BS 77-14555 b6/b7C

PROFESSOR [redacted] WAS NOT ASKED ANY QUESTIONS FROM WHICH IT COULD BE INFERRED, EITHER DIRECTLY OR INDIRECTLY, AS TO WHETHER OR NOT HE INTENDED TO OPPOSE THE APPOINTMENT OF THE APPLICANT.

END

REW FBI WASH DC

104

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Mohr
Bishop
Miller, E.S.
Callahan
Casper
Conrad
Dalbey
Cleveland
Ponder
Bates
Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

TO : Mr. Cleveland

DATE: 12/13/71

FROM : L. H. Martin

SUBJECT: INQUIRY TO ATTORNEY GENERAL FROM [redacted] HARVARD UNIVERSITY, AND [redacted] HARVARD LAW SCHOOL

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[redacted]

We received 12/10/71 from Deputy Attorney General Kleindienst a letter dated 11/19/71 to the Attorney General from [redacted] Harvard University, and [redacted] Harvard Law School, stating FBI Agents had interviewed Harvard Law School professor [redacted] about his background and reasons for his conducting independent study on qualifications of Supreme Court candidate [redacted] and [redacted] noted that [redacted] had also been interviewed by FBI Agents concerning Supreme Court nominees [redacted] and Lewis Franklin Powell, Jr. [redacted] and [redacted] expressed a view that "many professors" might find the prospect of repeated FBI questioning into their motives and intentions seriously intimidating.

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[redacted] when interviewed 10/18/71 re Judge [redacted] and 10/26/71 and 10/27/71 re [redacted] and Powell was never asked for any personal background information or why he conducted inquiries concerning Judge [redacted] He volunteered background data but was never asked for such information. He also volunteered he had reviewed decisions of Judge [redacted] on his own as he believed her incompetent for U. S. Supreme Court. He said he had not made any studies concerning [redacted] and Powell but that he could not say whether he would or would not make any inquiries or studies concerning them in the future. The suggestion that interviews of professors might be construed "intimidating" is completely without justification.

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94-1-1005-306

[redacted] contains an article entitled [redacted] This article indicates that [redacted] and [redacted] contemplated making some form of complaint with the FBI expressing concern and

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Enclosures

1 - Mr. Felt
1 - Mr. Rosen
1 - Mr. Mohr
1 - Mr. Bishop
1 - Administrative Review Unit
Crime Records Division

1 - Mr. Cleveland
1 - Mr. Martin
1 - Mr. [redacted]
1 - Mr. [redacted]

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CONTINUED - OVER

Memorandum to Mr. Cleveland
Re: Inquiry to Attorney General

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disagreement with FBI's questioning of Professor [redacted] concerning [redacted] activities in opposition to Supreme Court nominees. The article incorrectly charges that FBI Agents had questioned [redacted] concerning his own background, motivations, and purpose for making study into Judge [redacted] qualifications. [redacted] was interviewed on three occasions as noted in attached letter to the Deputy Attorney General.

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At no time was [redacted] ever interviewed by more than one Agent. [redacted] was never asked for personal background information or why he conducted study on Judge [redacted] or nature of his motivations. Information concerning his background and reason for conducting study on Judge [redacted] were volunteered. He never declined to answer any questions and during the three interviews he never criticized the FBI or its Agents in any way.

ACTION:

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Memorandum to the Deputy Attorney General, together with suggested form of reply to the letter from [redacted] and [redacted] are attached. The letter from [redacted] and [redacted] to the Attorney General is also enclosed. A copy of the Harvard Law Record item is also being furnished to the Deputy Attorney General.

WWW WBS WVC

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77-121928-106

The Deputy Attorney General December 14, 1971

Director, FBI

INQUIRY TO THE ATTORNEY GENERAL
FROM [redacted] HARVARD
UNIVERSITY, AND [redacted]
HARVARD LAW SCHOOL

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In reply to your request of December 8, 1971, there is attached a suggested form of reply to letter of November 19, 1971, to the Attorney General from [redacted] of Harvard University, and [redacted] of Harvard Law School, who made inquiries concerning this Bureau's investigations of Supreme Court candidates [redacted] Lewis Franklin Powell, Jr., and [redacted] The letter from Mr. [redacted] and Mr. [redacted] is also enclosed.

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Investigations by the FBI were conducted in October, 1971, at the Department's request into the qualifications of the above-named candidates and reports were furnished to you. The investigation included three interviews with Professor [redacted] of Harvard Law School on October 18, 1971, October 26, 1971, and October 27, 1971. On October 18, 1971, he was interviewed following a news item showing he had conducted a review of Judge [redacted] decisions which has been reversed on four occasions. He volunteered he had been a law clerk to one of the Justices of the California Supreme Court in [redacted] and when reviewing Judge [redacted] cases was aware of numerous reversals of her decisions and of her weaknesses and abilities as a judge. He volunteered information concerning his employment since graduation from Harvard Law School in 1966, including a position as law clerk to Justice [redacted] of the Supreme Court of the United States in 1967-68. He further volunteered that his review of Judge [redacted] cases had been done "on his own" to make known her incompetence as a California judge and because he did not believe her competence to be the first woman to serve on the Supreme Court of the United States. He made available four cases in which Judge [redacted] decisions had been reversed.

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Mr. [redacted] was interviewed October 26, 1971, and October 27, 1971, concerning candidates Powell and [redacted] He was advised that recent press releases indicated he may have

Per memo same caption WWW:bsh 12/13/71.

WWW:dc

94-1-705-305

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[illegible] Deputy Attorney General

[illegible] information regarding these candidates. He [illegible] whether he had made or intended to make any studies [illegible] and Rehnquist. He said he was not personally [illegible] with either of these candidates. He stated he had not [illegible] any [illegible] on these candidates but was naturally interested [illegible] about [illegible] Court [illegible] ground [illegible] concerning them. He said he could not [illegible] the [illegible] whether he might [illegible] on the [illegible] At no time was Mr. [redacted] asked what he planned to do with any study he had made or might make concerning an appointee. He was never asked for any personal background information or why he had conducted a study of Judge [redacted] or the nature of his motivations. However, in the course of the interviews Mr. [redacted] did volunteer certain information concerning his background. During the course of the three interviews with Mr. [redacted] he was never critical of this Bureau or of its Agents and such interviews were conducted on a cordial basis. There is enclosed a copy of an article entitled [redacted] This [illegible] relates to [illegible] interviews with Professor [redacted] and comments of Mr. [redacted] and Mr. [redacted] are set forth in the article.

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Enclosures

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December 14, 1971

[redacted]
Cambridge, Massachusetts 02138

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My dear [redacted]

The letter of November 19, 1971, from you and Mr. [redacted] to the Attorney General containing inquiries concerning investigations by the FBI into the background and qualifications of recent Supreme Court candidates has been received. These investigations were conducted by the FBI at my request, and, as indicated in your letter, [redacted] interviewed concerning nominees [redacted] Lewis Franklin Powell, Jr., and [redacted] These investigations were conducted expeditiously and thoroughly and included numerous interviews.

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I have been assured and I am convinced that the FBI did not make any inquiry concerning Mr. [redacted] background or the motives of anyone, including Mr. [redacted] for any independent study made or contemplated. The sole purpose of the FBI's investigations was to obtain information relevant to the qualifications of the candidates and any assumption that interviews were conducted with a view toward "intimidation" is completely unjustified.

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[redacted] b6 b7C

Sincerely,

Richard G. Kleindienst
Deputy Attorney General

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Holmes
Gandy

WWW:bsh
(5)

BUREAU HOLD

NOTE: See cover memo Martin to Cleveland dated 12/13/71 captioned "Inquiry to Attorney General from [redacted] Harvard University, and [redacted] Harvard Law School," WWW:bsh.

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ENCLOSURE

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OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

Mr. Tolson
Mr. Felt
Mr. Rosen
Mr. Mohr
Mr. Bishop
Mr. Miller, ES
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Dalbey
Mr. Cleveland
Mr. Ponder
Mr. Bates
Mr. Tavel
Mr. Walters
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

December 8, 1971.

MEMORANDUM TO: HON. J. EDGAR HOOVER
DIRECTOR,
FEDERAL BUREAU OF INVESTIGATION

FROM: RICHARD G. KLEINDIENST
DEPUTY ATTORNEY GENERAL

Attached hereto you will find a letter dated November 19, 1971, addressed to the Attorney General and signed by [redacted] of Harvard University and [redacted] of the Harvard Law School.

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Would you be kind enough to prepare a suggested form of reply for my signature to this letter.

Thank you.

RGK:tl

77-12192 F-106

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ENCLOSURE

HARVARD UNIVERSITY

OFFICE OF THE PRESIDENT

MASSACHUSETTS HALL
CAMBRIDGE, MASSACHUSETTS 02138

DEPUTY ATTORNEY GENERAL

November 19, 1971

Dear Mr. Attorney General:

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Three times in October 1971, FBI agents visited or spoke with Professor [redacted] of the Harvard Law School, concerning his research on potential or actual Supreme Court nominees. In the first instance, he was asked not only about a potential nominee's qualifications (those of Judge [redacted] but also about his own background and his reasons for inquiring into her qualifications. In the last instance, he was asked whether he had done, was doing, or intended to do any study of the President's nominees, Mr. [redacted] and Mr. Powell, and what he planned to do with the results of any such study. At no time did the FBI agents offer any explanation or justification for inquiring into Professor [redacted] background and motivations.

Although we can readily understand an FBI investigation probing the qualifications of a person being considered by the President for nomination, we find it hard to imagine the purpose of some of the questions that were put in this case. What justification is there for the FBI's asking a law professor to give "his reasons" for studying and communicating the qualifications of a potential Supreme Court nominee? Why should the FBI ask what he plans to do with the results of a similar study, should he undertake one, of an actual nominee?

We cannot escape the conclusion that many professors who are merely discharging a responsibility as lawyers and scholars concerned about the Supreme Court are likely to find the prospect of repeated FBI investigation into their motives and intentions seriously intimidating, however politely the FBI inquiries may be conducted. Because we trust that this is not your purpose, we have thought it important to call

77-121925-106

ENCLOSURE

the matter to your attention.

We look forward to receiving your views.

Sincerely,

[redacted]

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[redacted] of Harvard Law School

The Honorable John N. Mitchell
Attorney General of the United States
Department of Justice
Washington, D.C. 20013

FD-350 (Rev. 7-16-63)

(Mount Clipping in Space Below)

Mr. Felt
Mr. Baker
Mr. Bates
Mr. Bishop
Mr. Callahan
Mr. Cleveland
Mr. Conrad
Mr. Dalbey
Mr. Jenkins
Mr. Marshall
Mr. Miller, E.S.
Mr. Ponder
Mr. Soyars
Mr. Walters
Tele. Room
Mr. Kinley
Mr. Armstrong
Ms. Hor[illegible]
Mrs. Neenan

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[redacted]

13 Will Get Freedoms Awards

Freedoms Foundation of Valley Forge will present 13 national awards at a luncheon today at Hotel John Marshall.

Supreme Court Justice Lewis F. Powell Jr. of Richmond will receive a George Washington Honor Medal for an article, "Civil Liberties Repression: Fact or Fiction?", that appeared in The Times-Dispatch.

The Rev. Jacob W. Mast, pastor of Ginter Park United Methodist Church, will receive a George Washington Honor Medal and $100 for a sermon on peace and war.

Sumpter T. Priddy Jr. of Ashland will receive an honor certificate in the public address category.

A Valley Forge Teachers Medal will be presented to Mrs. Ella G. Burke, a sixth-grade teacher at Abingdon Elementary School in Gloucester Point. Prince Edward Academy will receive an honor certificate for a choral and orchestral program that used Charlie Brown characters to illustrate the freedoms of religion, speech, press and assembly.

For Cartoon

Chick Larsen, editorial cartoonist for The Times-Dispatch, will receive a George Washington Honor Medal for a cartoon on rights and responsibilities captioned, "You Can't Take Just One, Son."

H. Haldane Hill, editorial writer for The News Leader, will receive an honor certificate for his editorial, "Honoring the Living Dead," about American prisoners in Southeast Asia.

Ross H. Mackenzie, editor of the editorial page of The News Leader, will receive a George Washington Honor Medal for his editorial, "The Blowing Up of the Capitol."

The Richmond Council Navy League of the U.S. will receive a George Washington Honor Medal for an advertisement entitled, "Wake Up America."

The Bank of Virginia, Virginia Commonwealth Bankshares and Martin and Woltz, Inc., will receive a George Washington Honor Medal for patriotic advertising.

An honor certificate will go to Quantico Chapter 44, National Sojourners, for a series of programs for sixth-grade students.

Maj. Ellsworth M. Dunn and Maj. Robert F. Faust of Quantico Marine Base will receive honors for their entries in a letter-writing contest.

Awards will be presented by retired Marine Maj. F. Edward Blake, of Richmond, a regional vice president of Freedoms Foundation.

The recipients are among 1,822 individuals and organizations being honored by the foundation this year. The foundation presents the awards annually

(Indicate page, name of newspaper, city and state.)

p. B-1

RICHMOND TIMES - DISPATCH
RICHMOND, VA.

Date: 9-18-72
Edition: morning
Author:
Editor: JOHN E. LEARD
Title: LEWIS F. POWELL, JR
DAPLI

Character:
or
Classification: 77-11979*
Submitting Office RICHMOND

☐ Being Investigated

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70 SEP 27 1972

0-19 (REV. 8-15-72)

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Mr. Kinley
Mr. Armstrong
Ms. Herwig
Mrs. Neenan

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The Washington Merry-Go-Round THE WASHINGTON POST Thursday, Sept. 28, 1972 F 7

Powell's Lesson to Business Aired

By Jack Anderson

Shortly before his appointment to the Supreme Court, Justice Lewis F. Powell Jr. urged business leaders in a confidential memo to use the courts as a "social, economic and political" instrument.

He recommended a militant political action program, ranging from the courts to the campuses. His 33-page memo is now being circulated among top corporate executives by the U.S. Chamber of Commerce.

"Business must learn the lesson . . ." he wrote, "that political power is necessary; that such power must be assiduously cultivated; and that, when necessary, it must be used aggressively and with determination . . .

"There should be no hesitation to attack the (Ralph) Naders, the (Herbert) Marcuses and others who openly seek destruction of the system. There should be not the slightest hesitation to press vigorously in all political arenas for support of the enterprise system. Nor should there be reluctance to penalize politically those who oppose it."

Using the Courts

In particular, Powell advocated that the businessmen's battle should be fought in the courts. "Under our constitutional system, especially with an activist-minded Supreme Court," he declared, "the judiciary may be the most important instrument for social, economic and political change.

"Other organizations and groups, recognizing this, have been far more astute in exploiting judicial action than American business. Perhaps the most active exploiters of the judicial system have been groups ranging in political orientation from liberal to the far left . . .

"Labor unions, civil rights groups and now the public-interest law firms are extremely active in the judicial arena. Their success, often at business' expense, has not been inconsequential.

"This is a vast area of opportunity for the Chamber," suggested Powell, "if it is willing to undertake the role of spokesman for American business and if, in turn, business is willing to provide the funds . . .

"The Chamber would need a highly competent staff of lawyers. In special situations, it should be authorized to engage, to appear as counsel amicus in the Supreme Court, lawyers of national standing and reputation."

Powell's blunt proposal to use the courts, especially the Supreme Court, to champion big business was made two months before his own appointment to the Supreme Court. His ideas were contained in a memo, stamped "Confidential," which the FBI failed to turn up during its field investigation of Powell.

Senators, therefore, never got a chance to ask Powell

The Washington Post Times Herald X
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Daily World
The New Leader
The Wall Street Journal
The National Observer
People's World

Date 9/28/72

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172 OCT 26 1972

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0-19 (REV. 8-15-72)

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The Washington Merry-Go-Round

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Powell is also a distinguished educator, who served on the Virginia Board of Education and as a trustee of Washington and Lee University. He was impressed with the need to mold pro-business attitudes at the high school and college level.

"Few things are more sanctified in American life," he wrote, "than academic freedom. It would be fatal to attack this as a principle." But he had some ideas for promoting "openness," "fairness" and "balance" on the campus.

Censoring Textbooks

"The Chamber," he urged, "should consider establishing a staff of highly qualified scholars in the social sciences who do believe in the system . . .

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The Washington Post
Times Herald F-7
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Daily World
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Date SEP 28 1972

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"The staff of scholars (or preferably a panel of independent scholars) should evaluate social science textbooks, especially in economics, political science and sociology. This should be a continuing program . . .

"There also should be a staff of speakers of the highest competency. These might include the scholars, and certainly those who speak for the Chamber would have to articulate the product of the scholars . . .

"Perhaps the most fundamental problem is the imbalance of many faculties. Correcting this is indeed a long-range and difficult project. Yet, it should be undertaken as a part of an overall program. This would mean the urging of the need for faculty balance upon university administrators and boards of trustees.

"The methods to be employed require careful thought, and the obvious pitfalls must be avoided. Improper pressure would be counterproductive . . .

"This is a long road and not one for the fainthearted. But if pursued with integrity and conviction, it could lead to a strengthening of both academic freedom on the campus and of the values which have made America the most productive of all societies."

Footnote: Powell drafted his memo originally for Eugene B. Sydnor, Jr., head of the Southern Department Stores chain, who is also a director of the U.S. Chamber of Commerce. It was Sydnor who got the Chamber interested in Powell's proposals. He was disturbed that we had obtained a copy of Powell's confidential memorandum. But he acknowledged it had been prepared by Powell, who agreed, to reduce to writing their discussions on how to defend the free enterprise system. We made repeated attempts to reach Powell for his comment, but he never returned our calls.

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The Wall Street Journal
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Date 9/28/72

0-19 (Rev. 6-29-72)

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The Washington Merry-Go-Round THE WASHINGTON POST *Thursday, Sept. 28, 1972*

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"The methods to be employed require careful thought, and the obvious pitfalls must be avoided. Improper pressure would be counterproductive . . .

"This is a long road and not one for the fainthearted. But if pursued with integrity and conviction, it could lead to a strengthening of both academic freedom on the campus and of the values which have made America the most productive of all societies."

Footnote: Powell drafted his memo originally for Eugene B. Sydnor, Jr., head of the Southern Department Stores chain, who is also a director of the U.S. Chamber of Commerce. It was Sydnor who got the Chamber interested in Powell's proposals. He was disturbed that we had obtained a copy of Powell's confidential memorandum. But he acknowledged it had been prepared by Powell, who agreed to reduce to writing their discussions on how to defend the free enterprise system. We made repeated attempts to reach Powell for his comment, but he never returned our calls.

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Times Herald F-7
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POWELL PROPOSED BUSINESS DEFENSE

Wrote a Memo for Chamber Before Nixon Named Him

By FRED P. GRAHAM
Special to The New York Times

WASHINGTON, Sept. 28 — Lewis F. Powell Jr., in a confidential memorandum written two months before his nomination to the Supreme Court, urged the United States Chamber of Commerce to mount a campaign to counter criticism of the free enterprise system in the schools and the news media—particularly television.

He also advised business groups to use the courts, as liberal groups have done, to accomplish "social, economic and political change." He listed Ralph Nader, the consumer advocate, among those "who openly seek destruction of the system."

The 34-page memorandum was released today by the chamber's headquarters here after Jack Anderson, the Columnist ran excerpts from it in his column today.

A spokesman for Justic Powell said today that he had drafted the paper at the request of Eugene B. Snyder Jr., a Richmond businessman who is an official of the chamber, to suggest steps "the chamber might explore in educating the public on the merits of the free enterprise system."

Mr. Powell suggested an aggressive program to present business's views, to include friend-of-court briefs in the Supreme Court, a panel of acade experts to lecture on campuses and screen textbooks for anti-business bias, and political activity.

The memorandum, marked "confidential," was not discovered by the Federal Bureau of Investigation in its check of Mr. Powell, and he was not questioned closely during the Senate confirmation hearings on his views toward business.

Those views could prove crucial during the coming Court term, as Justice Powell appeared to exert unusual influence last year as a freshman Justice, and the Court will consider crucial cases on television networks' control of broadcast time, "truth in lending" restrictions on instalment sales, labor union fines against members who work during strikes, and other appeals affecting business.

The memorandum singled out television as the element of the news media that was most effectively exploited by "attackers" of free enterprise.

"The national television networks should be monitored in the same way that textbooks should be kept under co stant surveillance," he said. "This applies not merely to so-called educational programs (such as "Selling of the Pentagon"), but to the daily 'news analysis' which so often includes the most insidious type of criticism of the enterprise system," he added.

Mr. Powell said that whether this criticism stemmed from "hostility or economic ignorance," it erodes confidence in business. A system to monitor broadcasts should be established, he said, and "unfair or inaccurate" statements should be met with protests or demands for equal time to reply.

He suggested that many textbooks presented "superficial, biased or unfair" views of the free enterprise system, and that a better balance would result if the authors and publishers knew that a panel of "eminent scholars who believe in the American system" were screening the contents.

The same panel of experts could serve as lecturers to counter the left-of-center speakers who now predominate on campuses, he said. If not many invitations were extended to the Chamber of Commerce's speakers, he suggested that it should "aggressively" insist upon equal time.

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The Washington Merry-Go-Round THE WASHINGTON POST Friday, Sept. 29, 1972

FBI Missed Blueprint by Powell

By Jack Anderson

Justice Lewis F. Powell Jr. was the model of a moderate, reasonable, judicious legalist during his Senate confirmation hearings last November.

Even before his appearance, the FBI report on him was so favorable that Senate Judiciary Chairman James Eastland (D-Miss.) didn't wait to hear the testimony. He opened the hearings with the statement:

"Mr. Powell, I have read the FBI files on you; it was a full field investigation. I certainly think you are highly qualified, and I am going to vote to confirm you."

Agreed Sen. Sam Ervin, (D-N.C.): "It will afford me pleasure to vote for you. I have no reservations."

The FBI, however, had missed — and the senators, therefore, were unaware of — a confidential document that Powell drafted two months before his Supreme Court appointment. It was a blueprint for an assault by big business on its critics.

His views were so militant that it raises a question about his fitness to decide any case involving business interests. He called upon businessmen to mount a high-powered political action campaign and "to penalize politically" the opposition.

Not for Fainthearted

The battle should be waged, he urged, in the courts, on the campuses and in the media.

He encouraged businessmen to contact university trustees about "balancing" faculties, to "evaluate" college textbooks and to "monitor" TV programs. It was not a campaign, he said, "for the fainthearted."

In an earlier column, we published excerpts from Powell's confidential 33-page memo, which is now being circulated among top corporate executives by the U.S. Chamber of Commerce. Here are additional highlights:

"The American economic system is under broad attack . . ." Powell wrote passionately, from "the Communists, new leftists and other revolutionaries" as well as from "perfectly respectable elements of society." He identified consumer crusader Ralph Nader as "perhaps the single most effective antagonist of American business."

Having identified the enemies, Powell appealed: "The time has come — indeed, it is long overdue — for the wisdom, ingenuity and resources of American business to be marshaled against those who would destroy it."

He complained that "the enterprise system tolerates, if not participates in, its own destruction." He noted that American business finances the colleges "from which much of the criticism emanates."

And he added significantly: "Most of the media, including the national TV systems, are owned and theoretically controlled by corporations which depend upon profits and the enterprise system to survive."

Policing TV Networks

Emphasizing the "predominant role" of television in "shaping the thinking, attitudes and emotions of our people," he boldly advocated:

"The national television networks should be monitored in the same way that textbooks should be kept under constant surveillance. This applies not merely to so-called educational programs, such as 'Selling of the Pentagon,' but to the daily news analysis, which so often includes the most insidious type of criticism of the enterprise system . . .

"This monitoring, to be effective, would require constant examination of the texts of adequate samples of programs. Complaints to the media and to the Federal Communications Commission should be made promptly and strongly when programs are unfair or inaccurate."

Powell also contended that American business is threatened by "inequitable taxation" and "an inflation which has seemed uncontrollable." He cautioned, however, against President Nixon's method of controlling it.

"The recent freeze of prices and wages," he wrote, "may well be justified by the current inflationary crisis. But if imposed as a permanent measure, the enterprise system will have sustained a near-fatal blow."

The "fundamental premise of this paper," he concluded, was to warn "that business and the enterprise system are in deep trouble, and the hour is late."

Marksmen in Cairo

After the seven Israeli Olympic athletes were murdered in Munich, the U.S. seriously considered withdrawing from an international military shooting meet in Cairo.

To some, it seemed grotesque for an American shooting team to fire its guns in a country which has encouraged terrorists.

But a classified cable from our diplomatic mission in Cairo urged Secretary of State Bill Rogers to permit the American marksmen to participate.

"On balance," said the Sept. 12 cable, "USINT (the U.S. mission) favors participation U.S. military team . . . provided GOE (government of Egypt) makes proper security and logistical arrangements."

This was put to Egypt's tight-lipped Deputy Chief of Protocol Aziz Hama at the Foreign Ministry in Cairo. Hama "made no comments on security, but he 'assumed team members would be in civilian clothing,'" the confidential cable reported.

Despite this lack of Egyptian enthusiasm, the State Department, perhaps mindful that it was a ping-pong match which warmed up American-Chinese relations, decided to send a military shooting team to Cairo.

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Times Herald C-27
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The Powell Memo

Columnist Jack Anderson, who specializes in sensational exposes, excitedly informed his readers last week that he had found a document that "raises a question" about the fitness of U. S. Supreme Court Justice Lewis F. Powell Jr. to "decide any case involving business interests." His discovery, Anderson reported, was a Powell "blueprint for an assault by big business on its critics."

In horrified tones, Anderson declared that Justice Powell had advocated use of the nation's courts, its political institutions and its campuses to "champion big business." Indeed, Anderson conveyed the impression that Justice Powell favored dark and devious tactics, including the use of censorship and intimidation, to bludgeon colleges, the media and politicians into becoming more sympathetic to the interests of big business.

Now, people who know Justice Powell, who are familiar with his impressive record as a progressive and sensitive civic leader, will recognize Anderson's implications for what they are: rubbish. Unfortunately, however, the columnist's innuendos may receive currency from some people to whom Justice Powell is only a name. For this reason, Anderson's nonsense ought to be promptly refuted.

Written slightly more than a year ago, a few months before his appointment to the high court, Justice Powell's memorandum was far from being a plan for a selfish and underhanded promotion of the interests of "big business." It was, rather, a lucid and reasoned outline of a possible program to defend the nation's free enterprise system against unfair, unfounded and malicious criticism. In essence, Justice Powell suggested that the business community—which includes the one-man shoe store as well as General Motors—should use all legitimate and fair weapons at its disposal to counter the attacks of its enemies. What could possibly be improper about such a suggestion?

The Powell memorandum—written at the request of Eugene B. Sydnor Jr. of Richmond, chairman of the U. S. Chamber of Commerce's education committee, whose letter is published on this page today—noted, correctly, that "the American economic system is under broad attack," not only from such traditional enemies as the Communists but also from "perfectly respectable elements of society: from the college campus, the pulpit, the media,

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PAGE 18

RICHMOND TIMES - DISPAT
RICHMOND, VA.

Date: 10-4-72
Edition: MORNING
Author:
Editor: EDWARD GRIMSLE
Title: LEWIS F. POWEL JR., U. S. SUPREM COURT JUSTICE
Character:
or
Classification: 80-555*
Submitting Office: RICHMOND

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the intellectual and literary journals, the arts and sciences, and from politicians." Generally, the memorandum observed, the business community has responded, "if at all, by appeasement, ineptitude and ignoring the problem."

It was Justice Powell's conclusion that American business should defend itself more vigorously and more effectively. He advised it to seek to influence the policies of government, and indeed it should. He advised it to become "active in the judicial arena," as many other organizations are, and indeed it should. He advised it to complain "promptly and strongly" when television and the other media present "unfair or inaccurate" programs and stories, and indeed it should.

The campus Justice Powell saw as the "single most dynamic source" of criticism against the free enterprise system, primarily because social science faculties "tend to be liberally oriented." He emphasized, however, that this was not "a criticism per se, as the need for liberal thought is essential to a balanced viewpoint." Moreover, he cautioned that the principle of academic freedom must not be attacked and that college administrations and faculties must retain responsibility for their "intellectual integrity." But the truth, the Powell memorandum noted, is that on many campuses there is no such thing as a "balanced viewpoint" because there is a dearth of conservative and moderate faculty members.

This lamentable imbalance the Chamber of Commerce could partially offset, Justice Powell concluded, by establishing its own staff of scholars who would write and speak on the free enterprise system and by insisting that social science textbooks used in the nation's colleges and secondary schools offer "fair and factual treatment of our system of government and our enterprise system, its accomplishments, its basic relationship to individual rights and freedoms and comparisons with the systems of socialism, facism and communism."

Anderson's melodramatic suggestions notwithstanding, Justice Powell advocated nothing revolutionary, shocking, improper or, for that matter, very dramatic. All he did, in effect, was to urge business to stop behaving like the Caspar Milquetoast of the American society and to recognize the nation's legal, political and educational institutions as legitimate and effective weapons to use in a counterattack against those who would destroy the free enterprise system.

FD-350 (Rev. 7-16-

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Powell Memo, Anderson Discussed

Columnist's Attack 'Wholly Unjustified'

Your news columns of Sept. 29 carried a story regarding the unauthorized disclosure by syndicated columnist Jack Anderson of a confidential memorandum prepared for the United States Chamber of Commerce in August, 1971 by the distinguished Richmond attorney, Lewis F. Powell Jr. Several months later Mr. Powell was nominated and confirmed as a justice of the United States Supreme Court.

In this memorandum, Mr. Powell outlined a number of ways in which the American business community could effectively and also ethically and legally defend itself against the increasing attacks by so-called consumer advocates, ultra-liberal college professors, self-serving politicians as well as the even more radical spokesmen of the New Left and other groups advocating far-reaching changes in our government.

Powell

Mr. Anderson quoted extensively from this lengthy memorandum prepared for confidential study by the United States Chamber, the largest federation of businessmen, local and state chambers of commerce, and national trade associations. In his attack on Justice Powell, Anderson also attempted to portray the national chamber as the spokesman and conspirator of "Big Business," a favorite whipping-boy of this writer. He did not take the trouble to learn that of the chamber's 44,000 direct business members, 85 per cent have fewer than 25 employes. The chamber can by no stretch of the imagination be fairly pictured as favoring big business; but, rather, it speaks for thousands of grassroots businessmen throughout the country, be they large or small.

Mr. Anderson's Washington Merry-go-round columns of Sept. 28 and 29 brought two wholly unjustified charges against Justice Powell. First, he implied that Mr. Powell had wrongfully withheld this memorandum from the FBI and the Senate Judiciary Committee in the course of the Senate confirmation proceedings after his appointment to the Supreme Court. However, the facts are that as a leading spokesman for education (as former chairman of the Richmond City School Board and later of the

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(Indicate page, name of newspaper, city and state.)

PAGE 18

RICHMOND TIMES-DISPATCH
RICHMOND, VA.

Date: 10-4-72
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Author:
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Title: LEWIS F. POWELL JR., U. S. SUPREME COURT JUSTICE
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Virginia State Board of Education and also as a former president of the American Bar Association), Mr. Powell had spoken out on many occasions on a number of matters covered in his memorandum to the chamber. The public press not only printed news stories about these speeches, but the Richmond Newspapers library files contain dozens of direct quotes and summaries of Justice Powell's talks to many organizations on a variety of subjects; these were readily available to the FBI and Senate Judiciary Committee members. Therefore, Mr. Powell's views regarding the urgent need for suitable and effective presentation of the American free enterprise system were widely known by anyone who wished to learn of them.

What is Wrong?

In a second charge Mr. Anderson equates such support of our business economy as reprehensible to the extent that "it raises a question about his (Justice Powell's) fitness to decide any case involving business interests." Proceeding further, Mr. Anderson appeared to question whether "the battle (for the support of the American public) should be waged in the courts, on the campuses and in the media," as Justice Powell had suggested. However, in his own backing of liberal politicians and consumer crusaders, Anderson has applauded their use of the courts, campuses, and media. He therefore begs the question: What is wrong or improper for those with legitimate but differing views using the same methods in approaching the great questions of our day?

Mr. Anderson attempted by his unauthorized publishing of the confidential memorandum intended only for the use of the United States Chamber of Commerce to smear a highly qualified and scrupulously ethical member of the Supreme Court. In my opinion, the overwhelming approval of the Senate last December (only one dissenting vote out of 90 cast on the question of his confirmation) speaks much more loudly than Jack Anderson about the fitness of Justice Powell for his seat on our most important judicial body.

Furthermore, this memorandum was prepared after Justice Powell and I had discussed on a number of occasions the need for American businessmen, large and small, to wake up and tell their story and that of the free enterprise system in clear and forceful fashion. Unhappily, many attacks upon businessmen and the free enterprise system have come in recent years through some of our schools and colleges. As chairman of the Virginia State Board for Community Colleges for seven years, I found it refreshing to discover that college faculties and students not involved in liberal arts, social and political sciences, etc., have generally a much more realistic appreciation of our free market economy than those in the Ivory Towers of the Ivy League and similar institutions.

The Powell memorandum pointed out the importance of college faculties' being reasonably balanced in their political and ideological views, if their students are to receive impartial views on the great questions facing our nation. There is abundant evidence that unhappily this is not true, as Jeffrey Hart in his syndicated column in The Richmond News Leader of

Anderson

Dec. 17, 1970 pointed out: In 1970 a widespread survey of 60,000 political science faculty members noted "70 per cent approved of the emergence of radical student activism, as against 30 per cent who disapproved". The same proportion held when they were asked to label themselves politically. Left and liberal drew about 70 per cent, middle-of-the-road 20 per cent, conservative 10 per cent. At my own alma mater, Princeton, in 1968, 80 per cent of the faculty members supported Hubert Humphrey, while Nixon and Dick Gregory (an ultra-liberal black candidate of minor party) each got 10 per cent. It is not difficult to imagine what the views of such a faculty will be on the often subjective topics of economics, politics, and the interpretation of history.

Mr. Powell's 1971 memorandum was intended for consideration by the Education Committee of the United States Chamber of Commerce (of which I am chairman). The evaluation of his far-reaching ideas has understandably required lengthy consideration, and the chamber in fact has made no decision regarding their implementation. However, there is nothing improper or illegal in any of Justice Powell's suggestions for American business to stand up for our free enterprise economy.

Mr. Anderson's attempt to pillory a great American may well prove a blessing in disguise. Hopefully, the widespread publicity about the memorandum may wake up businessmen all over this country to the pressing need for prompt and effective implementation of these sound suggestions.

EUGENE B. SYDNOR JR.
Richmond

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JAMES J. KILPATRICK

Citizen Powell Handed Down a Good Opinion

The saying goes, straight out of Shakespeare, that sweet are the uses of adversity. Here in Washington, getting smeared by Jack Anderson ranks high on the adversity scale, but Anderson's recent attack on Supreme Court Justice Lewis F. Powell is turning into a stroke of good fortune for the nation's business community.

The story goes back to the summer of 1971, when Powell was simply Citizen Powell, a highly respected corporation lawyer in Richmond, Va. He lunched with an old friend, Eugene B. Sydnor Jr., who was then chairman of the education committee of the U.S. Chamber of Commerce.

Sydnor was to meet in a few days with Arch Booth and other executives of the U.S. Chamber. He asked Powell to let him have a memorandum as a basis for discussion of certain steps that might be taken by American business in defense of the enterprise system. Powell was agreeable. He went to his office over the weekend and, in his usual methodical way, put together a neatly footnoted 33-page memorandum. On Monday, Aug. 23, he gave the paper to Sydnor, who took it on to Washington the next day.

Two months later, on Oct. 21, President Nixon nominated Powell for the Supreme Court. Now, nearly a year later, the memorandum to Sydnor has surfaced: Someone sent a copy to Jack Anderson; and Anderson, in his usual snide way, gave it a sinister reading. Powell's views were so militant, said Anderson, that the memorandum "raises a question about Powell's fitness to decide any case involving business interests."

For the record, Anderson never raised any such question about the fitness of Thurgood Marshall, as to integration, or about Arthur Goldberg, as to labor—but no matter. The effect of Anderson's attack on Powell has been to give the memorandum publicity it never could have achieved in any other way. Businessmen are besieging the Chamber with requests for copies of the text. Quite possibly, thanks to Anderson, something may come of Powell's year-old recommendations after all.

These recommendations are nothing sensational, but they make great good sense. Powell's thesis is that the American economic system is under broad attack, not merely from a handful of extremists but more significantly from "perfectly respectable elements of society—from the college campus the pulpit, the media, the intellectual and literary journals, the arts and sciences, and from politicians." The statement is undeniably true.

Paradoxically, Powell noted, the business community often tolerates and even participates in its own destruction: Businessmen contribute to foundations that are basically anti-business, and they support universities dominated by intellectuals who wage war against the enterprise system. Meanwhile, the media glorify such brilliant antagonists as Ralph Nader, and business executives do little but wring their hands.

Writing as a private citizen with long experience in both business and education, Powell offered a string of recommendations. The first essential, he said, is for businessmen "to confront this problem as a primary responsibility of corporate management." Large companies, he said, should appoint a vice president for survival. The U.S. Chamber, for its part, should take the offensive.

Because the campus is "the single most dynamic force" against the enterprise system, efforts should be made to achieve a better balance on college faculties. Highly qualified independent scholars should be asked to review key textbooks, and to criticize their antibusiness bias. Powell suggested that the TV networks be monitored; when their depiction of business is unfair or inaccurate, strong complaints should be registered. In the political arena, and through the courts, businessmen should follow the activist example of their foes: Get in the act!

It is a disservice to Powell thus to condense his memorandum. The paper is a superlative piece of advice to businessmen, and ought to be read in full—read and taken to heart. This was the work of Private Citizen Powell back in Richmond, but Mr. Justice Powell is not likely to write any better opinions on the Court.

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Date 10/8/72

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Garden Club Honors High Court Judge

The Garden Club of Virginia has elected Justice of the Supreme Court Lewis F. Powell Jr. as an honorary member.

His acceptance was announced today by Mrs. H. Marston Smith of Warsaw, chairman of admissions at the clubs' board meeting in Winchester.

"This membership recognizes the help and encouragement that he has given the Garden Club of Virginia, regardless of the other demands on his time and talent," she said.

Powell's association with the garden club as adviser and legal counselor covered a 20-year period prior to his nomination to the Supreme Court.

The three-day meeting of the garden club concluded today after a luncheon at Fairfield, home of Mrs. Walter W. Crawford.

(Indicate page, name of newspaper, city and state.)

p. 25
RICHMOND NEWS LEADER
RICHMOND, VA.

Date: 10-12-72
Edition: evening
Author:
Editor: JOHN E. LEARD
Title: LEWIS F. POWELL SPIN

Character:
or
Classification: 77-11979
Submitting Office: RICHMON

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MR. COLEMAN
MR. REED
TELE. ROOM
MRS. METCALF

July 8, 1974

The attached acknowledgment of sympathy was sent to the Director from the family of Louis Franklin Powell. Mr. Powell was the father of Supreme Court Justice Lewis Powell. The following note appears on the card:

"Dear Clarence,

I do indeed appreciate your thoughtfulness in writing about my father's death. I have wanted to thank you for some time.

Lewis Powell

June 29th"

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EX-107

7 JUL 10 1974

CORRESPONDENCE

5 JUL 18 1974

FISC

The family of

Louis Franklin Powell

deeply appreciates your sympathy

(Inside)

Dear Clarence,

I do indeed appreciate your thoughtfulness in writing about my father's death. I have wanted to thank you for some time.

Lewis Powell

June 29th

FD-49; Rev. [illegible]

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, Bureau

DATE: 1-21-93

FROM : ADIC, NEW YORK 77-34527

SUBJECT: Lewis Franklin Powell, Jr.

(Title)

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X File Destruction Program

LEWIS FRANKLIN POWELL

Enclosed are 1 items.

These items are forwarded your office since:

__ All logical investigation completed in this Division

X You were OO at the time our case was RUC'd.

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(NAME OF SPECIAL AGENT)

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Description:

Miscellaneous newspaper clippings obtained from the "New York Times".

See Ser 13

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Two Nominees to the Supreme Court

Lewis Franklin Powell Jr.

OCT 22 1971

By JOHN DARNTON

Lewis F. Powell Jr. could bring to the Supreme Court the Southern voice that President Nixon is looking for. But, [illegible] he is confirmed to [illegible] he was named to [illegible] night, the Southern voice will have a soft and reasoning inflection that traces back to his native Tidewater Virginia. In manners and polish, Mr. Powell fits comfortably into the image of the antebellum South. But in the moderation of his ideas and his approach to integration, he appears to belong more to [illegible] been called "the [illegible]."

Men in the News

With [illegible] nine-year term [illegible] board of Richmond [illegible] quietly admitted [illegible] to white schools [illegible] while the issue raged [illegible] other Virginia towns, no [illegible] closed in Richmond.

Mr. Powell, [illegible] D. social, has never served on a court of law. He has, however, earned the reputation as a scholarly and courtly advocate, a reputation that earned him the presidency of three major legal associations: The American Bar Association (1963 to 1965), the American Bar Foundation (1969 to present), and the American College of Trial Lawyers 1968-1970.

Took Office in August

He was installed as head of the A.B.A. in August. It was a time of growing alarm among lawyers and others at racial clashes and at what many considered an increasing disregard for law and order.

"There is no question," he said at the time, "that we are in a period in our country when respect for law and order is at a low ebb."

As a member of President Johnson's Commission on Law Enforcement and Administration of Justice, he joined a dissenting group in declaring that recent Supreme Court decisions limiting police interrogation and confessions had tilted the balance of justice too far in favor of defendants.

A lawyer who is a friend of Mr. Powell noted that the 6[illegible]-year-old lawyer recently wrote an article on law and order that J. Edgar Hoover liked so much that it was run in the latest issue of the F.B.I. Law Enforcement Bulletin.

In it, he labels as "sheer nonsense" the assertion that dissent and free speech are suppressed in America. "I know they read that in the White House," the friend remarked.

While openly and publicly shocked at the murder of three civil rights workers in Mississippi, he also believes that demonstrators go beyond their constitutional rights of free speech and petition "by occupying buildings and tying up traffic in the streets."

In speeches and testimony delivered while he was active with the bar association, Mr. Powell spoke out in favor of equal justice for the poor, against pre-trial publicity that jeopardizes the presumption of an accused person's innocence, and against "excessive tolerance" by parents, law officials and juries.

In 1964, he said that surveys had shown that "wealth, social position and race of clients may affect the standards of justice available." As a result, he said, "it is small wonder that the public at large should be less than enthusiastic about the administration of justice."

In 1966, he warned that "statements by overzealous or publicity-seeking police and prosecuting officials as to alleged confessions, incriminatory evidence, or to the effect that the case is 'open and shut'" were jeopardizing the rights of the accused.

Following a trip to the Soviet Union in 1958, he inspired in Richmond a course on life under Communism—one of the first in American public schools anywhere—and classes in the Russian language. The experience led to an A.B.A. committee committe on Education Against Communism, where Mr. Powell, as a chaiman, pushed a program to emphasize the advantages of free institu-

Mr. Powell was born in Suffolk, near Norfolk, on Sept. 19, 1907, and has lived most of his life in Richmond. He attended college and law school at Washington and Lee, in Lexington, Va., and earned a master's degree at Harvard Law School.

Since 1937, he has been associated in Richmond with one of Virginia's oldest law firms, Hunton, Williams, Gay, Powell & Gibson.

He and his wife, the former Josephin Pierce Rucker of Richmond, whom he married in 1936, have three daughters and one son.

William Hubbs Rehnquist

By DAVID E. ROSENBAUM

Special to The New York Times

WASHINGTON, Oct. 21—Early this week, William Hubbs Rehnquist, Assistant Attorney General, sent a memorandum to the American Bar Association defending Judge Mildred L. Lillie, who had been proposed to the association by President Nixon as a possible Supreme Court Justice. Tonight, Mr. Rehnquist, a conservative Arizonan, was himself nominated by Mr. Nixon for a seat on the Court.

It was only this afternoon that Mr. Rehnquist's name was even mentioned in speculation about the President's choices. But, in retrospect, observers have realize that he fit perfectly the President's job description.

He was described by his colleagues in the Justice Department as a brilliant lawyer who, having once been a clerk to the late Justice Robert H. Jackson, is completely versed in the Court's operations.

Politically, he is a Goldwater Republican, who came to Washington in 1968 at the beginning of the Nixon Administration to head the Justice Department's Office of Legal Counsel, a position described by the President tonight as "the President's lawyer's lawyer."

Among his associates in the Government, Mr. Rehnquist is known as a man more attuned to the law than to politics. He has gone out of his way, one colleague said, to participate in interviewing law graduates who are applying for jobs, and questions about the applicant's political affiliation seem unimportant.

Comes Under Fire

In his 33 months in the capital, Mr. Rehnquist has often been the spokesman for the Administration on police surveillance and other issues of criminal law.

In March, he came under fire from civil libertarians after he told a Senate subcommittee that he vigorously opposed any legislation that would restrict the Government's ability to gather information about American citizens. He also told Senator Sam J. Ervin Jr., the North Carolina Democrat who heads the Senate Constitutional Rights Subcommittee, that, although it would be "inappropriate" and a "waste of the taxpayers' money," it would not violate the Senator's rights for the Government to put him under surveillance.

In a speech last year at the University of Arizona, Mr. Rehnquist said it would not be "at all unreasonable" for the Government to ask the Supreme Court to reverse its decision in the case of Miranda v. Arizona, when the Court declared that criminal suspects must be informed of such prerogatives as the right to remain silent and the right to a lawyer.

No litigant, including the Government of the United States, Mr. Rehnquist had said, was "required to accept any particular decision of the Supreme Court in the field of constitutional law as stare decisis." Stare decisis is the doctrine of strict adherence to prior judicial decisions.

Bill Rehnquist was born Oct. 1, 1924, in Milwaukee, and he attended public school there. He went West to college—to Stanford University, where he received his undergraduate and law degrees—and then came to Washington in 1952 to serve as a clerk to the late Justice Jackson.

Supporter of Goldwater

The next year he went to Phoenix, began private law practice and became active in Republican politics. He was a strong supporter of Barry Goldwater in the 1964 Presidential campaign.

Mr. Rehnquist is known as an exceptionally hard worker, and this morning his desk was piled high and his secretary said he was very busy.

He is tall, long-side-burned and athletic-looking and he looks younger than his 47 years.

Mr. Rehnquist (pronounced WREN-quist) was married in 1953 to the former Natalio Cornell of San Diego. The couple has three children, James, 16, Janet, 14, and Nancy, 12, who attend schools in Fairfax County, Va., where the Rehnquists live.

Among his colleagues in the Justice Department, Mr. Rehnquist is respected first and foremost as a lawyer. President Nixon described him tonight as a conservative, "but only in a judicial, not in a political sense."

A close associate said afterward: "There's no question in my mind that he's a top-notch lawyer, both in his writing ability and his legal acumen. Plus, he's a hell of a nice guy who never blows up."

Safety of Public Put First by Bar's Chief

By FRED P. GRAHAM
Special to The New York Times

MIAMI BEACH, Aug. 9—The president of the American Bar Association today placed the right of citizens to be free from criminal attack ahead of the constitutional rights of persons accused of crimes.

The statement by Lewis F. Powell of Richmond, Va., brought thunderous applause from the 3,000 lawyers at the initial session of the association's convention.

The delegates also applauded—an unusual informality at A.B.A. assemblies—when Mr. Powell criticized what he called the role of sit-in demonstrations in creating disrespect for law.

Mr. Powell also told the assembly that the association was planning to tighten its rules

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PUBLIC SAFETY PUT FIRST BY BAR HEAD

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mittee, appointed to overhaul against lawyers making statements to the press about pending cases.

He said that a special committee, the association's outmoded canons, was halfway through its three-year project.

After having suggested that some sit-in demonstrations could create disrespect for law, Mr. Powell declared:

"An ordered society cannot exist if every man may determine which laws he will obey, and if techniques of coercion supplant due process," he said.

"The courts and legislative halls, rather than the streets, must be the places where differences are reconciled and individual rights ultimately protected."

Mr. Powell, who has earned a reputation as a progressive leader of the legal profession, listed three symptoms of "deteriorating law and order."

¶The willfull violation of laws and court decisions, sometimes by officials sworn to observe them.

¶The doctrine that only "just" laws need be obeyed and that every man is free to determine for himself the question of "justness."

¶The growing use of coercion — ranging from demonstrations to sit-ins and mobs in the streets — as a means of enforcing rights or political views.

Scores 'Defiant' Minority

Mr. Powell also criticized "the criminal conduct of the small and defiant minority in the South which still uses violence and intimidation to frustrate the legal rights of Negro citizens."

In ranking the protection of society above the constitutional safeguards of defendants when these conflict, Mr. Powell put his prestige behind the views expressed last week by Attorney General Nicholas deB. Katzenbach. In a letter to Chief Judge David L. Bazelon of the United States Court of Appeals for the District of Columbia, Mr. Katzenbach wrote that the purpose of criminal investigation must be law enforcement,

Bar Leader Finds High Court Too Lenient in Criminal Cases

Fears Recent Rulings Have Tipped Scales at Expense of the Public's Safety

By EDITH EVANS ASBURY

The president of the American Bar Association said yesterday that there was growing reason for the belief that recent Supreme Court decisions had tipped the scales of justice too far in favor of criminals at the expense of the public's safety.

As a result, Lewis F. Powell Jr., the A.B.A. president, said, "there are valid reasons for criminals to think that crime does pay, and that slow and fumbling justice may be evaded."

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Mr. Powell, a Richmond attorney, addressed the annual meeting of the New York State Bar Association at the headquarters of the Association of the Bar of the City of New York, at 42 West 44th Street.

He cautioned that it was "unproductive and destructive to criticize the court itself" for performing its "historic function" of "protecting the constitutional rights of the individual against alleged unlawful acts of government."

However, the Supreme Court decisions that have, in recent years, strengthened the rights of accused persons have rendered the task of law enforcement more difficult at a time when crime is increasing at an alarming rate, he said.

"The right of society in general, and of each individual in particular, to be protected from

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The New York Times

Lewis F. Powell Jr.

NEW YORK TIMES, SAT

U.S. BAR PRESIDENT SCORES LENIENCY

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crime must never be subordinated to other rights," Mr. Powell asserted.

"There is a growing body of opinion that the rights of law-abiding citizens are being subordinated. The pendulum may have swung too far in affording rights which are abused and misused by criminals."

Mr. Powell said there was a 10 per cent increase in crime in 1963 over the previous year and the trend continued in 1964, with a 13 per cent increase in the first nine months.

"The nature of the crimes committed is also disturbing," he continued, "with crimes of violence continuing to increase.

"The single most shocking statistic, documented in F.B.I. reports, is that since 1958 crime has been increasing five times faster than the population growth," he added.

Despite the annual cost in money and human misery, Mr. Powell said the American public seems apathetic about the crime situation.

"In a country which is said to stand on the threshold of the Great Society," Mr. Powell declared, it is incongruous that in some urban areas law-abiding citizens are unsafe in their homes and denied the privilege of using public streets and parks for fear of their personal safety.

'We Must Act Now'

This fear signifies a breakdown in the primary responsibility of government, which is "the duty to protect citizens in their persons and property from criminal conduct—whatever its source or cause," Mr. Powell said.

"Society cannot await the millennium when crime will lying causes have been removed," Mr. Powell said. "We must act now."

A major program to develop national standards for the administration of criminal justice was undertaken recently by the A.B.A. under the chairmanship of Chief Judge J. Edward Lumbard of the United States Court of Appeals for the Second Circuit.

The project, expected to require three years and cost $750,000 will consider "the entire spectrum of criminal justice," Mr. Powell said.

Another encouraging sign of attention to the problem of maintaining the proper balance between individual rights and the rights of the public, Mr. Powell said, is the new Office of Criminal Justice within the Department of Justice.

Also, he continued, Governor Rockefeller recently proposed "an imaginative anticrime program for New York," including a new penal code and a new school of criminal justice.

A number of other states are also re-examining their criminal codes, he said.

The State Bar Association elected Sidney B. Pfeifer of Buffalo, president, replacing Orison S. Marden of New York City. It also elected C. Everett Shults of Hornell as secretary and re-elected Robert C. Poskanzer of Albany treasurer.