

MSB

2/1/86 Thank you for the great
enclosures!
Dearest Lewis -

How can I write you about
Potter and thank you being
Such a dear, devoted friend to him
always and giving him so much
added pleasure to being on the Court -
in a job he loved so much?

I think the thing I always
felt was that you were so comfortable
with each other and you never had to

go back to the beginning to explain
things to each other - you knew -
and not only did he care for you so -
but he always knew you were always
prepared & knowing and he admired
that quality so much - and then when
he didn't really feel much better and
didn't want to reach out for sympathy
he rather refused seeing clerks or
friends, but I always knew you were
there & when he wanted to - he

could talk with you - it was a
Comfort to me -

In spite of the rather poor health
since the fall I have always been so
grateful that he got off the Court - to go on
so young, albeit to a job he considered
the best in the Community, was not always
conducive to giving time to children & less
courtly events even wives, but the past 5
years I wouldn't change for anything - it
makes it even more of a loss for the
children & me, knowing him so lovingly &
constantly now, but then again, how few
people can cram so much love & experience
in one life together - we were truly blessed -
By this I don't mean I didn't adore being
connected with the Court & you & Jo & all
the wonder of it - but you know what I mean.

Everytime I see you I hump up &
can't say how much you both have
meant to us - & how much I know you
miss him too - I think he's with those of
us who love him so all the time - so
he's with both of us, isn't he?

best love to you & Jo - Andy.

(letter from "Andy" Stewart,
Justice Stewart's widow)

February 10, 1986

Dear Sandra:

Our oldest daughter, Josephine (Jody) - now Mrs. Richard S. Smith - lives in Houston. Jody and Richard are friends of Bob and Judy Allen who - as I understand it - are giving a dinner for you and John when you are in Houston on February 13.

I am not sure that you have ever met Jody. We think she is very special. She graduated from Smith, where she was Chairman of the Student Board that administered the honor system. I claim she is a first-rate club tennis player because I taught her! She was Richmond City Junior Champion for a couple of years, runner-up in the state, and had a Middle Atlantic ranking as a junior. The Smiths' son Elliott, our oldest grandchild, is a freshman at Harvard - somewhat to the distress of his father who is a Yale graduate.

I have missed seeing you.

Sincerely,

Justice O'Connor

LFP/vde

b/cc - Mrs. Richard S. Smith.

February 26, 1986

Dearest Andy,

As always, it was good to see you - even though far too briefly. You are quite right about Potter's interview with Fred Graham.

I also write (forgive typing) to thank you for your thoughtfulness in bringing me Potter's eloquent article on John Harlan. I know how very much Potter thought of John.

We hope to see you soon.

As ever,

Mrs. Potter Stewart
5135 Palisade Lane
Washington, D. C. 20016

lfp/ss

March 7, 1986

MEMORANDUM TO THE CONFERENCE:

Although hardly relevant to our decision in 85-5, Pennsylvania v. Delaware Valley Citizens Council, the enclosed brief article from the March 1 edition of LawScope may be of interest. Apparently there are a number of studies that make rather clear there is no problem in obtaining lawyers in cases where federal statutes authorize attorney's fees. Judge Sarokin (DC New Jersey) may be right when he says: "There's a cottage industry over counsel fees." I have not seen the Federal Judicial Center's study, though it may possibly be of interest.

L.F.P., Jr.

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

copy
✓

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 18, 1986

Dear Lewis,

I think on occasion I have forgotten to thank you for your never-ending generosity with the Merit cigarettes. I will not let that happen again; thank you very much for the recent gift, and ones in the past as well.

Sincerely,

kin

March 21, 1986

Dear Andy,

In the event you may not have seen it, I enclose a copy of the article in the ABA Journal of March 1, 1986. It is a sensitive and understanding article, written by David O. Stewart - one of my former law clerks. I particularly like the first picture of Potter. If you do not have it, perhaps a copy could be obtained from the American Bar Association.

It was good to have a glimpse of you on yesterday. As perhaps you were told, Jo and I left immediately following the ceremony because there was a capital case pending here at the Court that required my rather urgent attention.

I have written Jim Buckley that it pleases me that he will be wearing Potter's robe. You were thoughtful and generous to make this available.

With love,

Mrs. Potter Stewart
5135 Palisade Lane
Washington, D. C. 20016

lfp/ss
Enc.

bc: David O. Stewart, Esquire

April 3, 1986

TO: Law Clerks in the Chambers of Justices Brennan,
Marshall and Blackmun

I address this memorandum to the three Chambers because each of you has graciously invited me to lunch. I should have replied much sooner.

In view of the rather severe illness I experienced last year, I am still under physician's advice to rest in the middle of the day. I accomplish this by having a "brown bag" lunch in Chambers, and then resting for some 20-30 minutes. Thus, I rarely go out to lunch.

It would be my privilege to know all of you better. If the pressure here relaxes possibly in May or June, I may get in touch with you - in the order in which I received your invitations.

I do appreciate being invited by each of your Chambers.

L.F.P., Jr.

File on the
Supreme Court of the United States *Justices*
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 25, 1986

Dear Justice Powell,

The clerks and I very much appreciate your thoughtful and generous contribution for Justice Brennan's birthday party. We enjoyed seeing you there and thought it was lots of fun.

Thanks again.

Sincerely,

Thurgood Marshall

Justice Powell

count

May 9, 1986

Dear Tim:

I appreciate your inviting me to participate in your TV documentary on Justice Brennan. At least for the present, I will adhere to my long time policy of not going public with interviews.

I am happy, however, to express my opinion of Justice Brennan. I enclose a copy of two paragraphs that I wrote a couple of years ago for publication in The Reporter, a New Jersey bar publication. I still share these views of Bill Brennan enthusiastically.

Sincerely,

Mr. Tim O'Brien
American Broadcasting Company
1717 DeSales Street, N.W.
Washington, D. C. 20006

lfp/ss
Enc.

✓ In my view, Justice Brennan will go down in history as one of the truly great Justices of the Supreme Court. He brought to his duties here an exceptionally broad experience for a relatively young lawyer. He also is a gifted legal scholar. Over the long tenure of his service on the Supreme Court, he has written a number of the landmark decisions - decisions that will shape our law for decades to come. When one also considers the number of his dissenting and concurring opinions, Justice Brennan may well have added more pages to the United States Reports than any other Justice in the Court's history.

Despite the occasional sharpness in the language of some of his dissents, Justice Brennan is a warm and generous human being - liked personally by all of us who live rather closely together in this handsome building. As inexact as the terms "liberal" and "conservative" are, Justice Brennan is more liberal in his view of the commands of the Constitution than I am. This is not to say, of course, that he is always right! He also thinks I sometimes err egregiously. Despite differences, he and I remain warm friends - a friendship that dates back a number of years before I came to the Court.

—Lewis F. Powell

*Justice of the Supreme Court
of the United States*

Justices File

Mrs Lewis Powell,
Apt. S. 802,
550 N. St. S.W

5/2/86

With Fond
Wishes
to a Remarkable
couple

Sandra & John

The O'Connors
sent us lovely
flowers on our
50th wedding
anniversary.

L. F. R.

Justice

May 19, 1986

Dear Sandra:

As I have several things to say, I dictate this note rather than write it longhand (I do that rather poorly!).

First, Jo and I particularly appreciated the note from you and John congratulating us on our 50th anniversary. It was a memorable one!

When I was attending the CAll Conference last week, I heard praise of your Law Day speech in the small city in Alabama - I believe it was Anniston. Apparently the bar there consists of about 100 lawyers, and you were the first person of national stature ever to address it. The appreciation of your doing this was not limited to lawyers in that community. Word of your speech - tailored for an Alabama audience - has spread about the state.

Lastly, Molly was here last week for a couple of days and attended the ALI dinner with us. She missed seeing you, and asked me to give you her love.

As ever,

Justice O'Connor

lfp/ss

June 11, 1986

Dear Harry:

We talked to our niece (Mrs. Roy Grow) who gave an enthusiastic report on your address. Jo and I also congratulate you on your honorary degree from famous Carleton College.

Several of your friends at Mayo asked particularly to be remembered to you.

Sincerely,

Justice Blackmun

lfp/ss

Cm

June 12, 1986

Dear Bill:

Your proposed letter to Lord Justice Parker is excellent.

I now have the booklet from the ABA that I requested. It shows the substantial number of ABA Funds for which solicitation of ABA members goes on constantly in various forms. A new fund seems to be created every time a rather well known lawyer dies (e.g., Whit Seymour, Leon Jaworski, and others whom you know).

You also may have received word from the American Law Institute that it is on the threshold of launching a \$5,000,000 fund raising campaign to carry forward the important work of the Institute. Many state and even local bar associations - as well as every law school - also solicit contributions from lawyers.

It would be entirely appropriate to summarize the foregoing in a paragraph of your letter. As Whit Seymour found out, when he undertook to raise money for the Denning Fund, gifts by Americans to Lincoln's Inn are not tax deductible.

I will be glad to make a modest gift to Lincoln's Inn. My Denning Fund gift was \$500, and I probably would give the same amount to Lincoln's Inn.

Your willingness to be named as a Vice President will be helpful even in England, and is entirely proper.

I am available to talk about this at your convenience.

As ever,

Justice Brennan

lfp/ss

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

File on Justice

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 18, 1986

Dear Bill,

Warmest congratula-
tions to you - and to
the Court as an institution
- on your nomination
to be Chief Justice.

In my view, you
are exceptionally well
qualified, and will
make a distinguished
Chief. It will be a
privilege to continue to
serve with you in your
new capacity.

With affection,
Lewis

Court

June 18, 1986

PERSONAL

Dear Nino:

Warmest congratulations on your nomination to serve as an Associate Justice of this Court.

Although you have the ordeal ahead of the Senate Judiciary Committee hearings, in view of your distinguished record as a scholar and jurist I have no doubt as to your confirmation. You will be warmly welcomed here, and - despite the sharp language that often appears in dissenting opinions - you will find (as the Chief Justice said) that the level of civility among the Justices is high. This is a pleasant as well as a stimulating place to work, and to serve our country and profession.

My wife Jo and I enjoyed visiting with you and Maureen when we were together at the Whites' dinner. We look forward to having you both as members of the Court's family.

Sincerely,

Hon. Antonin Scalia
U.S. Court of Appeals for
the District of Columbia
Washington, D. C. 20001

lfp/ss

A Second Judicial Shoe

MONDAY, JUNE 23, 1986 A11

File on
the
Court

Within months, the second shoe in the Reaganization of the Supreme Court is expected to drop when Justice Lewis F. Powell Jr. retires and is replaced by Appeals Court Judge Robert Bork.

No firm commitment has been made, and Powell may well stay despite age (77) and infirm health—cutting President Reagan's long-range judicial strategy. But the anticipated Bork-for-Powell switch was an integral part of last week's appointments.

These were not either-or choices, but based on expectation of a second vacancy. That is part of administration strategy to extend its influence, far beyond Ronald Reagan's eight years in the White House, through lifetime appoint-

ments on the federal bench. The current imperative is confirmation this year, while the Senate is still assuredly Republican-controlled, of a potentially dominant Reaganite conservative core on the Supreme Court.

The nominations of William H. Rehnquist as chief justice and Judge Antonin Scalia as associate justice, compounded by Bork's prospective nomination, stymie the liberals. Beyond mere numbers, the nominees' intellectual firepower profoundly changes the court. But their unchallenged competence and probity mean they can be opposed only on ideological grounds—notoriously poor for blocking confirmation.

Broad outlines of this strategy were

shaped by Reagan insiders before the 1984 election. It was decided that Bork and Scalia would get the next two appointments. As respected members of the pivotal U.S. Appeals Court for the District of Columbia, they would avoid the Senate travail that would befall a "political" nomination, such as Attorney General Edwin Meese III or William P. Clark (neither of whom wanted to be considered).

But the chance to name anybody eluded Reagan because the court's septuagenarian liberals want to outlast him: Justice William Brennan, the court's oldest, most liberal member and frail at 80, has privately declared neither he nor like-minded brethren will quit so long as "that man" is in the White House.

Thus, while lower reaches of the federal judiciary were being Reaganized, the Supreme Court resisted change until Chief Justice Warren Burger broke the logjam. His decision to quit now was critical. Had he waited until the end of Reagan's term, his probable successor would have been Justice Sandra Day O'Connor.

Any man might have encountered confirmation trouble so close to 1988 even in a Republican Senate, but not the first female justice. Burger's early departure enabled the president to pick Rehnquist, promising better-organized and more activist leadership.

Scalia over Bork—recommended by Meese and chief of staff Donald T. Regan—is privately explained in terms of age (Scalia, at 50, is nine years younger), congeniality and the politically potent Italo-American connection.

In fact, Bork long ago lost the opprobrium from Richard Nixon's 1974 Saturday Night Massacre and sounds less hard-line than Scalia (partly because of a more libertarian view of First Amendment rights). Accordingly, the decision was made that if the second of two appointments might be tougher to confirm, Bork should go second on grounds that he would not be rejected.

Bork's replacing Powell would substitute a conservative for a swing vote. But the impact is more than a one-vote shift. The Rehnquist-O'Connor-Scalia-Bork combine would project high ideological muzzle velocity seeking court majorities.

It won't be easy to find confirmable conservatives for Scalia's existing and Bork's prospective appellate vacancies. But the president is on his way to fulfilling his opponent's 1984 campaign forecast that Reagan's re-election would project a Supreme Court in his image far into the future.

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June 26, 1986

Dear Bill:

The enclosed article from the current issue of the Economist will be of interest. It is not unfriendly.

Sincerely,

Justice Rehnquist

LFP/vde

Recent Supreme Court Term Blackmun's 'Most Difficult'

By David Lauter
Special to The Washington Post

MINNEAPOLIS, July 25—The recently completed Supreme Court term was marked by "impatience" and "short temper" and was "the most difficult of the 16 I have been privileged to serve on," Justice Harry A. Blackmun said today.

"The divisiveness of the court has grown, as we are getting older," he said, adding that "when one gets [cases about] abortion and sodomy in the home, the patience gets thin indeed."

"I think the center held generally this year," he said, "but it bled a lot. It needs more troops; where it's going to get them I don't know."

Blackmun's remarks were part of a review of the high court's work that he gives annually to judges of the 8th U.S. Circuit Court of Appeals, of which he was a member before being appointed to the high court by President Richard M. Nixon in 1970. Over the years, his reviews have acquired a reputation for openness about the court's workings that is unusual among Supreme Court justices.

The court's decision upholding the right of police to arrest people in their homes for certain homosexual acts came in for particular criticism. The 5-to-4 decision, from which Blackmun dissented, was "outrageous" and part of a trend toward "moralistic overtones" in the court's decisions, he said.

Ordinarily, Blackmun said, the justices use their summer recess to cool tempers that rose during the preceding session. Justice William H. Rehnquist, Blackmun said, has remarked that the court's private conference each September is the best, because "we're all good friends before we start brawling again."

This past year, however, "that did not happen," Blackmun said. "We took up right where we left off in July."

The "trigger" for the court's early fight, Blackmun said, was the case of Florida death row inmate Willie Jasper Darden, who had asked the court to give him a new trial on grounds that the district attorney in his murder case had violated the rules governing a prosecutor's conduct.

The high court split sharply and bitterly over Darden's case, ruling 5 to 4 that although the prosecutor's actions were wrong, the death sentence could be carried out. "If ever a man received an unfair trial, Darden did," Blackmun said. "He may be guilty, I don't know, but he got a runaround in that courtroom."

Blackmun said Chief Justice Warren E. Burger "exacerbated" the court's ill feelings

on the Darden case by repeatedly writing about how often other judges already had considered Darden's claims. Burger wrote several times that 95 judges had reviewed Darden's case, Blackmun said, adding, "I was interested to see I was counted four times."

"The brooding overtones of the death penalty affected the court" all year, Blackmun said, citing repeated late-night votes on last-minute pleas to hold off executions. "Out of that comes a hardening of attitudes," he said.

The justice referred repeatedly to his age, 77, and those of his colleagues, saying, "I'm more tired than I think I've ever been at the end of a term." In the past Blackmun

"The divisiveness of the court has grown, as we are getting older I think the center held generally this year, but it bled a lot. It needs more troops; where it's going to get them I don't know."

—Justice Harry A. Blackmun

repeatedly said that he does not intend to resign, and he gave no indication of any change in that position.

Yet as if to underscore the issue of age and health, a second justice from the court's liberal wing, Thurgood Marshall, 78, had to cancel an appearance before the judges here. Doctors forbade him to travel because of a recurring bronchial infection, Blackmun said.

Blackmun said he could not make any guesses about the changes that President Reagan's nominee, Judge Antonin Scalia, might bring about as a member of the court or about the impact of Rehnquist's proposed elevation to chief justice.

The main question about Rehnquist, he said, is how the new chief justice would use his power of deciding which justice writes the court's opinion—whether he will "move to the center in an attempt to put together" a majority.

Of Scalia he said, "I'm told he is most dangerous when he is most ingratiating, that he has a great ability to persuade one to his point of view. We'll see."

5 each -
new rule
on jurisdiction
of the Court

August 13, 1986

MEMO TO CONFERENCE:

Here is a copy of the printed version of my speech to the Litigation Section of the ABA on August 12. Of course, I condensed it substantially in the oral delivery.

L.F.P., Jr.

Curt

August 18, 1986

Dear Bill:

I had the pleasure last night of reading your address to the ABA Section on Individual Rights and Responsibilities.

It is a fascinating exposition particularly of the origin and purpose of the Fourteenth Amendment. Of course, in the most basic sense, Magna Carta was the "progenitor" of the First, Fourth, Fifth, Sixth and Eighth Amendments of the Bill of Rights. It was Hugo Black, with your full support, who read into the Fourteenth Amendment these great provisions of the Federal Bill of Rights. The Fourteenth Amendment on its face and except for the "Equal Protection" Clause, falls considerably short of the Bill of Rights.

But this is a matter of emphasis, and I found your address beautifully written and worthy of publication. I would differ, as you know from what I said to the Section of Litigation, as to whether there has been any substantial dilution of the basic rights of persons accused of crime. I doubt that many persons charged with crime are denied a fair trial, and happily only the rarest innocent person is ever mistakenly convicted.

Moreover, the criminal justice system - and its capacity to bring criminals to trial - confronts new and serious problems almost every year. Witness, for example, the increasing prominence of drug related offenses, and despite all efforts by law enforcement the mafia becomes stronger and richer - imposing penalties on innocent people to a far greater extent than ever occurs in litigated cases.

Having said all of this, we are frequently together even in criminal cases - some of which you have been good enough to assign to me to write. And even more important, Jo and I have both affection and admiration for you and Mary.

As ever,

Honorable William J. Brennan, Jr.
Crystal Gateway
1300 Crystal Drive
Arlington, Virginia 22202

LFP/dth

AUG 25 1986

CHAMBERS OF

JUSTICE WM. J. BRENNAN, JR.

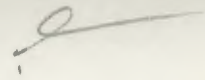
Dear Lewis

What a treasure you have been
for those of us fortunate enough to
have you as a colleague. Our friend-
ship has meant more to me that
I can adequately express. Your letter
of August 18 & the comments on my
effort before the ABA Section only
once again reminds me of Felix
remark to me when I came that
"honoring of aims and not of means"

is what makes this institution function"
you do properly make the point that
I may be overly concerned that the
fourteenth amendment is losing some
of its force - I devoutly hope that I
am mistaken & that you may think
I am carrying enormous weight with me.
Thank you, seems, very, very much.

Mary & I have a very deep
affection for Jo & you - and it
grows ever deeper

Bill


September 16, 1986

MEMORANDUM TO THE CONFERENCE

Frank Lorson alerts me that tradition calls for a letter from his colleagues to a retiring Chief Justice. There apparently is no evidence to indicate the draftsmen of past letters. Frank gave me copies of the letters addressed to Chief Justices Taft, Hughes and Warren. Since in each instance the first signature is that of the senior Associate Justice, I inferred that perhaps I should try my hand at one addressed to Chief Justice Burger.

I emphasize that I am doing this only to get the ball rolling. I am sure each of you could do a better job. I suggest we should reach a decision on this as promptly as possible so that we may have the final letter prepared and signed by each of us even before the Chief's retirement becomes official.

Bill

Attachment

September 16, 1986

Dear Bill:

Thank you for taking the initiative in preparing an appropriate letter to the Chief Justice.

Your letter is excellent, and beautifully phrased. My only possible suggestion would be to change the language in the first sentence of the last paragraph sufficiently to recognize that we do not "take leave" of WEB in a personal sense. Of course, he will continue - as retired Chief Justice - to remain here with us and participate in some functions.

Sincerely,

Justice Brennan

lfp/ss

cc: The Conference

September 19, 1986

MEMORANDUM TO THE CONFERENCE:

Chief Justice Burger's memo of the 15th suggested that we celebrate my birthday on Monday, September 29. I suggest we celebrate the Chief's birthday at the same time.

Of course, he is older than I am. It may cheer him up to be with younger people.

This will be my treat.

L.F.P., Jr.

SS

cc: Mr. Joseph McFalls

Joe: Please make the necessary arrangements, including white wine. You might buy a case of whatever you recommend, and I will be happy to take the bottles not used to our apartment. Of course, I will send you my check when I know the correct amount. As for lunch, I suppose we simply let each Justice have his or her lunch served upstairs. Is this what the Chief Justice intended?



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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

September 24, 1986

Dear Lewis,

I am distressed that it appears John and I will be unable to attend your dinner at the Court honoring the Burgers, Rehnquists and Scalias on October 28. I have had on my calendar for more than a year now a speech at Gonzaga University in Spokane. If it were possible to reschedule it, I would. Unfortunately, it cannot be rescheduled. I will certainly be with you in spirit on that special occasion on the 28th.

Sincerely,

Justice Powell

cc: The Conference
Chief Justice Burger

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

September 24, 1986

MEMORANDUM TO THE CONFERENCE

Since I have found more than enough to do in preparing for the first round of argument, I have abandoned any attempt to read the cert. petitions that have accumulated over the summer. I am therefore planning to absent myself from the opening conference next week. If possible, I would appreciate it if petitions that receive three votes could be set over for the next conference.



AS

cc: Mr. Joseph F. Spaniol, Jr.

J. Scalia

September 25, 1986

Dear Nino:

The enclosed editorial from the Richmond Times-Dispatch may be of interest.

After all Bill went through, I particularly like what my "home town paper" said about his critics on the Senate Committee.

Sincerely,

Justice Scalia

lfp/ss

October 15, 1986

Dear Bill:

I do not want this historic day to pass without my adding a personal word to the congratulations by the Court properly expressed from the bench.

By serving as a Justice of this Court for 30 years you enter a very select group including Chief Justice Marhsall and - more recently Justices Black and Douglas. You consistently have brought to the Court a high level of legal scholarship, and perhaps best of all a unique capacity for friendship and tolerance regardless of strongly held divergent views.

It has been my privilege to have served with you for almost half of your tenure. As they say in the "happy birthday song", may you have many more!

As ever,

Justice Brennan

lfp/ss

Marvel at the skill & thoughtfulness
you bring to every case - you
have helped enormously in
giving the Court of your time
The image which enjoys the
confidence of the people in this
institution. It has been, & is,
an honor & privilege to have you
as a colleague. My fervent hope is
that we may remain colleagues
for a long time still.

Sincerely & affectionately

Bill

October 16 1986

Justice File

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

Dear Lewis

I have cherished our long friendships beyond words. Our association on the Court has only increased the admiration & affection in which I hold you. You, like me, have believed that harmony of aims & not of views is the goal we should pursue & the magnitude of your contribution to that end has richly earned you the universal respect in which Bar & Bench throughout the country regard you. All of your colleagues

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Washington, D. C. 20543

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for a long time still.

Sincerely & affectionately

Bill

October 16 1986

lfp/ss 11/05/86 PENNYW SALLY-POW

MEMORANDUM

TO: Ms. Penny Weaver DATE: Nov. 4, 1986

FROM: Lewis F. Powell, Jr.

Richmond Bar Association Speech

You may have seen the note I wrote your Chief Justice (copy enclosed) that referred to the invitation from the Association of the Bar of the City of Richmond (Richmond Bar Association) to speak on some aspect of the Constitution at a luncheon meeting during the bicentennial year.

In a recent talk with Lewis III (Program Committee Chairman), he said he hoped the Chief would accept for March or April. These arrangements are made well in advance, and I think the program is filling up - possibly through February. I would be grateful if you would bring this to the Chief's attention, and express my hope that he give an answer fairly soon. I would, of course, go to Richmond also to introduce the Chief.

I understand that the Chief is probably receiving dozens of invitations each week. Knowing the pressures under which he works, I do not wish to do more than make sure Lewis III's invitation receives his attention. There are some pluses in speaking in the capital of Virginia during the anniversary year as Virginians played such a large role in the Declaration of Independence, the Revolutionary

War, the adoption of the Constitution, and the Bill of Rights.

I am sure, however, there may be larger and more important audiences, and, of course, will understand whatever decision he makes. You may show him this memo that I send to you primarily to make sure - in the flood of the mail that reaches him - that this also has his attention.

L.F.P., Jr.

SS

Justices

October 20, 1986

Dearest Andy:

The Memorial Ceremony for Potter this afternoon was appropriate and moving.

All three of the tributes were excellent and fully deserved. I particularly liked what Bill Rehnquist said with such eloquence.

As I was unavoidably late reaching the reception, I missed you. I did speak to Potter, Jr., a young man I have long admired. As I said to him, my eyes became moist when I saw that you and he held hands throughout the ceremony. It was good also to see your grandchildren.

With love,

Mrs. Potter Stewart
5135 Palisade Lane
Washington, D. C. 20016

lfp/ss



New York University
A private university in the public service

School of Law

40 Washington Square South
New York, N.Y. 10012
Telephone: (212) 598-2555

OCT 27 1986

Norman Dorsen
Stokes Professor of Law

October 24, 1986

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

Dear Justice Powell:

On Tuesday evening, November 18, Justice Brennan will be delivering a James Madison Lecture at N.Y.U. Law School. As you may know, this lecture series is our foremost public occasion. His subject will be "The Bill of Rights and the States: The Revival of State Constitutions as Protectors of Individual Rights."

The occasion will mark Justice Brennan's 30 years of service on the Supreme Court and the 25th anniversary of his first James Madison Lecture here in 1961.

We would like to mark the event in a special way by inviting each of Justice Brennan's colleagues to write a letter of congratulations to him for his long and devoted service on the Court and adding any personal remarks that might be appropriate. I shall refer to these letters in introducing him to the audience at his lecture.

Please address your letters to him and send them to me at the law school. I am sure he will be deeply grateful for your congratulations on his double anniversary. We shall also appreciate your doing this and would ask you not to reveal our plan to him.

With best wishes,

Sincerely,

Norman Dorsen

ND:ht

October 29, 1986

Dear Bill:

Word has reached me that you will deliver the James Madison Lecture at NYU Law School on November 18. My understanding is that this lecture series is the most important public function of that fine law school.

I write first to congratulate you on being the choice for the lecture this year, and it may not be inappropriate for me to say that the Law School also is to be congratulated on having you make the lecture.

Jo and I have been much pleased by the recognition you have received this year of your 80th birthday and the 30th year of service on this Court. It already is clear that you will rank among the intellectual "giants" who have served here, and I have been privileged to serve with you. Your unfailing generosity and courtesy to other Justices also have been important contributions to the collegiality of this institution that often are overlooked.

I know that Jo would join me in affectionate best wishes to you and Mary.

Sincerely,

Justice Brennan

lfp/ss

October 29, 1986

Dear Professor Dorsen:

As requested in your letter of October 24, I am happy to enclose a personal letter to Justice Brennan.

He and I have been friends for many years, and I am indeed pleased that he will be honored at your James Madison Lecture.

When you next see my former law clerk Sam Estreicher (an exceptionally able clerk), please give him my best.

Sincerely,

Professor Norman Dorsen
School of Law
New York University
40 Washington Square South
New York, New York 10012

lfp/ss
Enc.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 5, 1986

MEMORANDUM TO THE CONFERENCE

Re: Revision of White Docket Sheets

I enclose for your consideration a revised white docket sheet. This generally follows Thurgood's form. It is proposed for the use of all of us except Thurgood himself, who prefers personally not to have a CVSG column and to continue using his present form.

I am now advised that no additional cost is incurred if the material on the back of the docket sheet is retained, with a space indicated for each of the nine Justices. I therefore suggest that, for the convenience of the Chief and John, we have this material appear on the back. Those of us who do not use it are free to ignore it.

May I have your reactions?

H.A.

Harry -

*I think your
proposed docket sheet
is excellent.*

Sincerely

cf

vs.

HOLD FOR		DEFER		CERT.			JURISDICTIONAL STATEMENT				MERITS		MOTION		
		RELIST	CVSG	G	D	G&R	N	POST	DIS	AFF	REV	AFF	G	D	
Rehnquist, Ch. J.															
Brennan, J.															
White, J.															
Marshall, J.															
Blackmun, J.															
Powell, J.															
Stevens, J.															
O'Connor, J.															
Scalia, J.															

November 5, 1986

Dear Harry:

I think your proposed docket sheet is excellent.

Sincerely,

Justice Blackmun

lfp/ss

cc: The Conference

Justice

November 4, 1986

Dear Gamblers:

I enclose my vote on each Senate race.

As to the final outcome, I predict that the Democrats will control the Senate 55 to 45.

Sincerely,

The Chief Justice
Justice O'Connor
Justice Stevens

lfp/ss
Enc.

Powell
11/3/86

1986 Senate Races

Total: 34

State

Current Occupant

Candidates

Rep.

Dem.

Alaska

AK	Murkowski (R)	Murkowski	Olds
AL	Denton (R)	Denton	Rep. Shelby
AZ	Goldwater (R)	Rep. McCain	Kimball
AR	Bumpers (D)	Hutchinson	Bumpers
CA	Cranston (D)	Rep. Zschau	Cranston
CO	Hart (D)	Rep. Kramer	Rep. Wirth
CT	Dodd (D)	Eddy	Dodd
FL	Hawkins (R)	Hawkins	Gov. Graham
GA	Mattingly (R)	Mattingly	Rep. Fowler
HI	Inouye (D)	Hutchinson	Inouye
ID	Symms (R)	Symms	Gov. Evans
IL	Dixon (D)	state rep. Koehler	Dixon
IN	Quayle (R)	Quayle	Long
IA	Grassley (R)	Grassley	Roehrick
KS	Dole (R)	Dole	MacDonald
KY	Ford (D)	Andrews	Ford
LA	Long (D)	Rep. Moore	Rep. Breaux
MD	Mathias (R)	Chavez	Rep. Mikulski
MO	Eagleton (D)	former Gov. Bond	Lt. Gov. Woods
NV	Laxalt (R)	former Rep. Jim Santini	Rep. Reid
NH	Rudman (R)	Rudman	Peabody, former gov. of Massachusetts
NY	D'Amato (R)	D'Amato	Green

<u>State</u>	<u>Current Occupant</u>	<u>Candidates</u>	
		<u>Rep.</u>	<u>Dem.</u>
NC	Broyhill (R)	Broyhill	former Gov. Sanford
ND	Andrews (R)	Andrews	Conrad
OK	Nickles (R)	Nickles	Rep. Jones
OH	Glenn (D)	Kindness	Glenn
OR	Packwood (R)	Packwood	state rep. Bauman
PA	Specter (R)	Specter	Rep. Edgar
SC	Hollings	McMaster	Hollings
SD	Abdnor (R)	Abdnor	Rep. Daschle
UT	Garn (R)	Garn	Oliver
VT	Leahy (D)	former Gov. Snelling	Leahy
WA	Gorton (R)	Gorton	Adams
WI	Kasten (R)	Kasten	Garvey

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Jim
Full

Dear Chief, Lewis, and John:

I enclose my calculations on the election prediction pool. You may audit if you wish. By my calculations the two optimists (WHR and SO'C) owe some money. Each of us agreed to put \$16 in the pool (\$5 for the overall change and \$1 for each race where our predictions diverged - 11 in all). The net win/loss result is:

WHR	LFP	JPS	SO'C
-\$7.33	+\$14	+\$2.67	-\$9.34

I am transmitting my total loss to Lewis. The Chief should send \$2.67 to John and the balance

to Lewis.

Cheers,

SO'C

P.S. I have now retired
as a political pundit. At
least until 1988.

Calculation of Election Predictions

Winner circled

Alaska	-	Dem. LFP, JPS	Rep. ² WHR, ² SO'C
Alabama	-	Dem. ⁴ JPS	Rep. WHR, SO'C LFP
Arizona	-	all agreed	
Arkansas	-	all agreed	
California	-	Dem. ² LFP, ² SO'C	Rep. WHR, JPS
Colorado	-	Dem. ² LFP, ² JPS	Rep. WHR, JPS
Connecticut	-	all agreed	
Florida	-	all agreed	
Georgia	-	Dem. ⁴ JPS	Rep. WHR, LFP, SO'C
Hawaii	-	all agreed	
Idaho	-	Dem. LFP, SO'C, JPS	Rep. ⁴ WHR
Illinois	-	all agreed	
Indiana	-	" "	
Iowa	-	Dem. LFP	Rep. ^{1.33} WHR, JPS, SO'C
Kansas	-	all agreed	
Kentucky	-	" "	
Louisiana	-	all agreed	
Maryland	-	" "	
Massachusetts	-	" "	
Nevada	-	Dem. WHR, JPS, SO'C	Rep. LFP
New Hampshire	-	all agreed	
N.Y.	-	" "	
N. Carolina	-	" "	
N. Dakota	-	Dem. ⁴ JPS	Rep. WHR, LFP, SO'C
Ohio	-	all agreed	
Oklahoma	-	" "	
Oregon	-	" "	

Pennsylvania - all agreed

S. Carolina - ~~for~~ " "

South Dakota - Dem.² LFP, JPS

Rep. WTR, SO'C

Utah - all agreed

Vermont - " "

Washington - Dem.⁴ LFP

Rep. WTR, JPS, SO'C

Wisconsin - all agreed

Summary: 11 races with split predictions
LFP predicted exact total change

	WTR	LFP	JPS	SO'C
gross	\$8.67	\$20	\$18.67	\$6.66
winnings		\$10		
		\$10		
		\$30		

Each one owes \$16.

Net debit/credit:

	WTR	LFP	JPS	SO'C
net	\$7.33	+\$14	+\$2.67	-\$9.34

So back to the beginning to explain - things to each other - you knew - and not only did the car for you - but the always know you were always prepared & ready to go - and then when that quality so much - and then when he didn't really feel much better and didn't want to work out for sympathy he rather refused seeing clerks or friends, but I always knew you were there & when he wanted to - the

2/1/86

Dearest Lewis -



Thank you for the great
enclosures!

How can I write you about
Potter and thank you being

Such a dear, devoted, friend to him
always and giving him so much
added pleasure to being on the Court -
in a job he loved so much?

I think the thing I always
felt was that you were so comfortable
with each other and you never had to

could talk with you - it was a
Comfort to me -

In spite of the rather poor health
since the fall, I have always been so
grateful that he got off the Court - to go on^{it}
so young, albeit to a job he considered
the best in the Community, was not always
conducive to giving time to children & less
courtly events, even wives, but the past 5
years I wouldn't change for anything - it
makes it even more of a loss for the
children & me, knowing him so lovingly &
constantly, now, but then again, how few
people can cram so much love & experience
in one life together - we were truly blessed -
By this I don't mean I didn't adore being
connected with the Court & you & Jo & all
the wonder of it - but you know what I mean.

Everytime I see you I lump up &
can't say how much you both have
meant to us - & how much I know you
miss him too - I think he's with those of
us who love him so all the time - so
he's with both of us, isn't he?
best love to you & Jo - Andy.



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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Nov. 13 (1986)

Dear Lewis,

You have written
a splendid opinion
in McCleskey. No one
could have done
better. You grappled
fairly and appropriately
with all aspects.
We owe you
our thanks.

Sandra



New York University
A private university in the public service

School of Law

40 Washington Square South
New York, N.Y. 10012
Telephone: (212) 598-2555

Norman Dorsen
Stokes Professor of Law

NOV 24 1986

*Justices
File*

November 19, 1986

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

Dear Justice Powell:

I write to thank you for your letter to Justice Brennan in connection with his James Madison Lecture here last evening. He was deeply touched by what you wrote, and I can assure you that your words enhanced the occasion for him and all those who attended.

With kind regards,

Sincerely,

Norman Dorsen

ND:ht

Justices File

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

December 5, 1986

Honorable Lewis F. Powell, Jr.
Associate Justice

Dear Justice Powell:

Thank you so much for your kind remarks. One of life's warmest feelings is to know that one's endeavors have been appreciated by those most directly affected. The good fortune that I have had in being able to associate with persons such as you is something to be cherished.

I know that it will take me a while to find my bearings after January 31. If eventually neither my wife nor I can get used to my having lunch at home, I may pursue further the matter I recently discussed with you.

I think that Frank Wagner was a good choice. I am confident that he will carry on the traditions of this office in a commendable manner.

Respectfully,

Henry C. Lind

Henry C. Lind
Reporter of Decisions



UNITED STATES SUPREME COURT BUILDING - WASHINGTON

December 1986

Dear Jo and Lewis,

our warmest wishes

for your Happiness

at this Holiday Season

and Always,

Thurgood & Essie