he wrote my death warrant and he knew it, and I may today be delivering my valedictory by reason of a mandate of Mr. Farley."

It wasn't that bad, as time has proved, but it was bad enough for me. Worse for me, in fact, than for either McCarran or O'Mahoney, because I knew I had made it impossible for either of them to vote for the President. It taught me a powerful lesson in holding one's tongue.

That afternoon I had a conference with the President, "Boss, I want to be very direct," I said after exchanging greetings.

"Shoot, Jim," he invited.

"Why did you write that letter to Barkley?"

"Because a letter was the easiest way to get over to the Senate what I wanted."

"But the criticism has come from the fact that it was addressed to Barkley."

"Simple enough, Jim. I couldn't send it to Garner, who's away, or to Key Pittman, who was in the chair; so, inasmuch as Barkley is acting leader, I properly sent it to him."

"But the impression has got around..."

"Yes, I know," he interrupted. "That I'm supporting Barkley for majority leader as against Harrison. Well, it just isn't so."

"I'm glad to hear it," I said. "I'm going to keep my hands off. It's a matter for the Senate—the Democratic members of the Senate. I'm going to tell Barkley and Harrison that."

"Good. I'm going to see Pat Harrison at five o'clock and tell him I'm not against him. By the way, are you going to Little Rock for the funeral?"

"Yes."

"Jim, I wish you'd be my eyes and ears on the trip. Visit around among the senators and congressmen on the train to and from Arkansas and try to get a line on what they're thinking. Report to me as soon as you return."

I did as he asked. I had visits with Harrison and Barkley, the contenders for the leadership, and their respective campaign managers, Byrnes and Guffey. I told each of them in the presence of the other that I would not turn a hand and that the President had assured me he also would not.

Harrison said the President had so advised him Friday afternoon.

We returned to Washington at 11:45 P.M. Monday night. I went directly to my apartment in the Mayflower. Almost at my arrival, the special line from the White House jangled.

"Hello," I answered.

"Hello," said the voice at the other end.

"Who is it?" I asked somewhat impatiently.

"It's me," the voice responded, none too clearly.

"Who the hell is 'me'?" I shouted.

"The President."

"Oh," said I, entirely mollified.

"What's keeping you up?"

"Jim, I want you to call Ed Kelly of Chicago right now. Get him to put the pressure on Senator Dieterich to vote for Barkley."

"I can't do it," I complained. "I said

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I wouldn't turn a hand either way, for Barkley or Harrison."

"Dieterich's weakening; all we need is a phone call."

"I can't help it; I can't call Kelly."

"You mean you won't," came in hurt accents.

"Boss, I just can't," I protested. "I gave my word—my word to Harrison, Barkley, Byrnes and Guffey on the train. You yourself said it was right for me to take no sides."

"Very well," he said curtly. "I'll get Harry Hopkins to do it."

He hung up before I could say, "Good night."

The next morning the President called me over around eleven o'clock. He was in excellent spirits as I reported on my observations on the trip.

"Jim, I've made up my mind that after the leadership fight I'll let the situation ride along, if possible, to see what happens. If nothing happens on the part of the leaders, I'll get on the radio. I'll appeal to the people. I want the Court bill, slum clearance, wage-and-hour legislation and a farm bill passed at this session."

He thanked me for my report on what he called my "look-see" and told me to come in tomorrow to go over the whole situation. He made no mention of the phone call the night before.

Aftermath of the Battle

The next day I saw the President almost immediately after Barkley was elected leader by a vote of 38 to 37. Dieterich, who had been pledged to support Harrison, deserted to bring victory to Barkley.

"I'll invite Barkley and Harrison in to lunch," he exclaimed. "You stay, too, Jim. Then we can all get together and work everything out."

"If you don't mind," I put in, "I'd rather not. I think it would be better if I were not with you. They should eat alone with you."

"Maybe so," he let me off. "Jim, what I have in mind is this: Senator Pope was in the other day and indicated it might be well to try to pass some of the important legislation, now pending, and let the Court program ride along a while. Then, in October, Congress would come back to take it up. What do you think?"

"Sounds all right, except I think it would be a terrible mistake on your part to abandon the fight."

"But it wouldn't be abandoning the fight," he said; "it would just be a postponement."

This was the first indication I had from him of surrender or compromise.

"I want to get wage-and-hour, re-organization, slum clearance, farm and judicial legislation through at this session. Then there won't be very much to do at the next session, and we can take things easier."

"I think you ought to carry on the fight," I said. "I think it's just a question of getting the story before the voters."

"Yes, I know," he agreed. "I'll have to make a radio address. I know full well slum clearance is necessary; that crop control is vital to keep farm prices from getting out of hand; that wage-and-hour legislation is keenly desired by all labor, and that the government needs re-organization to increase efficiency. I must tell the people that."

"And I want to tell them that some senators and congressmen and the Vice-President, too, are more or less antiquated in their thinking. We can't proceed, as they would have us, on the theory that we should let well enough alone."

In forty-eight hours the Court bill was dead. The Senate referred it back to the judiciary committee. In the final hours, it was widely recognized that Presidential defeat was inevitable.

On July 23d I had lunch with the President and found him fuming against Garner.

"He didn't even attempt to bargain with Wheeler [Senator Burton K.

Wheeler of Montana],” he said in exasperation. “He just accepted Wheeler’s terms. If Garner had put up any kind of fight, the thing could have been worked out differently.”

“Weren’t you a party to the agreement?” I asked.

“I most certainly was not,” he snapped. “I told Garner to make the best compromise he could. It’s apparent Garner made no effort to do so. He just capitulated to the opposition.”

“Boss,” I said, “I must take issue with you on Jack, who is my friend and yours. Without knowing what happened, I’m sure that Jack did all he could, and more than anyone else might have done. I’m certain you’ll find he tried to salvage what he could of the program, but it just wasn’t in the cards for him to win. He didn’t have a winning hand.”

Not Enough Votes for Compromise

Later I talked with the Vice-President and found that my defense was based on the facts. Garner didn’t have the votes for any compromise and had to yield. When Roosevelt did not comment on my defense, I asked: “What about the rest of your program?”

“I’ll put it up to the leaders whether they want to clean it up in a few weeks or adjourn and come back the first of October or thereabouts. Then they could clean it up before Christmas.”

The President expressed himself pleased at the way he had handled his press conference that morning. He said he had shown the newspapermen that he could take defeat; that he had preserved good humor throughout.

By the time luncheon ended he was in a happy frame of mind. He had shut his mind on the Court fight surrender, as one would close a door. I did not gather, however, that he was prepared to let bygones be bygones. I knew he was disappointed, even incensed with some Democrats. His attitude was that he had been double-crossed and let down by men who should have rallied loyally to his support. I was certain that he would not dismiss it all as part of the game.

Collier's