

December 17, 1993

Memo: Films on Justices Brennan and Blackmun

We are gratified by your interest in our landmark films on Justices Brennan and Blackmun. After much negotiation and unprecedented access by our cameras, these films will provide an inside view of the United States Supreme Court, and the impact of its decisions on the fabric of our society.

The film, **MR. JUSTICE BRENNAN**, profiles his role in shaping the modern judicial landscape of this country. The film will be a valedictory for one of America's great justices, as he speaks out on his philosophy and his landmark opinions on Civil Rights, Womens' Rights, Affirmative Action, Voting Rights, and Freedom of the Press. Because the film chronicles Justice Brennan's decisions and the explosive events surrounding his long tenure on the bench, it tells the story of his legacy and a critically important slice of American history. Currently, **MR. JUSTICE BRENNAN** is 60% finished.

MR. JUSTICE BLACKMUN chronicles the events of the most controversial case of this era, Roe v. Wade. The film also follows Justice Blackmun through one of his 12-hour days, providing a unique in-depth look at how the Supreme Court works. This film is approximately 70% finished. It is our hope to complete both films while the Justices are still available to participate in the project.

Additional funding is needed for the last 20 days of shooting, writing of the narration, editing, adding the music score, and post-production finishing work in the studio. Funding so far has come from the Charles Evans Hughes Foundation in New York, the West Lawbook Publishing Company, the U.S. Department of Education, and Whirlpool Corporation. Regarding government funding, the funding from the Department of Education came through the Secretary's designated fund in the area of law-related education.

It is our hope that through Secretary Riley, there are four areas within the Department of Education in which funds could be obtained: the Secretary's designated funds, the higher education program as the films can be used in colleges and law schools, secondary education for use in high school social studies, and in law-related education. Additional possibilities are the Corporation for Public Broadcasting which funds such ventures, and the Department of Justice, which has a law-education program. Secretary Reno is a big fan of Justice Brennan. Also, Justice Brennan's law clerks could be helpful in fund-raising with foundations and personal law firms. Money collected directly from the clerks would be a conflict of interest on PBS, but individually the clerks could help with raising funds.

**MR. JUSTICES BRENNAN AND BLACKMUN AND
THE UNITED STATES SUPREME COURT**

INTRODUCTION

This exciting two-part series brings to television and the classroom a uniquely human look at that often-mysterious, seemingly untouchable bastion of justice, the U.S. Supreme Court.

The Court's decisions affect the rights and freedom of every citizen--from prisoners to Presidents--yet many of us feel that the Court is somehow farther apart from us than the other two branches of government. For one thing, we did not elect the judges. For another, they speak in the arcane language of the law. Also, unlike any other branch of government, the Court makes its decisions in absolute secrecy. As a result, many people are not even sure what the Supreme Court is. It is not uncommon for Americans to believe that the Court is under the jurisdiction of the Justice Department or the Senate.

The award-winning actor, E.G. Marshall, in association with Producer Jerry Colbert, Writer Barbara Jampel, and the League of Women Voters, will cut through the cold marble walls to make the Court and its vital work both accessible and real.

MR. JUSTICES BRENNAN AND BLACKMUN AND THE UNITED STATES SUPREME COURT is neither abstract nor theoretical...but two living, breathing stories that touch the lives of us all. Packaged with educational materials and resource guides designed under the guidance of the League, the series will have a significant outreach component.

SHOW # 1--MR. JUSTICE BRENNAN

Some of the most important Supreme Court cases of the modern era were all authored by one remarkable man, retired Justice William Brennan.

Driven by a profound personal vision of human dignity and a society in which liberty is sacred, retired Justice William Brennan is revered by many as the guardian of the Bill of Rights. To his critics, he was the worst kind of political activist, someone who pushed for his own whims above existing law. (We will hear from both sides). Ironically, even most of the critics agree with the National Review that in the last half century, no one has had more influence on public policy than Bill Brennan.

This unassuming and kindly figure, during his 33 years on the Court, was a master strategist and probably the best coalition builder the Court has ever known. Beginning with *Cooper v. Aaron*, Brennan's landmark opinions have affected the lives of virtually every American...

From reapportionment which set in motion a political revolution...to libel and the press... to rights for the poor...to women's rights, which at the time weren't even a whisper of the future.

We have filmed the Justice in chambers prior to his retirement; in candid conversation about his opinions, his work, his thoughts on the Constitution and the future of America; in meetings with his law clerks; and at home with his family. That a sitting Justice has consented to be featured in a film is nearly without precedent. Interwoven with historical footage beginning in the 1950s, as well as interviews with supporters and detractors alike, the material creates a compelling chronicle of contemporary American life...and a sweeping portrait of the Supreme Court's role in our lives.

SHOW # 2--MR. JUSTICE BLACKMUN

For an in-depth look at how the Supreme Court works, the second show focuses on the most controversial case of this era.

We pose some vitally important questions: What is the Constitution's role in abortion? How is a Supreme Court decision written? But far from being a dry civics lesson, our film is a passionate saga complete with confrontations, love, hate, death, laughter and tears.

In 1973, two attorneys challenged the constitutionality of Texas abortion laws on behalf of a client, Jane Roe. They won, but the state of Texas appealed, taking the case to the Supreme Court. Using artists' sketches and voice-over re-enactments by notable actors, we bring to life the highlights of the impassioned hearing.

The man who authored Roe v. Wade was a little known Justice named Harry Blackmun. Our cameras have followed Justice Blackmun, like Justice Brennan, for a number of years. The soft-spoken and self-effacing Blackmun was both pleased and frightened by the assignment of writing the decision. "Generally no one is for abortion as such," says Blackmun. But he is the one singled out for criticism: "I'll carry it to my grave," he says.

In counterpoint to the drama swirling outside, is the solemn and structured world inside the Court. We follow one of Blackmun's intensely busy, 12-hour days. Woven throughout, his candid comments provide a uniquely personal narrative. "There is a constant need to remember," he says, "that these are living, breathing human beings out there with complex problems."

Today, several cases stand to impose new restrictions on abortion.

Could they overturn Roe v. Wade? And what is the view of Justice Antonin Scalia and other conservatives?

Whichever way the story unfolds, **MR. JUSTICE BLACKMUN** remains a gripping human drama.

A uniquely qualified group has come together to work on this project, led by veteran producer Jerry Colbert, Executive Producer of Understanding Government, an organization committed to citizen education through the development of films for public television. Mr. Colbert is the producer of several award-winning documentaries, including "H.R. 6161, An Act of Congress," and "The Regulators, Our Invisible Government." He has also been responsible for the national live broadcasts of two holiday concerts at the U.S. Capitol, A CAPITOL FOURTH since 1981, and the NATIONAL MEMORIAL DAY CONCERT since 1990.

E.G. Marshall, host and narrator for the series, is an Emmy award-winning actor whose dramatic series from the 1960s, THE DEFENDERS, is widely considered one of the best dramatic series in the history of television. Mr. Marshall, who has been deeply involved in the project from the beginning, has a long and distinguished history of commitment to public service and educational projects.

Barbara Jampel is an Emmy Award winning writer who has written and produced 10 National Geographic specials, including CATS: CARESSING THE TIGER and MYSTERIES OF MANKIND.

The three legal scholars involved with the film series are: Fr. Robert Drinan, Professor of Law at Georgetown Law School; J. Woodford Howard Jr., Professor of Political Science at Johns Hopkins University; and Norman Dorsen, Professor of Law at New York University.

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