

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 4, 1982

Dear Lewis:

This is a follow-up on our conversation of December 31 about traffic accidents. The case I mentioned is Perez v. Campbell, 402 U.S. 637 (1971). I wrote separately (joined by the CJ, JMH, and PS) concurring in the result as to one petitioner and dissenting as to the other. You will be interested in the Appendix on page 672 and its last paragraph. I said something to the same general effect in my brief concurrence in Tate v. Short, 401 U.S. 395, 401 (1971).

I feel, however, that I am crying aloud in the wilderness alone.

Sincerely,

Harry

Justice Powell

January 6, 1981 [1981]

Dear Harry:

Thank you so much for calling my attention to your opinion in Perez v. Campbell.

The appendix is fascinating. I do find it difficult to believe the figures as to deaths in the Revolutionary War. I can't believe that the total numbers of persons who served in that war even approached the 643,000 of "battle deaths". Nor could the weapons then used have accounted for such a slaughter. Am I reading the figures correctly?

I am not surprised by the casualties in the War Between the States, although it is a bit odd that so many "Yankees" died from other causes - more than those who died in battle.

By chance Sunday night, I saw the first part of the 60 Minutes program. It also documents our view that - as you say - one "detects little genuine public" interest in taking action to lessen the slaughter on the highways. Law enforcement and the courts are not without blame.

Sincerely,

Justice Blackmun

lfp/ss

January 6, 1982

Dear Mary, Cliff, Fred and Mark,

Thank you for your generous hospitality today.

I thoroughly enjoyed the lunch and particularly the conversation.

It was evident that you have a "fun" Chambers this Term, and I am sure this is a joy to your Justice and Mary. Our two Chambers certainly will not always agree, but there is a highly level of mutual respect.

Sincerely,

Ms. Mary L Mikva
Mr. Mark S. Campisano
Mr. Clifton S. Elgarten
Mr. Frederick C. Lowinger

lfp/ss

Jan 7, 1982

Alan Jo & Lewis - (10th anniversary on Cerent)

How more than thoughtful to receive your call today.

Indeed these ten years have flown by, and Bill & I feel very honored to have joined the Court in Concert with you both.

Your lovely fruit basket has been very much enjoyed, and your dear little miniature wandering Jew Plant (don't call it that?) is thriving. All your

special manifestations
of concern are so
much appreciated,
especially during such
a period as this in
our lives.

We look forward to
brighter days ahead, and
send you both our
deepest thanks and all
blessings & good wishes
for health & happiness
in the New Year.

Love,

Nan [REHNQUIST]

Cover

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 18, 1982

Dear Lewis and Jo,

I know I have orally thanked you for the lovely fruit basket you sent me while I was in the hospital, Lewis, but I wanted to make it a "matter of record", as we lawyers say. You and Jo have been most solicitous and concerned throughout my stay in the hospital and period of recovery following, and believe me that concern is appreciated. I have missed the red grapefruit ever since moving from Arizona, and was delighted to find some of them in your basket. I know they are a staple of Texas as well as of points further west, so perhaps I am indirectly indebted to Penny in Houston. But at any rate they, as well as all of the other fruit, were delicious and were thoroughly appreciated.

Sincerely,

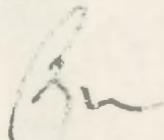
Bill

February 8, 1982

Dear Thurgood,

It is surely all right with me to un-
straight line the two cases to which you
refer.

Sincerely yours,

A handwritten signature, likely of Justice Marshall, consisting of a stylized 'M' followed by a horizontal line.

Justice Marshall

Copies to the Conference

cpm

February 9, 1982

Dear Thurgood:

I certainly have no objection - as Byron says - to "un-straight lining" the two cases to which you refer.

Sincerely,

Justice Marshall

lfp/ss

cc: The Conference

[c. FEB. 1982]

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Dear Lewis,

Just in case you
missed the enclosed
cartoon, I am
forwarding it for
a chuckle with your
morning coffee.

Sandra



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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 5, 1982

Dear Lewis:

I've been delaying writing you until the Library of Congress sent me a copy of "Craig Claiborne's Gourmet Diet", the source of my effort, as supplemented by the "Vegetable Substitutions", a copy of which I do enclose. I'm still hoping to get Claiborne and will send it over as soon as I receive it.

As for what brought me down from 179 to my present 153 in the six months from December 1980 through May 1981, I must start with a list of "No-Nos": no salt, no desserts, no sweets, no shell fish and (worst of all) no alcoholic beverages, whiskey, wine or beer. (I expect this last over the six months accounts for most of the lost poundage.) Otherwise, the diet was fairly simple.

Breakfast: orange juice, Bran Buds with banana (skim milk, no sugar), coffee with skim milk, no sugar

Lunch: almost any kind of soup except cream soups; low sodium crackers, hot tea with lemon

Dinner: moderate portion of any kind of meat, fowl or fish (except shell fish), two vegetables selected as suggested in the "Vegetable Substitutions" list, fresh fruit

Needless to say, all between meal snacks are strictly verboten.

I've managed to stay around, (usually within) 155 since reaching that weight in May 1981. I weigh every morning and if I slip above that figure (only a pound or so when I do), I adjust the menu until I lose the excess. I must say in all candor that adjustment is not made in the cocktail component.

I'm also sending an informative little book "Are You Really Serious About Losing Weight". I should tell you that Dr. Cary

feels strongly that any diet should be undertaken only under the supervision of one's doctor. He checked me frequently while I was on mine.

I do hope Jo finds this of some help. Our deeply affectionate best to you both.

Sincerely,

Bill

Justice Powell

Encls.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 10, 1982

Sandra,

I understood your concern over the Barbash story, but few people will believe there was any impropriety.

In fact, there was none. You responded to a relevant question and gave the answer several of us have given often - as have you.

Until mentioned by a reporter (Barbash) as we were leaving, it had not occurred to me that the discussion had any relation to the pending case. Certainly, neither

of us thought so.

Some reporters make a living trying to make public officials look irresponsible if not venal. This is an occupational hazard. This characteristic of much of the media, together with \$1983 damage suits, is deterring many of our ablest citizens from accepting office.

I was proud to have you with me at the hearing, and count on you when we testify before the Senate Committee.

Levin

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

3/10/82

Dear Lewis,

No wonder all
who know you
speak of you
in the most glowing
fashion. Thank
you. I'll chalk
it up to experience.

Sandra

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

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

Justice Powell

4/1/82
Supreme Court of the United States
Washington, D. C. 20543

Court
File

Lewis

Thanks so much for your
join in Brown v Hartlage.
The attached from Sunday's
New York Times will show you
how right (wrong?) we are.
Bul

Boat Rocker

John Nolan Jr. campaigned for welfare director in the town of Burrillville, R.I., on the promise that he would take a 90 percent cut in salary. Once elected in November 1980, he found it wasn't easy to refuse \$9,000 of his \$10,000 pay.

The Treasurer of the town of 14,000 people kept sending him a \$384.62 paycheck every two weeks. Mr. Nolan, a 65-year-old retired steamfitter, declined to cash the checks.

In January 1981, the Treasurer said of the impasse: "This is the first time anything like this has ever happened." He feared it would mess up the town's bookkeeping.

"I had quite a job giving the balance back to the town," Mr. Nolan reports. "Eventually they had to change the rules. The Town Treasurer insisted that the money was allotted for that position and I had to take it."

With a finding by the Town Solicitor that it was all right to reduce the salary, Mr. Nolan relates, his pay was set officially at \$1,000 a year. And at the Town Meeting on April 10, he says, "I'm going to be asking for another \$500 cut."

"There's nothing to do in the job," he says.

Since a state takeover of all local welfare in 1970, Mr. Nolan explains, a state staff administers the welfare from a town office. His sole duties, he says, are to sign a "payroll" every Tuesday authorizing the Town Treasurer to make out checks for the welfare clients on the list. On Thursdays he picks up the checks at the Treasurer's office and delivers them to the welfare office.

He says that throughout Rhode Island local welfare directors — "good talkers" — are getting as high as \$22,000 a year, and "actually they don't have any more to do than I do."

F
G

April 6, 1982

Statement on Abe Fortas

Dear Bill:

Here is the one sentence statement that I am giving Barrett McGurn. I have instructed Mr. McGurn not to volunteer a statement, but to release this if specifically requested.

I would not wish the press to say that I "declined" to comment.

Sincerely,

Justice Brennan

Copies to the Conference

LFP/vde

April 6, 1982

STATEMENT ON ABE FORTAS

Although I did not serve with Abe Fortas on the Court, I have known him for many years as an exceptionally gifted lawyer who served his country with devotion in many capacities.

Lewis F. Powell, Jr.

LFP/vde

[APRIL 21, 1982]

Gold Plunkett & Sneed

INC.



Richard Burton has friends and coworkers worried about his health now that he's hitting the sauce again. Doctors have repeatedly warned Burton that his liver is in no condition to handle such heavy drinking.

Supreme Court Justice Lewis Powell, 74, has told President Reagan he's considering retirement.

No showdown in our town . . .

Two old enemies stalked into town Monday. Henry Kissinger was promoting his new book, "Kissinger: The Years of Upheaval," on a TV show. Archrival, journalist and former French minister Jean-Jacques Servan-Schreiber was here for a Roosevelt U. lecture. Henry the P . . .

Chicago Tribune?

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

4/22/82

Dear Lewis -

This was in yesterday's Chicago
Tribune - I sure hope it is
not true -
Sincerely, Jh

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 24, 1982

Dear Lewis:

They missed you at the reunion. The Dean read excerpts from your letter.

I bring you particular greetings from Everett I. Willis of New York City.

Sincerely,

Harry

Justice Powell

Gust

June 14, 1982

Dear Bill:

It was good news this afternoon to learn from Ceil that your operation was entirely successful, and that you are resting comfortably.

Although doctors usually say this following an operation, I have no reason to doubt it in your case.

We have been thinking about you today, and wishing you well. I also have been thinking about you because of the excellent dissent you have written in Pico. It is a devastating reply to the WJB opinion. I can see the hand of a real artist with words, backed up by a thorough knowledge of our precedents.

If you need anything that we can provide, do call me.

As ever,

Justice Rehnquist

LFP/vde

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS



August 24, 1982

Re: Memorial for Justice Fortas

Dear Chief:

It occurs to me that the memorial service on November 15 might be an appropriate occasion on which the media might be given an opportunity to experiment with television coverage of a ceremonial proceeding. I therefore move that we discuss this possibility at our September Conference.

Respectfully,

The Chief Justice

Copies to the Conference

order
Jules

August 25, 1982

Dear Potter,

The enclosed item in the Post prompted me to call Andy, with whom I have just talked.

I am distressed that you have had an accident, and a particularly painful one. Having suffered broken ribs twice in my life (though never as many as five at one time!), I know how very painful this type of injury can be. One even has difficulty sleeping because of the deep breathing.

But your doctors tell Andy that you will have no permanent injury, and this is good news - particularly in view of the severity of your fall.

And dear Andy also has back problems. We send you both much sympathy.

Affectionately,

Enclosure:
Post Article

Mr. Justice Stewart
Bowen Brook Farm
Franconia, New Hampshire 03580

*File on Correspondence
with Justices*

ARTHUR J. GOLDBERG

August 26, 1982

AUG 30 1982

Dear Louis:

Thank you very much for your letter of August 23.

I read your enclosed address before the American Bar Association Division of Judicial Administration with great interest.

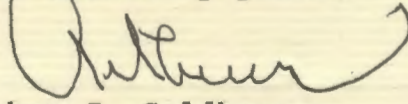
I agree that the case load problem of the Court merits sensible reforms. I also agree, as I have stated on many occasions, that it would be unadvisable for any other tribunal to determine the cases which should comprise the docket of the Supreme Court.

As you correctly say, no other court could possibly determine as well as the Supreme Court the cases that should comprise its docket.

As I told you over the telephone, I am giving serious consideration to an appropriate statement about the matter we discussed. If and when I issue such a statement, I shall send you a copy.

Thank you for your good words about my family and I reciprocate in full measure our affectionate best wishes to you and yours.

Most cordially yours,

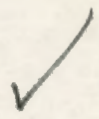

Arthur J. Goldberg

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

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

August 27, 1982



RE: Memorial for Justice Fortas

Dear Chief:

I join John's suggestion in the above.

Sincerely,

The Chief Justice

Copies to the Conference

John Feltus

September 1, 1982

Dear Potter,

In a talk this morning with Carolyn, I was sorry to learn that you are still hospitalized. Yet, when the first report was that you would be there only a few days, I was quite skeptical.

I mentioned in my earlier letter that I have had broken ribs twice. Once in an automobile accident in which I also had a broken vertebra. I then was in bed for a full month. Broken bones simply take a long time to knit, and ribs in particular are painful.

Jo and I return to Washington this weekend. The Chief and Harry already are there, and Sandra returned from her African safari today.

You may have read that John, in a speech at the ABA, proposed that the Court delegate to a new court all of our certiorari work - including the selecting of cases that would be reviewed by the Supreme Court. I do not think there will be much support for his proposal. The selection of cases to hear is one of our primary responsibilities that should not be delegated.

John also surprised me by stating that 80 per cent of the petitions for certiorari were reviewed only by his law clerks, and not by him. I do agree that something must be done about the burgeoning of our caseload, and in a talk I made at the ABA I suggested some familiar limitations on Federal jurisdiction that Congress could enact. When you return, I will give you a copy of my talk.

Carolyn did say that Andy had good news from her doctor. I trust that soon we will have this word about you.

As ever,

Mr. Justice Stewart
Bowen Brook Farm
Franconia, New Hampshire 03580

Correspondence with
other Justices

✓

lfp/ss 09/07/82

Moore v. City of East Cleveland and Nixon Tapes Case

The attached draft of a letter of January 7, 1980, to Justice Brennan was never sent. It was written when he was commenting on what was said in The Brethren about these two cases. Bill apparently writes a summary each Term of what happened in cases considered to be most important. I have never seen his current "memoirs", but his letter of January 3 - though substantially accurate with respect to my role in Moore - was inaccurate in several particulars with respect to the Tapes Case.

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

ss

Draft letter to Bill Brennan

— not sent. Though his account

(in his current "memoir") is substantially

January 7, 1980

accurate, his account

of the Taper

case is not in a

several

respects as

to me.

L.F.P.

Moore v. City of East Cleveland

and

Dear Bill:

Nixon Taper Case

Thank you for your full letter of January 3, that

contains a complete record of how the opinions in the above

Moore

case were developed.

^

Although the case is hardly important enough to be

of any interest to future historians who write about the

Court, I think it is just as well that our respective files

document the facts.

I am also glad that you included in your letter the

final two or three paragraphs. Although they were quite

unnecessary so far as I am concerned, again it is prudent -

for the benefit of whoever may look into these matters in the distant future - for your^l to record the facts. ⁷Incidentally, Woodward's description of my role in the Tapes Case, including his account of what transpired between you and me, also is far from the truth. You were entirely supportive of the memorandum I circulated except we did differ as to how to describe the qualified privilege of a President. ^{Several} ~~Memoranda~~ [^] that I prepared well before the argument (~~indeed~~, I had commenced worked on the case the preceding summer following Johnny Sirica's decision), make clear ~~that~~ ^{that} in my view ~~the~~ presidential privilege could not defeat the need for evidence in a trial such as the Tapes Case. ⁷Indeed, we were all of one mind about the result, and the precise language adopted in describing the privilege - though not ideal from my viewpoint - reflected a reasonable accommodation of the views of all of us.

I was proud of the way the Court functioned in the Tapes-Case, and thought then - and still do - that each member of the Court participated responsibly and constructively in resolving according to law a serious constitutional crisis.

Sincerely,

Lewis

lfp/ss 09/17/82

File

File on Correspondence with Justices

Attached is a draft of a letter that I dictated last July in Richmond. I had intended to circulate the letter to the other members of the Court, but had wanted to discuss this with Potter Stewart to see whether he thought it might offend any one of them. In view of Potter's accident, he has not returned to Washington and is not expected back until mid-October.

Since dictating the letter, the media has carried stories that persuade me this is not an appropriate time to raise the issue of language used in our dissenting opinions. See particularly the article from the Wall Street Journal of September 13, attached hereto.

I am afraid my letter would be viewed as a reaction to the press comments. These include, in addition to the Journal article, news stories on speeches made by John Stevens and particularly Thurgood's remarks - critical of members of the Court - at the CA2 Conference last weekend.

Accordingly, I am filing this letter away, but am asking Sally to bring the subject to my attention at the end of the next Term - that is before I go to Richmond next summer.

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

ss

LFP/djb

7/27/82

Sept 7
Preliminary Draft of
Letter to the Justices

Dear Brothers and Sister,

Shortly after our Term ended I received a letter from
a national known law professor ~~and author~~ in which he referred
to the "very ^{sharp} ~~short~~ language" used by Justices about each other.
He could not "remember a time" when we were as critical of each
other, and concluded:

"I was dismayed by it, and had the feeling
that the Court was finding the Term difficult
and exhausting."

In Stephen Wermiel's article in the Wall Street Journal of
July 6, he quotes Professor Gunther as commenting on the
"lack of collegiality". ^T ~~and~~ the article refers to "more Justices
writing separate opinions, and increasingly volatile, often
bitter, wording in dissenting opinions. Gerald Gunther is
quoted again as saying "the rhetoric is getting stronger ... it is
needlessly hysterical".

I wonder if we are not doing the Court itself an injustice by some of the language we use, particularly in dissents. Often what we say about each other can be read as personal rather than professional criticism. ~~I include myself among those who, in~~ moments of disappointment or sharp disagreement, ~~use~~ ^{I have used} language in an opinion that I ~~am embarrassed by~~ ^{regretted} when I read it even a few months later.

Of course, we understand each other and only rarely is a criticism viewed as personal. I have often said publicly - what I truly believe - that at the personal level there is a high degree of respect and friendship among the nine of us.

But the public does not view the Court this way. My own perception of the Court when I was a practicing lawyer, and particularly during the decade of the 60's, was that several of the Justices were at each other's throats. When I was considering whether to accept appointment to the Court, I was concerned by what

Justices

3.

seemed to me to be the lack of civility among Justices and discussed this with lawyers in my firm who had clerked at the Court. The ~~re~~ reassured me.

The Fourth Circuit Court of Appeals has a tradition that permits any judge, and particularly the Chief Judge, to suggest that language is unnecessarily personal or critical. This is not always honored to the letter, and yet - over the years - I recall relatively little of the type of criticism in CA 4 opinions that ~~frequently~~ appears in ours.

In sum, I have thought for some time that we do the institution of the Supreme Court a disservice by some of our rhetoric. I would be interested in knowing whether other Justices share this concern.

Sincerely,

Low-Roading on the High Court

By STEPHEN WERMIEL

WASHINGTON—The Supreme Court is losing its cool.

Recent opinions by the justices have shown unusual signs of acrimony that surprise some lawyers and law professors who monitor the court's work. Comments by the justices, on and off the bench, have become more pointed.

For example, in a June ruling making it easier for employers to limit the back pay they owe in job-discrimination cases, Justice Harry Blackmun, in dissent, said that Justice Sandra O'Connor "simply and completely misstates the issue" and "only confirms how far removed from the real world" she is.

In a footnote to the majority opinion, Justice O'Connor defended her phrasing of the issue in the case and added pointedly that she wouldn't respond any further to the "ad hominem" or personal argument by Justice Blackmun.

While explanations for such vitriolic rhetoric vary—and only the justices know what the real cause is—there is a changing atmosphere at the high court.

In the most recent term that ended July 2, Philip Kurland, a University of Chicago law school professor, found "more acerbity" than usual in the decisions. Stanford University law professor Gerald Gunther says some opinions were "needlessly hysterical," marked by "edginess and overstatement."

Some say the rhetoric is nothing to worry about, that it simply reflects the court adapting to modern parlance and mores that are less refined than in times past. "Older courts were more subtle," says Mr. Kurland, "but we're living in more of an open society now."

But others think the development may be cause for concern. Some experts say the language is more political, reflecting the increasingly political nature of judging. Others wonder if the rhetoric is indicative of personal tensions that are affecting the court's work. Some note that Justice O'Connor was a participant in several scrapes with her new colleagues.

By tradition, the Supreme Court has been a courtly institution. There have been some classic personal disputes—Justices Hugo Black and Robert Jackson in the 1940s, Felix Frankfurter and William

Douglas in the '50s—but they have been relatively few and very slow to become public.

Vehement philosophical disagreements have marked the court's opinions, but they have traditionally been muted in scholarly terms and dressed in the language of the law. Even in the late spring, when the justices confront the most difficult issues in their push to adjourn for the summer, dissenting views may be filled with hyperbole, but they generally remain focused on the legal issue.

Set against that background, developments in recent months surprised some court watchers who are accustomed to the extreme civility of the institution.

In April, in one of the sharpest exchanges of the term, Justice William Brennan, in dissent, took a swipe at a decision by Justice O'Connor making it tougher for

defendant's confession had been illegally obtained, Justice O'Connor, delivering a somewhat accusatory lecture in her dissent, said the court was twisting the facts. "The court," she wrote, "has parsed through the . . . story and plucked those tidbits that the police did not expressly contradict." She said the approach "hardly comports" with what appellate courts are supposed to do.

Also in June, the court, in a decision by Justice Blackmun, upheld a federal law on electric power. Justice O'Connor, in dissent, said the opinion was an "absurdity" and said the court was "conscript(ing) state utility commissions into the national bureaucratic army" and turning state legislatures into "field offices of the national bureaucracy."

Justice Blackmun shot back, "While these rhetorical devices make for absorb-

Explanations vary for the recent vitriolic rhetoric in Supreme Court decisions—only the justices know what the real cause is—but there is a changing atmosphere.

criminals convicted in state courts to obtain review of their cases in federal court. It was the second such decision by Justice O'Connor in a month, and it drew unusual sarcasm from Justice Brennan.

Mr. Brennan referred to Mrs. O'Connor's decision as "incomprehensible," containing "several pages of tortuous reasoning" and "sentiments in reason's clothing," and as "a noteworthy exercise in the very judicial activism that the court so deprecates. . . ." He accused Mrs. O'Connor of ignoring her earlier decision, called *Rose vs. Lundy*, and played on the name of that case. "*Sic transit gloria Lundy*," he wrote, borrowing a Latin phrase which would translate, "Thus passes the glory of Lundy." He added, "In scarcely a month, the bloom is off the *Rose*."

Mrs. O'Connor responded in kind, though not at length. In footnotes to her decision, she said Mr. Brennan's views were "incomprehensible" and "carry more rhetorical force than substance."

Clearly, there was more involved than disagreement over the outcome of the case.

In June, when Justice Thurgood Marshall wrote for the court that an Alabama

ing reading, they unfortunately are substituted for useful constitutional analysis."

The examples haven't been limited entirely to the decisions. Justice Blackmun has on several occasions told audiences that Justice O'Connor lost no time joining the court's conservative block. Justice John Stevens recently made a speech complaining about the court's load of cases and proposing a new type of appeals court to help out. Five days later, Justice Byron White labeled the proposal "plastic surgery."

Last fall, during oral argument on the constitutionality of applying the death penalty to minors, Justice William Rehnquist wondered if taxpayers should be made to bear the cost of jailing juvenile murderers. Justice Marshall interjected, "It would have been cheaper just to shoot him right after he was arrested, wouldn't it?"

That something has changed is a simple enough conclusion to draw from these examples. It is harder to weigh the causes and the significance.

It may simply be, as University of Virginia law professor A. E. Dick Howard says, "These justices just are not as courtly a group as past generations. Ordi-

nary speech is coarser than it was, and the court has probably gotten a little less polite in its opinions."

But even those who offer that explanation for the rhetoric in the opinions are puzzled by the speeches by justices. "It's a step beyond conventional rules to carry one's case to the public," says Mr. Howard.

Yale Kamisar, a University of Michigan law professor, voices a similar reaction to portions of the speech by Justice Stevens that implied the court had wasted its time hearing certain cases: "That was kind of a nasty speech," Mr. Kamisar says.

It is virtually impossible to tell whether there is personal animosity among the justices. The frequency with which Justice Blackmun has made comments, always off the record, about Justice O'Connor, surely suggests some hard feelings. Some court watchers suggest that Mr. Blackmun may resent the favorable publicity and attention focused on Mrs. O'Connor's arrival last fall. His own breaking-in period at the court in 1970 was a harder road. But the justices scoff at suggestions of feuds. Chief Justice Warren Burger has said in the past that they enjoy a "good laugh" at such published reports.

More plausible is the idea that the business of judging has become more political and that the rhetoric reflects that fact. "Instead of the discourse of refined reason being the only mode of decisionmaking," says Paul Gewirtz, a Yale law school professor, "there is much more of the language of politics and political campaigns."

To some, this is an ominous development. Dennis Hutchinson, who teaches law at the University of Chicago, says, the justices "are behaving less like judges than like legislators. They are not deciding legal disputes as much as they are making pointed speeches at one another."

And Harvard Law School professor Laurence Tribe says, "The issues are too important. We expect better work from the court than some of the entirely personal swipes some of the justices seem to be taking."

Mr. Wermiel, a member of the Journal's Washington bureau, covers the Supreme Court.

other member of Court

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

File

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

September 17, 1982

Dear Lewis:

You have a significant birthday on Sunday. May it be a happy day for you and Jo and your entire family. It is hard to realize that so many of us are getting that far along in years. You do not seem any older now than you did on that happy day when you arrived here formally on January 7, 1972.

Sincerely,

Larry

Justice Powell

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Sept 1982

Dear Lewis,

John and I would
be delighted to join
you at Williamsburg
on the weekend of November
12-13. It will be
a great treat.

It is possible that
we may have to leave
very early Sunday AM,
but there is plenty of
time to plan the details.

Sandra



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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

10/8/82

Dear Lewis,

Thank you very much for sharing with me a copy of your ABA speech. It is excellent and I have already borrowed two of the references in it for some remarks I plan to make to the National Association of Women Judges.

Sandra

Justice

October 22, 1982

PERSONAL

Dear Harry:

I received yesterday, as perhaps you did, a copy of the annual report of Colonial Williamsburg.

It was most generous of you to make a gift, and I know that Carl Humelsine appreciates this, as do I.

If you wish to return this Christmas, and have not made arrangements, I would be happy to call Carl or - in view of your relationship with the Humelsines - you could do it directly. The only question would be whether one of the little houses, not normally rented, remains available. The hotel facilities are booked a couple of years in advance.

Sincerely,

Justice Blackmun

lfp/ss

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

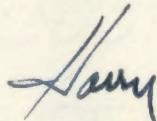
October 25, 1982

Dear Lewis:

Thank you for your letter of October 21. The gift to Colonial Williamsburg was the least I could do. They have been very good to Dottie and to me.

I appreciate your suggestion about Christmas. I may not have told you, but our daughter, Sally, is due to have her baby about December 10. We are therefore planning to spend Christmas this year in Atlanta and shall not be bothering you or Carl about accommodations at Williamsburg. As you know, I do like it down there at Christmastime.

Sincerely,



Justice Powell

Memorandum

Supreme Court of the United States

Memorandum

11/3, 1982

Lewis -

Sandra says she heard
from you that Jo is in
the hospital. When you
talk to her with you give
her Dan's & my best?

Could you tell me what
hospital she is in?

WHR

Note from WHR
delivered in the Bench
when he heard Jo was in
hospital.



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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Nov. 15
[1982]

Dear Lewis and Jo,

I am sure you already know what a delicious time we had with you in Williamsburg. It is the most exciting living museum in the world. One cannot fail to be inspired with the history of our country by visiting Colonial Williamsburg. But to make that visit in the company of Virginia's most distinguished and

and kindest family is
a treat beyond any other,
we feel utterly spoiled
by the experience. John
loved it as much as I
did. The place, the
people, and, most of
all, being with you
was a moving experience.
Virginia is at the core
of our history as a
nation. We loved
seeing it partly through
your eyes.

Fondly,

Sandra

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 17, 1982

MEMORANDUM TO THE CONFERENCE

Greetings to all of you! This is my first day back, and since I shall be in the building only a short time today, I shall not have the pleasure of seeing each of you, but I look forward to that pleasure within the near future.

My law clerk, Jeffrey Blattner, is available to work for any of you until further notice. He has already done work for a few of the Justices, but I wanted to let all of you know of his availability. Please be in touch with me if you would like him to work in your Chambers at any time during the coming months.

Sincerely yours,

P.S.
/

November 17, 1982

Dear Potter:

First, it is simply great to have you back, and particularly to find you looking and feeling so fit.

Thank you for your memorandum advising that Jeff Blattner may be available from time to time. As you know, he has done one bench memo for us that was quite good. I probably could assign another bench memo to Jeff whenever he is free. But I do not want to preempt other Chambers. Thus, you or Jeff can let me know when the demand for his services leaves him available for me.

Sincerely,

Justice Stewart

lfp/ss

November 18, 1982

MEMORANDUM TO THE CONFERENCE:

The enclosed article in the Wall Street Journal of November 16 may be of interest.

This describes a television program that is now being broadcast on a cable television network in this country. I do not know the writer of the article, but I approve of her final paragraph.

L.F.P., Jr.

SS

CONTACT: Tom Hannon

CNN TO AIR BLACKMUN INTERVIEW

"A Justice Speaks Out," an hour-long interview with Harry A. Blackmun, Associate Justice of the U.S. Supreme Court, will be presented by Cable News Network as a special cablecast on Saturday, Dec. 4, at 9 PM Eastern Time.

The interview is conducted by Daniel Schorr, CNN Senior Correspondent, who obtained Justice Blackmun's agreement after a series of discussions extending over more than a year.

The interview was taped on Thanksgiving Day in Justice Blackmun's chambers. This represents, as far as is known, the first time in history that television cameras have been admitted to the chambers of a Supreme Court Justice.

It is also the first television interview with a Justice of the Supreme Court in more than a decade. Previous interviews with Justices Hugo Black and William O. Douglas, conducted in their homes, were broadcast by CBS News.

A promotional announcement appearing on CNN says that Justice Blackmun discusses "life on the Supreme Court, 'hard-ball' among the Justices, the impact of the first woman Justice and the agony of deciding on abortion." Other subjects include judicial trends, the Court's increasing work load, proposed legislation to restrict the Court's jurisdiction, and cameras in the courtroom.

Mr. Schorr stated, "Justice Blackmun consented to this candid interview in the interest of public enlightenment about the most remote and mysterious branch of our government. It is a rare and singular event that I feel privileged to be part of."

Supreme Court of the United States
Memorandum

-30-

30 November, 1982

For your information

Toni

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

Justices File

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 1, 1982

Dear Chief:

Services and interment for Marjorie will be at 12:45 p.m. Friday, December 3. Both services and interment will be private. The remains meanwhile will be at Gawler's at 5130 Wisconsin Avenue, N.W. with visiting hours Thursday afternoon from 2 to 4 and Thursday evening from 7 to 9.

Because the services and interment will be private, this will not interfere with the Friday conference.

Sincerely,

Bill

The Chief Justice

Copies to the Conference

bc: Mr. Cornelison
Mrs. Burger

1982 DEC 1 PM 3 30

RECEIVED
CLERK OF THE
SUPREME COURT
JUSTICE

Justice

December 10, 1982

JARWORSKI GINA-POW

STATEMENT OF JUSTICE POWELL ON THE DEATH OF LEON JAWORSKI

Leon Jaworski's death deprives the legal profession of one of its most influential and constructive leaders. A powerful and skillful advocate, *his* first priority as a lawyer was public service to the cause of justice. His contributions to this cause have been unmatched in his time.