

In October 1966 the first standards, on fair trial and free press, were issued. Since then there has been a steady succession of reports on all the important areas of criminal justice. Separately bound, these standards are to be found in the libraries of most of the judges of this country; they are cited frequently in judicial opinions of trial and appellate courts, including the Supreme Court of the United States.

Two examples will suffice to show the far-reaching impact of the project's work. The standards on Pleas of Guilty, recommending in detail the procedure which a court should follow in receiving and acting upon guilty pleas, went further than the Rules of Federal Criminal Procedure. Recently, the Advisory Committee on Federal Rules of Criminal Procedure recommended additional provisions regarding pleas of guilty which closely follow the ABA criminal justice proposals. These proposals will next be acted upon by the Judicial Conference of the United States and the Supreme Court before being presented to Congress.

Second, when the judges of the Second Circuit, troubled with the problem of prompt disposition of criminal cases, announced new rules to become effective on July 5, 1971, they based their action on the ABA standards calling for definite time limits within which criminal cases must be disposed. Similarly, just a few days ago, on Friday, October 29, 1971, the Judicial Conference of the United States approved a new federal rule requiring each district court in the country to make rules for the prompt disposition of criminal cases, with the approval of the appropriate circuit council.

I think it fair to say that with respect to pleas of guilty and the prompt disposition of criminal cases, the ABA standards have greatly expedited action by state and federal authorities.

Of course, it took many of us working over a period of years to produce the ABA standards, and the work still goes forward. But this work would have fallen far short of the impact it has achieved and the acceptance it has won from the public, as well as the bar and the bench of this country, had it not been for the leadership, the wisdom, and the legal ability of Lewis Powell.

In conclusion, Mr. Chairman, it is my opinion that Lewis Powell is highly qualified in every respect to serve as the Justice of the Supreme Court of the United States.

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#### STATEMENT OF JOSEPH D. TYDINGS

It is a pleasure to appear before my former colleagues on the Judiciary Committee in the happy posture of supporting the nomination of Lewis Powell of Virginia to be Justice of the Supreme Court of the United States.

Lewis Powell not only is a distinguished lawyer, he is a truly fine human being. My contacts with him during the years I was chairman of the Subcommittee on Improvements in Judicial Machinery were many. Without exception, we were involved in the same efforts to improve the judicial system of our country and to insure that all Americans had equal justice. It's very doubtful that the Legal Services for the Poor Program of OEO could have been instituted without the support and leadership of Lewis Powell who, at the time the Congress considered the initial authorization and funding, was president of the American Bar Association. Lewis Powell not only supported the neighborhood legal services concept, he pioneered it.

The work of my Subcommittee in drafting the Title of the Civil Rights Act of 1966, which related to Federal Jury Selection, was greatly bulwarked by Lewis Powell's support.

Whenever a particularly difficult problem of legislation concerning Federal Judicial Reform was before our committee, Lewis Powell was always available to counsel and assist.

Last year when the Senate refused to advise and consent to the nomination of J. Harrold Carswell to be Justice of the Supreme Court, President Nixon took occasion to criticize the United States Senate for failure to follow his mandate and, in fact, accused the Senate of blocking the nomination because Mr. Carswell was "a Southerner and a conservative." In response to that intemperate outburst, I delivered a speech on the floor of the United States Senate in which I enumerated the names of a number of distinguished Southern conservative judges and lawyers who would be enthusiastically received as nominee for our country's highest court by me and I felt many of my colleagues in the Senate on the basis of their legal background and qualifications. Some of you may recall that I headed that list with the name of Lewis Powell of Virginia. I felt that

way in 1970. I feel that way today. I urge you to report his nomination favorably to the Senate and urge the Senate to advise and consent to Lewis Powell to be Justice of the Supreme Court of the United States.

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STATEMENT OF ARMISTEAD L. BOOTHE: SOME OF LEWIS POWELL'S CONTRIBUTIONS TO EDUCATION AND CIVIL RIGHTS IN VIRGINIA

As Virginia entered the 1950's, some of her lawyers and legislators were convinced that the Commonwealth and the South had not been adequately informed or prepared for the social changes that faced them. Students of the U.S. Supreme Court decisions after 1935 were aware of the possible imminence of a social revolution. Lewis Powell was one of the moderate, cool, farsighted students of the law who shared this realization.

From the date of the *Brown* decision in 1954, he was a stalwart member of an elite group of Virginians who saw that the Commonwealth's schools must not be closed. From July 1954 onward, the issue in the State was just as sharp as a new knife blade between an assignment (or freedom of choice) plan, to keep the schools open, or massive resistance, to cripple them. During the next five crucial years Lewis Powell, then Chairman of the Richmond School Board, placed himself effectively with the minority who felt obligated to uphold the law and the Virginia public school system.

He was one of two Virginia citizens more responsible than others for impressing businessmen and influential persons of all classes that irreparable damage would be done to human beings and to economic resources of Virginia resulting from the collapse of education. By March of 1959, 14,000 Virginia children were out of school. Thanks to the sterling work, often behind the scenes, done by executives in Norfolk, Virginia, and by Lewis Powell and Harvie Wilkinson in Richmond, Governor Almond was convinced that the state's educational salvation lay in superseding the massive resistance laws with a workable assignment plan. This plan in April of 1959, passed the House of Delegates by a slim margin and was enacted by the Senate by a single vote. Powell should be given full credit for convincing a good many of the necessary conservatives that they should be members of the group which finally turned out to have a one-man majority.

Perhaps today there are some younger people who do not remember the 1950's or the humanity, the regard for law, and the farsightedness of a few people like Lewis Powell, who helped Virginia, in a Virginia way, to survive the Commonwealth's severest test in this century. Many accolades could be given to Powell's judgment, fairness, intelligence, and other judicial attributes. Men and women who can vouch for his virtues are legion. This statement is simply intended to be a brief word picture of a courageous American legal soldier under fire.

I note from the news that the congressional black caucus is opposing Powell. If the distinguished members of that group could remember the 1950's and could get all the available facts, they would not oppose him. They would approve of his selection and thank the good Lord they would have him on the Supreme Court.

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STATEMENT OF ORISON S. MARDEN <sup>1</sup>

I reside in Scarsdale, New York and have practiced law in New York City since 1930.

I have known Lewis F. Powell, Jr. for upwards of twenty years. As fellow members of the House of Delegates of the American Bar Association and, for a time, as fellow officers of that Association and of the National Legal Aid and Defender Association, I have had ample opportunity to observe and to appreciate the qualities of this truly great lawyer and citizen. I sincerely believe that all who have had an opportunity to observe his qualities share my opinion that he is superbly equipped for service on the highest court of our land. A new acquaintance will find that it takes very little time to discover the strength of his integrity, the keenness of his mind, his well balanced judgment and, most refreshing, his friendliness and lack of pomposity.

Another quality which I have observed in Mr. Powell—a rare quality, unfortunately—is his ability to reconcile differing views. I have seen this happen frequently at meetings of the Board of Governors and the House of Delegates of

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<sup>1</sup> Former President of the American Bar Association, the New York State Bar Association, The Association of the Bar of the City of New York, and The National Legal Aid and Defender Association.