



6-19-2019

## Correspondence with Fellow Associate Justices of the Supreme Court of the United States

Lewis F. Powell, Jr.

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

Dear Lewis

I waited until to-day to write you for the best of reasons — I wrote Judges Thornberry, Haynsworth & Carswell immediately after their names were sent to the Senate. I wasn't going to take the slightest chance in your case even though I knew from the outset that the outcome was certain.

Mrs. Brennan and I enthusiastically and most sincerely welcome you & Mrs. Parnell to the group. Both of you, I know, will discover that it's a unique company



among whom there is affection & respect  
for each other, and complete harmony  
of aims, if not always of views.

My wife & I remember with  
such gratitude your many courtesies  
to us both over the years, & particularly  
the night of the Virginia Bar meeting.  
We look forward eagerly to a  
long & happy association.

Most sincerely  
Bill

December 6, 1971

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

December 6, 1971

Dear Mr. Powell,

I am delighted that the days of the confirmation process are now behind you and that you are about to join us.

Your presence is sorely needed and you are very welcome. May your years here be happy ones for you and your family. I know that those years will be successful. Your

past accomplishments attest to this. I look forward to working with you on the problems that demand the best of all of us.

Being the junior here, I have been through the 'newcomer's' period more recently than the others. Do not hesitate to call upon me if I may be of any assistance whatever.

Sincerely,

Harry A. Blackmun



Office of the Marshal  
Supreme Court of the United States  
Washington, D. C. 20543

January 18, 1972

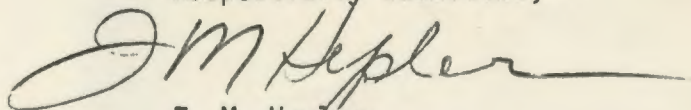
BY ORDER OF THE CHIEF JUSTICE, THE MARSHAL CIRCULATES  
THE FOLLOWING MEMORANDUM:

The Court will attend President Nixon's State of the Union Address which is to be delivered on Thursday, January 20, 1972, at 12:30 p.m. The procedure will be as follows:

<sup>11:55</sup>  
At ~~12:00~~ noon, the Court and their wives (active and retired) and the four officers of the Court will assemble in the driveway of the Supreme Court garage. They will leave in as many cars as are necessary at 12:00 p.m., and proceed to the Senate side of the Capitol. The Justices will be escorted to Mr. Arends' office where they will don their robes and the wives will be escorted to the Executive Gallery to their seats. (Tickets for the wives will be delivered to them on Thursday before leaving the Supreme Court building for the Capitol.) After the Justices are robed, they are to await the Doorkeeper's assistant who will escort them to their seats in the Chamber.

After the speech is terminated, the Justices will be escorted back to Mr. Arends' office for disrobing. The wives will be escorted back to meet the Justices at Mr. Arends' office and all will be escorted to their respective automobiles for the return to the Supreme Court building.

Respectfully submitted,



F. M. Hepler  
Marshal



B

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 18, 1972

Dear Lewis:

Your proposed letter to Mr. vom Baur certainly looks fine to me. My preference as to dates would be after the April session, but if you prefer something earlier, April 1 would be satisfactory. April 8 is not good for me (the Gridiron Club possibility) and May 27 is out.

Sincerely,

H. A. B.

Mr. Justice Powell

*After April Session  
Week of May 1st  
Either May 2, 3, 4 ~~or 4<sup>th</sup>~~  
~~(20-4-20)~~*



[c. MARCH 6, 1972]

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

Dear Lavis

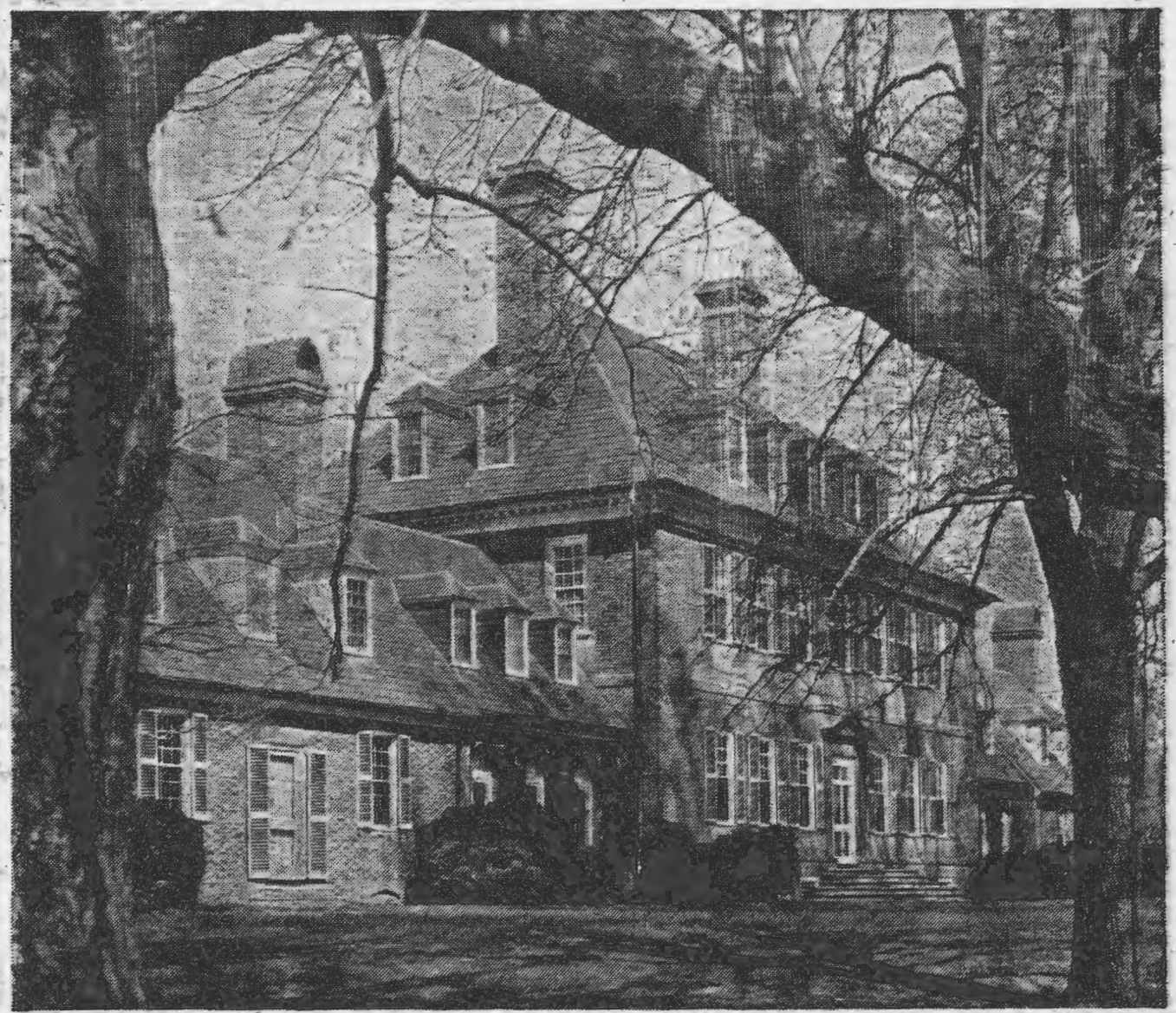
Maryanne & I were  
fascinated reading this  
last evening. It would  
be wonderful, but I suppose  
miraculous if the dream of  
a "working plantation" is  
realized. This only whets  
our determination to go back  
again soon. Also thank  
you so much for us  
Sincerely  
Bill





*Wealthy planter 'King'*  
*Carter was first*  
*owner of tract*

# Carter's Grove: Recreating Plantation Life Seen Goal for River Manor





By WILFORD KALE

**Times-Dispatch News Bureau Writer**  
**WILLIAMSBURG** — Standing on a broad knoll overlooking a dramatic bend in the wide James River, Carter's Grove, a majestic 18-century Georgian mansion, embodies today the same regal atmosphere of its colonial years when it was the home of the influential Burwell family.

One of the nation's great colonial dwellings, Carter's Grove has been described as "the most beautiful house in America." Its greatness lies not only in its history, but probably more important in its architecture, which has evolved through the years.

Now owned by the Colonial Williamsburg Foundation, the plantation is seen by Carlisle H. Humelsine, foundation president, as an opportunity "to add another dimension to the overall historical interpretation of colonial history in the Williamsburg area."

"WE HAVE LONG FELT that we needed to have a plantation house with large amounts of land to interpret properly the plantation society and economy of which Williamsburg was the principal commercial center," Humelsine explained.

With such a thought in mind, the foundation embarked several years ago upon an exhaustive research study, compiling and documenting materials that would lead to the restoration of Carter's Grove as a working 18th-century plantation.

In an interview in 1967 Humelsine said, "I want to have a working plantation. How can you interpret this plantation society without a plantation in operation? This is a real important part of the life of the 18th century, which we presently do not present."

The acquisition of Carter's Grove in 1969 by Colonial Williamsburg gave Humelsine the opportunity to explore one of his great personal desires—the working plantation.

He explained that questions immediately were asked: Can we really make it into a working plantation? Can we accomplish all that is required? Can we finance the project?

If the restoration of Carter's Grove is accomplished, the Colonial Williamsburg

president said, it will be as a separate effort—not related to the projects in the historic area surrounding the Duke of Gloucester Street.

To help answer questions about the working plantation concept an in-depth research study was begun several years ago, examining exactly how an 18th-century plantation was operated. Scheduled to cost more than \$200,000 over a several-year period, the study is coordinated by James R. Short, CW vice president and director of the division of interpretation.

Short explained, "Williamsburg was a product of the plantation agriculture—this form of farming large tracts of land with a commercially profitable crop. And with Carter's Grove, we have the first opportunity to include a plantation as part of our interpretation."

IN DISCUSSING the elaborate research project, Short emphasized that academic historians' attitudes to agriculture history are largely reflected in two ways: (1) absorption with 19th-century agriculture and (2) economics of farming.

Basically, his work is deeper and more involved, Short pointed out. "There has been little interest in the technology of agriculture until it began to change in the late 19th century," he said. "There is little interest before that time and this is what we have to find out."

How did people farm in the 18th century and can Carter's Grove be restored to a working plantation with the same crops, same tools, same type of animals and same atmosphere of 250 years ago?

Within the next year or so, Humelsine hopes that research will have progressed to the point that a determination can be made as to the extent of the restoration of Carter's Grove.

Short added that the research is involved in "unspectacular" things—such as the physical manner of growing wheat, oats, rye, corn and tobacco. How were the crops cultivated?

A good deal is already known about the cultivation of tobacco, Short explained, but much is still needed concerning other aspects of colonial agriculture.

Using account books, ledgers, correspondence, inventories, journals,

diaries and wills, the researchers are beginning, piece by piece, to put together the story of 18th-century plantation life.

"If we are never able to utilize all of this information establishing the working aspect of plantation life," Short said, "we will still be able to publish a significant amount of new information in books and essays."

HUMELSINE POINTED OUT that another major aspect of the study was an 18-month long extensive archaeological dig at Carter's Grove in 1970-71. Not only did the archaeological work attempt to uncover some of the lost outbuildings around the plantation mansion, but work was spent studying the possible uses of the land during the 18th century, Short said.

Soil surveys were also made in about 1,000 borings, examining the past use of the land and its capacity to support "the kind of agriculture we may reinstitute," he outlined.

Remains of outbuildings were uncovered on Carter's Grove as well as the location of orchards. Short said that Burwell had divided Carter's Grove into "seven quarters"—or manageable units. And in some cases, a specific quarter had one particular responsibility to the plantation life.

Buildings there were used as living quarters for the overseer, as corn houses and tobacco houses and as storage shelters. "This could account for the primary reason that we found so few outbuildings near the main house," he explained.

Humelsine said that a primary question regarding the restoration of Carter's Grove to working plantation status involves the Burwell mansion itself.

The mansion, which was opened this year on Wednesday, currently is exhibited with the furnishings—including 18th and 19th-century antiques and later pieces left by the late Mrs. McCrea.

"I can imagine that we would have to furnish about 15-16 rooms with period pieces (circa 1750-1781), if we were to completely restore the interior," Humelsine said. "This would mean an extensive search and a tremendous task for our department of collections."

Humelsine, however, quickly pointed out that no decision has been made regarding the mansion—either concerning the interior furnishings or the exterior facade.

When Colonial Williamsburg sold the

## Conversion of Carter's Grove Would Help Interpret Plantation Society



Entrance Hall Has Been Called Finest Room in All Georgian Architecture

## Georgian Form Model

# Architecture Has Evolved Through Private Ownership

A recapping of the history of Carter's Grove plantation helps shed light on its present-day significance.

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When Colonial Williamsburg sold the Kingsmill Plantation property adjacent to Carter's Grove to Anheuser-Busch in 1969, a corridor, for a proposed country road, a minimum of 300 feet wide and nearly six miles long through undisturbed wooded areas and open spaces was retained, Humelsine explained.

**THIS LAND PROVIDES** the opportunity to construct a protected country road from Williamsburg to Carter's Grove enabling visitors to enjoy a leisurely drive to the plantation, he said.

Humelsine estimated to accomplish the Carter's Grove project would require the acquisition of sizeable endowment, which would enable the use of from \$5-7 million for the "working plantation" concept.

This is another problem area with which we have concerned ourselves," he said, "where will this money be found?"

The Board of Trustees of the Colonial Williamsburg Foundation in Nov. 1971 approved a phased redevelopment of Carter's Grove. But the depth and extent of the redevelopment cannot be determined, Humelsine said, until the research project is closer to completion. He said he hopes a policy decision regarding Carter's Grove can be made in the early next year.

"This is a fine, great house," he said, "and a fine example of gracious living."

"The great value we hope to derive from Carter's Grove in years ahead," Humelsine said, "will be to provide an entirely new and exciting interpretation of colonial history, showing the elaborate plantation life which socially, politically and economically controlled colonial Virginia."

## Georgian Form Model

# Architecture Has Evolved Through Private Ownership

A recapping of the history of Carter's Grove plantation helps shed light on its present-day significance.

The first known owner of the property was "King" Carter of Corotoman, but since the records of James City County were lost during the Civil War, the date of purchase has not been found, nor is it known from whom he acquired the land in the early 1700s.

Carter explained in two letters in 1723 and 1731 that he had purchased the land for his daughter Elizabeth. After the death of her first husband, Nathaniel Burwell of Fairfield, Gloucester County, she married Dr. George Nicholas and "King" Carter became executor and guardian for his grandchildren, including Carter Burwell, to whom ownership of Carter's Grove would eventually descend.

Little is known about the events on the plantation during the early years. "King" Carter died in 1732 and his grandson received the property five years later.

Burwell built Carter's Grove mansion between 1750 and 1753, and his descendants preserved the account books showing details of his contracts with masons, carpenters and a master woodworker imported from England.

**THE STATELY BRICK** home was a major project in the area, and Burwell commissioned a Williamsburg mason, David Minetree, to undertake the project, along with John Wheatly, a carpenter who was working on repairs to the Governor's Palace and on the new capitol building.

Minetree built only the main part of the house. It is believed that several flanking dependencies were already in place, constructed about 1700. Records indicate that much of the building materials had already been purchased be-

fore Minetree was hired and construction began.

Architectural historians are virtually unanimous in their judgment that the interiors of Carter's Grove are the finest in Virginia and among the best in colonial America. They have survived and are intact today.

No original drawings or plans for the mansion are known to exist, but historians have been able to pinpoint the source of the interior decorations. Burwell bought a copy of the well-known book on London building of that day, "Palladio Londinensis," just two years before the house was begun and much of the woodwork was copied from its pages.

Carter's Grove, the last of a series of stylistically similar houses raised in Virginia between 1725 and 1750, represents the culmination of early Georgian plantation architecture, according to historian Marshall B. Davidson.

"On baronial estates (like Carter's Grove) an untitled nobility built impressive mansions of stone and brick, that with their flanking dependencies, came closer than other colonial structures to approaching the Palladian manor houses of rural England," Davidson said.

"Virginians live more like country gentlemen of fortune than any other settlers of America, (they) live in a state of emulation with one another. Building, furniture, wines, dress, diversion and this is to such a degree that it is rather amazing that they should be able to go on with their plantation at all..." Davidson suggested.

**FROM ITS EARLY YEARS**, the Carter's Grove plantation house was a meeting place for the influential and the elite of Virginia, and the lively so-

cial events there attracted the leading men of the day.

Burwell was a member of the House of Burgesses and his son Nathaniel was a member of the Convention of 1788 for the adoption of the Constitution. The diary of John Blair of Williamsburg makes frequent mention of meeting at Carter's Grove and lists John Robinson, Speaker of the House of Burgesses, as attending one of the many social occasions.

Burwell lived only a few short months in his completed manor house, dying in 1756. Relatives, including William Nelson of the Yorktown Nelson family, looked after the estate until Nathaniel Burwell came of age in 1771.

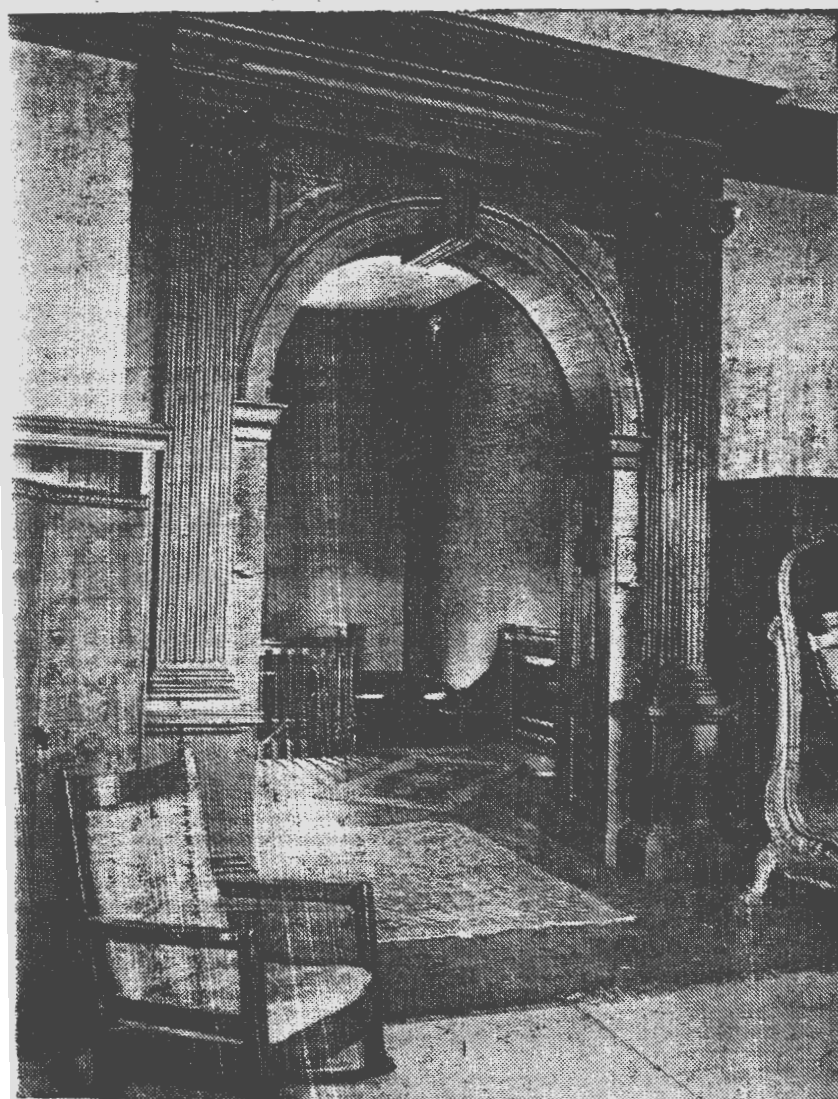
There were ten rooms on the two floors of the main house: four bedrooms and a study were located on the second floor, while two drawing rooms, a library, dining room, and the great hall were on the ground floor.

A persistent tradition denotes the right drawing room facing the river as the scene of two historic refusals.

Legend has it that Mary Cary of Ceeley's Warwick County, is said to have declined a proposal of marriage by George Washington. Miss Cary later married Edward Ambler of Jamestown. Sometime later Thomas Jefferson was refused in marriage by Rebecca Burwell, the niece of the builder, and Jefferson's early sweetheart, whom he called "my fair Belinda." Since the early 1900s the room has been known as the "refusal room."

The house was still young when the Revolutionary War came to the countryside here. Another famous legend has been told surrounding a visit to the plantation by British Colonel Banastre Tarleton.

Continued on Page 3, Col. 2



Valentine Museum Collection

Doorway to Second Floor Is Majestic in Proportions

# Carter's Grove Revives Georgian Form

Continued From First Page

IT IS SAID THAT Tarleton and his dragoons used Carter's Grove as headquarters in the campaign of 1781. During his stay at the house, he ordered some of his men who were upstairs to come down, the legend says. When they did not obey promptly enough to suit him, Colonel Tarleton rode up the broad, low stairs on his horse, hacking at the fine stairrail with his sword as he rode. The marks are visible on the railing today.

Romantic as these traditions and legends may be, historians have serious doubts about their authenticity.

Carter Burwell III died in 1819 and the last of the Burwell family to live at Carter's Grove was the infant Philip Carter Lee Burwell, a great-grandson of the builder.

The estate passed out of the family in 1838 when it was sold to Thomas Wynne, who added some 200 acres to the estate, which totalled 1,200 acres at the time of his death in 1854.

Following his death, Carter's Grove was sold six times in 25 years by trustees and special commissioners as guardians for his minor children. Because payments were not made as contracted, the plantation reverted to the

Wynne family each time and was sold again.

It is highly probable that during this period the great front halls were painted with "tones of red, white, blue and — mirabile dictu — green!" Even amid the coloring, one visitor said, "one can still see the dignity of the whole scheme. . . ." It would be noted that tradition called for the original woodwork in the 1700s in the hall to be painted, but of a single, light color.

In 1879, Edwin G. Booth Sr., purchased "The Grove," as it was then called, and according to a report of the period, "renovated and restored it and proposes that it shall be a place for holding celebrations of state historic anniversaries." Booth died in 1885 and his son, Dr. Edwin G. Booth Jr., became trustee of the house for his wife and the children.

In 1907, L. Percival Bisland purchased the property and spent from \$20,000 to \$50,000 on its restoration. During this time the kitchen was attached to the main house. Bisland's death in 1908, followed by that of his wife in 1910, cut short the revival of Carter's Grove. It was not until the McCreas arrived on the scene in 1927 that additional restoration was undertaken.

FOLLOWING THE DEATH of Mrs. Bisland, a local syndicate, the Custis, Harwood, Bickford Co., purchased the property in 1911 for \$30,000 and prepared a brochure in anticipation of reselling the plantation, which by now had shrunk to about 400 acres.

A. G. Harwood purchased the property from the syndicate in 1912-13 and sold the old Burwell mansion to Mr. and Mrs. Archibald McCrea in 1927.

The McCrea restoration in 1928-31 included removal of a modern porch that obscured the original facade and the stripping of paint from paneled interiors, the adaptation of the mansion to modern living conditions and raising the roof and addition of dormer windows.

The late W. Duncan Lee of Richmond was employed to handle the restoration, which involved joining the flanking office building to the central house and improving upon an earlier connection between the house and the kitchen building.

The connections — called by some architects hyphens — are similar to Maryland-style homes, where such gaps never existed. Architect Lee explained in the 1930s "if (Nathaniel) Burwell — of Carter's Grove did not intend from the first to connect up his three units,

it is very probable he would have done it eventually."

Lee, under the guidance of Mr. and Mrs. McCrea, left little to chance in his work: "No panelling was removed from the walls...and only a few floor boards taken up, but every pipe, radiator, wire and even electric switch is completely hidden," he wrote.

One of the handsome features of the home, noted by Mrs. McCrea, but rarely mentioned previously, is the fireplace mantel of white and sienna marble and its carved frieze panel in the west drawing room on the first floor. The frieze is composed of statuary blocks from London, similar to those ordered by Governor Tryon for his palace in New Bern, N. C.

BEGINNING IN 1930, Carter's Grove, under the McCreas, became the gathering place again for the Virginia elite as well as national dignitaries. The list of prominent Americans who visited the home during the next 30 years reads like "Who's Who" — President Franklin D. Roosevelt, state governors, U. S. congressmen and senators, ambassadors and diplomats.

McCrea died in 1937, but his wife continued to maintain the mansion. A direct descendant on her mother's

side — seventh in line — from Governor Alexander Spotswood, Mrs. McCrea had strong feelings for the culture of Virginia in general and the estate in particular.

Mrs. McCrea, who died in 1960, strongly wished to protect Carter's Grove for the enjoyment and education of future generations. Under the terms of her will, Mrs. McCrea's executors were requested to sell Carter's Grove "to some state or federal agency or to some association or foundation" so that it could be preserved and displayed to the public.

In 1963 in this spirit, the plantation was purchased by the Rockefeller Brothers Foundation and conveyed to the Sealantic Fund, a Rockefeller-supported philanthropic organization designed for holding purposes.

The involved lease-purchase arrangement made it possible for Colonial Williamsburg to open the mansion to the public in 1964. In 1969 the Sealantic Fund gave Carter's Grove to the Colonial Williamsburg Foundation, along with funds to operate the plantation. In 1964 Winthrop Rockefeller had given the Foundation \$100,000 to get the mansion and grounds ready for initial exhibition.

—WILFORD KALE



March 9, 1972

TO MEMBERS OF THE COURT

In the event you have not seen it, I think you will enjoy - and  
admire - the enclosed bit of poetry written by Elizabeth Black.

It was presented at the luncheon given on Tuesday by the "wives"  
for Nan Rehnquist and my wife Jo.

*L. F. P.*  
L. F. P., Jr.

Dearest Nan, and Dearest Jo -  
Welcome to our SOO-preme show!  
Who ornament "Their Honors" "lives..."

Cindy Skene

We'll have to tell you there'll be days  
When hubby gets MOST fulsome praise -  
But then at times the praise grows weak  
and YOU will turn the other cheek.

Nan Relingquist

YOU'LL be mad, but HE will NOT!  
And HE'S the one who takes the shot!  
The lives of justices, we state  
Have many things that complicate.

Mary Clark  
Marjorie Brennan  
Joan E. Warren

Invitations come galore  
To wine and dine and eat some more.  
You'll have to see he keeps quite lean -  
To some JUST FAT is deemed OBSCENE!

Cissy Marshall

Armin Reef

Then there's your rival - all that WORK!  
That WORK, my dears, HE'LL NEVER SHIRK!  
You look your best; your hubby flirts, -  
Then law clerks bring a million certs!

Cathy Douglas

There is a plus side though to this  
That NOT a ONE of us would miss!  
When Scales of Justice get a wrench,  
And THUNDER rumbles from the bench!

And YOUR "sweet Honor" has the chance  
The course of hist'ry to advance;  
You're proud that it has been his fate  
To keep this country free and great.

And when his words are "handed down"  
You'll glow with pride - with love abound...  
Or if dissenting, KNOW he's right  
And glad he has the spunk to fight!

The good we take - the bad we cull!  
The life is NEVER EVER dull!  
You'll get the bitter and the sweet  
As you join the Law's elite.

But ere we end this pleasant task,  
There's just one thing we'd like to ask:  
If our men say BROTHERS, in awe, -  
Then why aren't WE sisters in LAW?

So Sister Jo, we drink to you,  
We wish you joy in all you do, -  
You're graced with all the Southern charms,  
We welcome you with open arms!

And Sister Nan, so young and bright,  
A source of beauty and delight,  
We welcome you - we sing your praise -  
And happily our cups we raise!

Elizabeth Black

March 7, 1972

Marion White  
Vera Burger

Della Blackman

Jo Powell



B

March 21, 1972

Dear Bill,

In view of your recent visit and interest, I thought you and Marjorie would enjoy the enclosed stories on Carter's Grove recently published in the Richmond Times Dispatch.

As my wife Jo is a Carter's Grove fan, she would like to have these back at your convenience.

Sincerely,

Mr. Justice Brennan

lfp/ss  
Enc.



March 30, 1972

Dear Byron,

As I never seem to remember when we are together, I write this note to thank you for your thoughtfulness in sending me the pictures taken at my first luncheon with the Court.

These are "historic" for me and I am delighted to have them.

As ever,

Mr. Justice White

lfp/ss



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

Dear Lewis

It has been a particular delight  
to give your first opinion for the Court -  
Commissioner v First Security Bank.  
It is precisely the lucid, persuasive  
& splendidly organized analysis of  
a complex problem that I expected  
from your hand. All of us, & I  
particularly, count the Court very



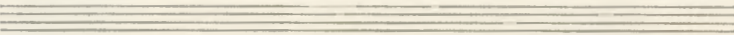
fortunate to have you here. &  
look forward to giving you in  
many, many more

2/23/72

Sincerely  
Bub Bruman



*Filed  
Justice*

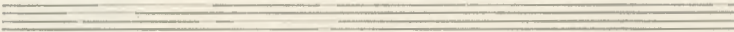


REMARKS  
*of*  
POTTER STEWART  
ASSOCIATE JUSTICE, UNITED STATES SUPREME COURT  
*at the*  
MEMORIAL SERVICE  
FOR JOHN MARSHALL HARLAN



THE ASSOCIATION OF THE BAR  
OF THE CITY OF NEW YORK

APRIL 5, 1972





## JOHN MARSHALL HARLAN

John Marshall Harlan retired from active service as an Associate Justice of the Supreme Court of the United States on September 23, 1971, and on that day he sent a note to each one of his colleagues, saying simply, "I am going to miss my associations with each of you more than I can possibly express." Barely three months later, on the afternoon of December 29, John Harlan passed away. In accord with his wish, his remains were interred in a country churchyard in Weston, Connecticut, near the summer home he loved. So it was that his time on earth ended as he had lived it—with dignity, simplicity, and grace.

Today we meet to honor the memory of John Harlan, and I can think of no place for such a meeting more appropriate than the House of this Association. He was born in Chicago, and he had ancestral roots in Kentucky, but he was first and last a New York lawyer. It was here that he lived his professional life for more than thirty years—here that he was a practicing lawyer, a public citizen, and finally a member of the United States Court of Appeals for the Second Circuit. He was proud of the great traditions of the New York Bar, and proud to have shared in those traditions from his earliest professional years, as a young assistant in the United States Attorney's Office under Mr. Emory Buckner. He was a long-time member of this Association, and active in its leadership. So it is in this City and in this place that those who knew John Harlan best can most fittingly gather in his memory.

At the time of his retirement from the Supreme Court last September, the newspapers and commentators who joined in paying him tribute kept repeating two adjectives in describing his judicial career. One of the adjectives was "scholarly," and the other was "conservative." Those two words, while not altogether inaccurate, some-



what miss, I think, the full measure of Justice Harlan's judicial work.

For he was much more than a scholar. He was, in the best sense of the word, a lawyer. His intellect, his learning, and his diligence were certainly equal to the highest scholarly demands of the Court he served so well. But he was not an ivory tower academic. He had wisdom and humanity, realism and understanding, that carried far beyond mere scholarship.

And he was not "conservative" so much as he was wholly conscientious and responsible. In his approach to the judicial process he never lost sight of the great design of the Constitution as a whole. His own words, spoken at a dedication ceremony in this City eight years ago, convey something of his constitutional understanding:

"The men who wrote the Constitution," he said, "recognized, with unmatched political wisdom, that true liberty can rise no higher or be made more secure than the spirit of a people to achieve and maintain it. Their prime concern was to devise a form of government for the new Nation under which such a spirit might thrive and find the fullest opportunity for expression. . . . They staked their faith," he said, "not primarily upon declarations of individual rights but upon the kind of government the Union was to have. And they determined that in a government of divided powers lay the best promise for realizing the free society it was their object to achieve.

"It does not derogate from steadfastness to the concept of developing constitutionalism in the field of civil rights, . . ." he said, "to insist upon *principled* constitutionalism which does not proceed by eroding the true fundamentals of Federalism and the Separation of Powers. . . ."

Mr. Justice Harlan's understanding of his duty as a constitutional judge was akin in some ways to that of



Mr. Justice Frankfurter, and in some ways to that of his own immediate predecessor, Mr. Justice Jackson. But his ultimate constitutional views were uniquely his own. And while those views did lead him to a so-called "conservative" position in many cases, I can assure you that a very interesting law review article could some day be written on "The Liberal Opinions of Mr. Justice Harlan." Consider, for example, his opinion for the Court in *NAACP v. Alabama* in 1958, which for the first time clearly established that freedom of private association is a fully guaranteed constitutional right. Or his concurring opinion in *Garner v. Louisiana* in 1961, where he was the only member of the Court to perceive that a sit-in by Negroes in a segregated southern restaurant could be a form of free expression protected by the Constitution. Or his dissenting opinion in *Poe v. Ullman*, involving the validity of a state birth control law. Or his Court opinions just last Term in *Boddie v. Connecticut*, holding that a state cannot constitutionally make a pauper pay money to file a suit for divorce, and in *Cohen v. California*, holding that the Constitution protects free expression even when it takes the form of an offensive four-letter word. In most of these opinions, and in many others, Justice Harlan was opposed by other Justices popularly thought of as "liberal" members of the Court.

But this is not the time to attempt a critical assessment, even superficially, of Justice Harlan's immeasurable contributions to American law. I speak today of John Harlan as a colleague, as a friend, and as a man.

Unlike many of you, I knew him only after he had become a member of the Supreme Court. He had been there more than three years when I came to the Court in 1958, and I remember our first meeting as though it were yesterday. He was a tall man, with a slight stoop that somehow added to his manner of deference and courtesy. He had a handsome face, with a high brow and deep-set eyes. The day I met him, he was wearing a conservative dark suit, with his grandfather's watch-



chain strung across his vest. (I soon learned that he was always dressed that way.) I remember the sincerity in his words of welcome, the firmness of his handshake, and the kindness in his voice. And most of all, I remember the twinkle in his eye.

The association among the members of our Court is necessarily a close one, and as the years moved on, like every one of John Harlan's colleagues, I fully came to appreciate his singular qualities of character. He was a private person, but this, I think, was a quality born primarily of his concern for the privacy of others. He had great dignity, but it was dignity born of modesty and simple self-respect, and fortified by his reverence for the position he held and his love for the profession he served.

To the work of the Court itself he was completely and totally dedicated. No aspiring law student getting ready for a final examination ever worked harder than he continually worked in getting ready for the oral arguments and the Friday Conferences at the Court. He would come to those Friday Conferences with a carefully thought out position in every case, yet always ready to listen, and always eager to try to understand the views of each one of his colleagues. And with all his seriousness of purpose, his ever present sense of humor at those Conferences soon became legendary.

In the preparation of judicial opinions—his opinions for **the** Court and his countless separate opinions—he gave to the “peewee” cases—as he used to call them, the same total effort and painstaking care that he gave to the greatest of the cases that came before the Court. He never swept anything under the rug.

In his final years on the Court John Harlan's eyesight failed almost completely. He made no secret of it, and he never complained about it—either by word or deed. Self-pity was simply not part of his nature. For him, this physical handicap was just another challenge of his job. He met the challenge, and he adjusted to it, with patience, with candor, and with courage.



Because of his failing vision, because of the long hours he devoted to his work, because of the illness of his beloved wife, Ethel, and because of his own strict sense of the limitations appropriate to a member of the Court, his social life in Washington was not an active one, at least in the later years. Yet he was the most sociable of men. He immensely enjoyed the companionship of men and women, and he was himself always a completely engaging and outgoing companion.

But far beyond mere companionability, he had an extraordinary capacity to evoke the devotion and affection of those who knew him best. His warm and close friendships spanned a lifetime of happy associations, from his earliest schoolboy days to his final years in Washington with the members of his office staff and each Term's new law clerks. And no matter how busy he ever was, he was always ready to lay his work aside, and talk over the personal problem of a friend.

John Harlan will live long in the memories of all of those who knew him. And after they are gone, he will continue to live in the books, for lawyers and judges yet to come. But we who were his brothers miss his presence among us. All of *us* miss *our* associations with *him* more than *we* can possibly express.

There is a poem by Robert Louis Stevenson in *A Child's Garden of Verses* called "North-west Passage." It seems to be speaking about a little boy on his way upstairs to bed. But because I think it means more than that, I read it now:

Must we to bed indeed? Well then,  
Let us arise and go like men,  
And face with an undaunted tread  
The long black passage up to bed.

Farewell, O brother, sister, sire!  
O pleasant party round the fire!  
The songs you sing, the tales you tell,  
Till far to-morrow, fare ye well!



W  
April 9, 1972

Dear Byron:

Your law clerks, Richard Danzig, David Kendall and Jim Scarborough honored me by taking me to lunch on Wednesday.

I had a good time, and was much impressed. They are outstanding your lawyers.

Sincerely,

Mr. Justice White

lfp/ss



A

April 9, 1972

Dear Potter,

Jo and I read last night your "Remarks"  
at the memorial service for John Harlan.

We were both deeply moved by your  
sensitive and eloquent tribute, and one which  
I am sure John fully deserved.

I wish I could have been there to hear  
you deliver it.

Sincerely,

Mr. Justice Stewart

lfp/ss



W

July 3, 1972

Dear Byron,

The enclosed "profile" appeared in the New York Times after you left. Although I am sure others have sent you copies, here is an extra one.

I am glad that B. Drummond Ayers, Jr. (whose father is a Virginia lawyer) treated you better than did Jack Kilpatrick!

I do hope that you and Marion have a good summer. I have an office at the Fourth Circuit in Richmond. Do not hesitate to call me if I can be of any assistance.

Sincerely,

Mr. Justice White





July 4, 1977

Dear Chief Justice

Cathy has been quite ill; as I called her this morning to see if she would be well enough to meet me tomorrow in Houston for the Texas Bar sessions. He told me over the phone that the Washington Post today carries a nasty story about the Abortion Cases, my memo to the Conference, etc. etc.

I am upset and appalled. I have never breathed a word concerning the cases, or my memo, to anyone outside the Court. I have no idea where the writer got the story.

We have our differences; but so far as I am concerned they are wholly internal; and if revealed, they are misused in opinion pieces, never in "leak" to the press.

I am taking the liberty of sending a copy of this note to you to the other Justices.

To Chief Justice  
Ward DC

With affectionate regards  
W. Douglas



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

July 7, 1972

Dear Lewis:

As I told you, I greatly enjoyed reading your address to the Fourth Circuit Conference on a look at the work of the Court. I have quite a different view about the matter, and pursuant to my promise I attach a copy of a lecture I gave to the Bar of the City of New York in 1970, which reviewed the various historic aspects of this problem.

One's perspective changes over the years. But I really think that in terms of the present rate of activity inside the Court the job of an Associate Justice does not add up to more than about four days a week.

*W. O. D.*  
W. O. D.

Mr. Justice Powell



July 27, 1972

Room 429  
U.S. Court of Appeals  
10th and Main Streets  
Richmond, Virginia 23219

Dear Potter,

Jo and I have thought of and talked about you and Andy many times since we departed Washington, and especially during the intensive heat wave of the past ten days. We have envied you being in the mountains of New Hampshire, although I recall being uncomfortably warm on Lake Squam.

We have been here except for meetings of the Fourth Circuit and the Virginia Bar. At the latter, I spoke informally at the banquet about my reactions to being on the Court.- These comments received more attention in the press than my serious talk about the Court's workload. I enclose a copy of the only portion of my talk which was written out.

I am keeping fairly well up to date on cert notes, and also am doing some general reading - which I have had no prior opportunity to do. Yesterday, I read most of Justice Black's Carpentier lectures at Columbia. I am appalled by the vastness of the literature on constitutional law, which I have had little occasion to read.

Lord Chief Justice Widgery and Lady Widgery are coming to us here in Richmond on August 6 after a visit with the Chief and Vera. We will show them the sights of Charlottesville (U.Va. and Monticello) and Williamsburg, as well as Richmond. In Williamsburg we will, of course, point out the Bruton Parish Church - famous as the place where the potter Stewarts were married.



I want to say again, a little more formally, how grateful Jo and I are to the Stewarts for all that both of you did to make life, socially and professionally, more agreeable during those first hectic months. I particularly valued your ever generous thoughtfulness and advice at the Court.

We hope to see you in San Francisco.

Sincerely,

Hon. Potter Stewart  
Bowen Brook Farm  
Franconia, New Hampshire 03580

lfp/ss



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

August 14, 1972

Dear Lewis,

"The Song of Sumner" arrived safely.  
I am well into it and find some good  
laughs and new aspects of Americana.  
It is good reading for summer evenings.  
Your thoughtfulness means much to me.

I hope you are getting some well-  
deserved rest and release from the pressure  
that befalls us so relentlessly. It must  
seem good to be in Richmond again for  
a time. I trust your visit with the  
friends from England proved to be most  
pleasant and the ABC not too strenuous.

My office tells me that great progress  
is being made in your new chambers. I miss  
you and look forward to seeing you "well  
done" before too long.

Gratefully,

Harry



R

October 5, 1972

Dear Bill:

I think your memorandum on "disqualification" constitutes a conclusive answer to the motion.

Sincerely,

Mr. Justice Rehnquist

lfp/ss



October 6, 1972

Dear Bill:

I think your splendid memorandum on "disqualification" constitutes a conclusive answer to the motion.

Sincerely,

Mr. Justice Rehnquist

LFP, Jr.:pls



W  
November 2, 1972

Dear Byron,

I have some tickets for the Redskins-Giant game here on November 12, and it would give Jo and me much pleasure if you and Marian joined us for the game.

I hope it will be as good a game as the last two played by the Redskins.

Sincerely,

Mr. Justice White

lfp/ss



November 9, 1972

PERSONAL

No. 72-307 Russo v. Byrne

Dear Bill:

Your dissent in the above case refers to the wiretap logs which were submitted in camera. You described them as follows:

"I have now seen them and it appears that the electronic surveillance was of a foreign embassy and that the intercepted conversations in this case had nothing to do 'with respect to activities of foreign powers or their agents, the question we reserved in the previous case. As I understand it, the conversation was an inquiry by one of the counsel concerning air transportation facilities through the foreign country'".

It occurs to me that the counsel in question will be able, upon reading the foregoing, to identify (i) the foreign country whose embassy was under surveillance, and (ii) perhaps the precise time of this particular surveillance. It is unlikely that this counsel arranges air transportation to the country in question very often.

While it is common knowledge that countries (all of the major ones, I suppose) conduct intelligence surveillance over the embassies of other countries, it is the sort of activity which is tacitly accepted but rarely admitted publicly or officially. I have observed from the press recently that the United States may have some negotiations underway with the particular country implicated in this log. I wonder whether



disclosure of the surveillance in something as official as an opinion by a member of this Court might possibly embarrass our government, especially if delicate negotiations are presently underway.

Possibly you have considered this. I have wanted to speak to you about it prior to the Conference, but as I have missed you this afternoon, I write this note.

Sincerely,

Mr. Justice Douglas

lfp/ss