

April 10, 1957

Dear Brethren:

Re: No. 15, Yates v. United States.

At last Friday's Conference, when dealing with Brown v. United States I indicated that the Court, and more particularly I, had, in considering some of our contempt cases overlooked the hearing of Ex Parte Hudgings, 249 U. S. 378, I did not mention, but had more specifically in mind, my own position in No. 15, Yates v. United States.

Accordingly, I advised Brother Burton on Monday and the Chief Justice on Tuesday that I would have to re-examine the record in the Yates case in order to bring my position in that case in accord with the views I expressed in Brown v. United States. I have not yet had an opportunity to do so and shall not until I have finished the drafting of my opinion in the Brown case.

I suggest that the desirability of reconsidering Yates v. United States be postponed until I have had the opportunity of seeing where I stand on that case. If I find the Yates case falls within what I deem to be the governing considerations in Brown, I will have to change my position. In that case there will be a majority for reversal in Yates. The ground of reversal is another story.

F.F.