

Supreme Court of the United States

Memorandum

-----, 19-----

Dear Tom -

I think this separate memorandum is more appropriate than the similar statement I asked you to add to the foot of your opinion. So please delete that. Thanks.

P.S.
—

Supreme Court of the United States
Washington 25, D. C.

CHAMBERS OF
JUSTICE POTTER STEWART

May 31, 1961

No. 236 - Mapp v. Ohio

Dear Tom,

I'd appreciate your adding the following at the foot of your opinion in this case:

"Agreeing fully with Part I of Mr. Justice Harlan's dissenting opinion, Mr. Justice Stewart expresses no view as to the merits of the issue today decided by the Court. He concurs in the Court's judgment because he is persuaded that the provision of § 2905.34 of the Ohio Revised Code, upon which the petitioner's conviction was based, is, in the words of Mr. Justice Harlan, not "consistent with the rights of free thought and expression assured against state action by the Fourteenth Amendment."

Sincerely yours,

P.S.
P.S.

Mr. Justice Clark

To: The Chief Justice
Mr. Justice Black
Mr. Justice Frankfurter
Mr. Justice Douglas
✓ Mr. Justice Clark
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Whittaker

From: Stewart, J.

Circulated: 6-3-61

Recirculated: _____

No. 236.—*Mapp v. Ohio*.

Memorandum of MR. JUSTICE STEWART.

Agreeing fully with Part I of MR. JUSTICE HARLAN'S dissenting opinion, I express no view as to the merits of the issue which the Court today decides. I would, however, reverse the judgment in this case, because I am persuaded that the provision of § 2905.34 of the Ohio Revised Code, upon which the petitioner's conviction was based, is, in the words of MR. JUSTICE HARLAN, not "consistent with the rights of free thought and expression assured against state action by the Fourteenth Amendment."