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## A TRIBUTE TO LEWIS F. POWELL, JR.

OLIVER W. HILL\*

Former Justice Lewis Powell and I have enjoyed a unique relationship, and it is out of the experiences and observations derived therefrom that I wish to express my admiration for him.

Shortly after the Senate rejected the nomination of George Harrold Carswell as an Associate Justice of the United States Supreme Court, Lewis and I happened to meet on Broad Street in front of the building that housed what was then known as the Court of Appeals of Virginia. I greeted him with the statement and question, "Since President Nixon is determined to appoint a Southerner to the Supreme Court, what about telling some of your Republican friends to advise the President to nominate you, a person we could rally around and get confirmed?" He merely laughed. Either that suggestion seeped through the cosmic rays and landed on the brain of the President or what is more probable, some stalwart in or close to the Powers That Be in the Justice Department or the White House had reached the same conclusion. A few weeks later Lewis Powell was nominated and subsequently confirmed as an Associate Justice of the United States Supreme Court. Although he had opposition from some of my associates, I supported him.

At that time, I had known Lewis for approximately a quarter of a century. We first met shortly after World War II. In Richmond, the period immediately following World War II was one filled with great expectancy. The African-American segment of the city looked forward to the renewal of its efforts to eliminate the various laws and customs of racial segregation that to a great extent had been placed in a holding pattern during the prosecution of the War. At the same time, a number of the business leaders of Richmond had formed the Richmond Citizens Association (RCA), which in turn established a commission with Lewis Powell as its chairman to carry out its mission. He actively solicited the cooperation, support and participation of Richmond's African-American community in the RCA's effort to transform the city's governmental structure from a bicameral council whose members would be elected city-wide with a City Manager appointed by the Council as the chief executive of the city's government. The Council would elect one of its members as its presiding officer who would also be the ceremonial mayor of the city. Through the exercise of his diverse talents, skill, management, wit and charm, Lewis secured the full support of the Richmond Civic Council, an African-American Political organization active at that time, and persuaded the voters of Richmond not only to approve the necessary charter, but also to elect eight of the nine candidates proposed

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by the RCA to serve on the newly created unicameral City Council.

When the United States Supreme Court handed down its landmark decision in *Brown v. Board of Education* declaring the Virginia statutes requiring segregation in public education to be unconstitutional,<sup>1</sup> the prevailing leadership in most facets of life in Virginia led the white people into a period of our history known as "Massive Resistance" to the desegregation of the public schools and other aspects of public life. Many whites, out of fear of adverse retaliation against themselves or members of their families, avoided all situations that had even the appearance of being sympathetic to the African-Americans' positions on desegregation.

On several occasions during this period, Lewis Powell demonstrated that he possessed a strong sense of moral responsibility and great integrity. An illustration of his moral stamina occurred at a public meeting in the auditorium of the Old John Marshall High School, next door to the historic site of the home of Chief Justice John Marshall, held to discuss desegregation of the public schools. As Chairman of the Richmond City School Board, Lewis was the moderator of the meeting. The actual date of the meeting is blurred, but the occasion is stamped indelibly in my memory.

Collins Denny, counsel for and one of the founders of a pro-segregationist organization known as the Defenders of State Sovereignty and Individual Liberty, and I, as Chairman of the Legal Committee of the Virginia State Conference of NAACP Branches, were scheduled speakers. Denny spoke first, and his highly emotional fervor worked the audience (which apparently consisted mostly of pro-segregationists) into such a frenzy that when I arose to speak, there was a general uproar of boos, cat calls and epithets. It was apparent that this audience had no intention of permitting me to speak. The situation became very tense. I knew that a typical moderator at that time would have suggested that I retire hastily for my own safety; at the same time, I had determined in my own mind that I was not going to back down from the confrontation. At that point Lewis stood up beside me and in a cool, calm demeanor and a steady voice insisted upon the restoration of order. It was in a manner similar to that depicted in the pictures of Jesus calming the stormy Sea of Galilee. The audience quieted down, I spoke, and there was no further disorder. From that time on I knew that I would consider him as a friend.

A decade later, Lewis had another opportunity to demonstrate his commitment to a good education for all public school students when Virginia Governor Mills Godwin appointed a Commission on Constitution Revision with the Honorable Albertis Harrison, a justice of our highest appellate court and a former Governor of Virginia, as its chairman. The rest of the Commission consisted of two United States district court judges; a college president; another former Governor, Congressman and college president; a former law school dean; and five practicing attorneys (including me), two

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1. 347 U.S. 483 (1954).

of whom were subsequently elected Justices of the Supreme Court of Virginia, and one of whom was Lewis Powell. The Commission was directed to make its report within a year. Even with a competent and dedicated staff, frequent meetings were required for the Commission to accomplish its mission within the time constraints. The final report was warmly received by the Governor and the General Assembly, and most of the Commission's recommendations were ultimately enacted.

No member contributed more to the success of the work of the Commission than did Lewis Powell. He combined his extensive knowledge of the Virginia Public School System and his experience as a member of the State Board of Education with a fine appreciation for the law as a dynamic instrument for social change. One of the provisions that he supported vigorously was the strengthening of the Commonwealth's commitment to public education which, if executed as mandated, we optimistically expected would provide every Virginia child an opportunity to participate in an educational program of high quality.

Notwithstanding the fact that even by the farthest stretch of my imagination, I cannot conceive of Lewis Powell voluntarily risking all of his worldly goods on one chance of pitch and toss, I still think that he exemplifies all of the virtues of manhood expressed by Rudyard Kipling in the poem "If". For example, even when he has been immersed in complex national issues, Lewis Powell has never lost his concern for people as individual human beings. This attitude is reflected not only in his judicial philosophy but also in his everyday actions. For example, in June, 1987, Justice Powell traveled to Virginia Beach for the annual luncheon of the Virginia State Bar for the sole purpose of presenting to the late Samuel W. Tucker, one of my partners, and me an award from the Women and Minorities Section of the State Bar. Lewis returned to Washington immediately thereafter. We now know that at the time Justice Powell was contemplating the momentous decision whether to retire. Nevertheless, he found time to attend a local function to honor his former colleagues in what he considered to be a good cause.

In his work in local and state affairs, Lewis Powell has steadfastly pursued the twin goals of educational excellence and racial cooperation. Through the difficult period of the 1950s and even during his tenure as a Supreme Court Justice, his interest has been genuine, his commitment unflinching. I am delighted and honored to have him as a friend.

