SUPREME COURT OF THE UNITED STATES

JUSTICE JOHN PAUL STEVENS MEMORIAL

SPECIAL SESSION OF THE SUPREME COURT

3:00 p.m.

Monday, May 2, 2022

Courtroom

Supreme Court of the United States

Washington, D.C.
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CHIEF JUSTICE ROBERTS: The Court is in special session this afternoon to receive the resolutions of the Bar of the Supreme Court in tribute to Justice John Paul Stevens.

The Court recognizes the Solicitor General.

PRESENTATION OF RESOLUTIONS

HONORABLE ELIZABETH B. PRELOGAR,

SOLICITOR GENERAL OF THE UNITED STATES

GENERAL PRELOGAR: Mr. Chief Justice,

and may it please the Court:

At a meeting today of the Bar of this Court, resolutions memorializing our deep respect and affection for Justice John Paul Stevens were adopted unanimously.

Today, the Bar of this Court gathers to pay tribute to Justice Stevens, a model of integrity, independence, and intellectual honesty, who served the nation for 35 years as an Associate Justice of this Court.

Justice Stevens was a lawyer of the highest quality and a human being of the highest character. He was gifted with an agile and
curious mind, and he used it well, writing more
than 1,000 Supreme Court opinions, three books,
and countless articles. He was a patriot with a
profound infectious sense of optimism. Yet, his
eyes stayed clear, and his pragmatism never
waned. Independent to the core and thoroughly
decent, Justice Stevens lived a life dedicated
to the rule of law and to equal justice under
it.

John Paul Stevens was born in 1920 in
Chicago's Hyde Park neighborhood. For college,
he enrolled at the University of Chicago to
study English literature. He graduated Phi Beta
Kappa with the university's highest honors.

Justice Stevens served as a Naval
officer during World War II. He spent much of
the war stationed at Pearl Harbor, working as an
intelligence officer breaking Japanese codes.
He was awarded the Bronze Star for his service.

After the war, Justice Stevens
enrolled in Northwestern University School of
Law. Northwestern's emphasis on facts, context,
and procedure, rather than legal rules alone,
had a lasting effect on his thinking. He often
quoted his professor's advice: "Beware of
glittering generalities." Justice Stevens became co-editor in chief of Northwestern's Law Review and graduated first in his class with the highest grades to date in the school's history. His brilliant record earned him a Supreme Court clerkship with Justice Wiley Rutledge during the 1947 term.

Following his clerkship, Justice Stevens returned to Chicago and soon distinguished himself as a leading antitrust litigator. He argued a case before this Court and taught antitrust law at both Northwestern and the University of Chicago.

Public service formed a cornerstone of his years practicing law. He served as associate counsel to a House Judiciary subcommittee studying monopoly power. He also served as counsel to a special commission convened to investigate charges of corruption leveled at the Illinois Supreme Court. And he generously accepted pro bono appointments, including a case where he persuaded the Illinois Supreme Court to reverse a conviction procured by beating a defendant until he confessed. That and other experiences influenced his insistence
that criminal defendants receive full and fair
trials and appeals.

In 1970, President Nixon nominated
Justice Stevens to the Seventh Circuit, where he
served for the next five years. In 1975,
President Ford nominated him to this Court.
Justice Stevens was confirmed by a vote of 98 to
zero just 19 days after his nomination.
President Ford chose Justice Stevens
for his integrity and his excellence.
Plain-spoken and direct, Justice Stevens avoided
one-size-fits-all solutions to complex legal
problems. He instead grounded his approach in
the facts, in our constitutional tradition, and
in careful consideration of precedent, context,
and common sense.

His commitment to the rule of law was
second to none, and for him, that meant the
conscientious exercise of independent judgment.
Indeed, over more than three decades on the
Court, Justice Stevens fearlessly exercised
independent judgment across myriad areas of the
law, too many to recount here. For example,
early in his tenure on the Court, he declared
his independence from the orthodoxy of different
tiers of scrutiny under the Equal Protection Clause, writing that the clause does not make some groups of citizens more equal than others.

His independence wasn't limited to constitutional law. In the realm of statutory interpretation, he rejected what he called a purely literal approach and refused to wear, in his words, "thick grammarian spectacles." He didn't ignore the words of statutes. Many of his opinions engaged in close analysis of the specific statutory terms and structure, but he also sought guidance from context, legislative history, and the purpose behind the legislation. He stood by that approach to the end, defending attention to legislative history against textualist critics even after he retired from the Court.

Justice Stevens viewed the courts as a refuge for the powerless. His unwavering commitment to procedural regularity took center stage when he authored the Court's opinion holding that the federal habeas statute applies to detainees held in Guantanamo Bay after 9/11. That opinion vindicated the core insight of Justice Rutledge's dissenting opinion from 56
years earlier in Ahrens versus Clark, an opinion
decided during Justice Stevens' tenure as a law
clerk.

Decency, independence, and humble
brilliance ran through Justice Stevens' work.
He was kind, gracious, quick to smile, and
unfailingly polite. At oral argument, he
usually prefaced his questions with a disarming,
"May I ask you this?" His clerks adored him,
describing him as the best boss they could ever
hope to have.

To prepare for oral argument, he
didn't ask his clerks for bench memos. Instead,
after he read all the papers, he would stroll
into the clerks' office and settle into a
well-worn armchair. He would talk through cases
there, aided by his near-perfect recall of
earlier precedents.

And when he had an opinion to write,
he always prepared the first draft himself.
Many of these drafts were separate opinions.
Indeed, he wrote more dissents than any other
Justice in this Court's history and more
concurring opinions too. With his fearless
independence, he was untroubled by being one
against eight, although he wished his colleagues would rethink their votes.

Most of his dissents remain dissents, enduring markers of how Justice Stevens believed we could achieve a more just society. But they sometimes paved the way for future change.

Justice Stevens dissented in Bowers versus Hardwick, writing that individual decisions about intimate relationships are a form of liberty protected by the Due Process Clause.

Seventeen years later, Justice Stevens assigned Justice Kennedy to write the Court's opinion in Lawrence versus Texas, overruling Bowers. The opinion stated: "Justice Stevens' analysis in our view should have been controlling in Bowers and should control here."

Justice Stevens dedicated himself to a lifetime of learning. Intellectual curiosity and openness were, in his view, essential virtues of any good judge. Through it all, he remained true to his own incremental and nonideological vision of judging. On the 30th anniversary of his appointment, President Ford put it just right, saying: "He has served his nation well, at all times carrying out his
judicial duties with dignity, intellect, and without partisan political concern. Justice Stevens has made me and our nation and our fellow citizens proud."

Gathered here together, looking back at his extraordinary life, the members of the Bar of this Court express our great admiration and respect for Justice John Paul Stevens, our deep sense of loss upon his death, our appreciation for his contribution to the law, to the Court, and to the nation, and our gratitude for an example of a life well spent.

On behalf of the Bar of the Supreme Court, it is my privilege to present to the Court the resolutions adopted today so that the Attorney General may move their inscription on the Court's permanent record.

CHIEF JUSTICE ROBERTS: Thank you, General Prelogar.

I recognize the Attorney General of the United States.

REQUEST TO ACCEPT MOTIONS,

THE HONORABLE MERRICK B. GARLAND,

ATTORNEY GENERAL OF THE UNITED STATES

GENERAL GARLAND: Mr. Chief Justice,
and may it please the Court:

Actually, I do not think that traditional prayer is necessary today because I am pretty sure that the request I will be making at the end of these remarks will please the Court.

The Bar of the Court met today to honor the memory of John Paul Stevens, Associate Justice of the Supreme Court from 1975 to 2010. Justice Stevens was humble, curious, and generous both as a judge and as a human being.

He exemplified open-mindedness, collegiality, and integrity. He was unfailingly well prepared, civil, and intellectually formidable on every case he heard. He modeled the best of the judicial craft and was a proud and tireless guardian of judicial independence.

Justice Stevens was born on April 20, 1920, in Chicago. He attended the University of Chicago Laboratory Schools for elementary and high school and then the University of Chicago for college.

Justice Stevens graduated in 1941 and had begun work on a Master's degree in English when his dean asked him to consider
cryptographic work for the Navy. He took the
suggestion to heart and he was commissioned as a
Naval officer.

In his distinguished Navy career,
Justice Stevens helped crack codes with
important consequences for the war effort. He
did this through his knack for seeing angles in
problems that others had missed, an ability that
would be recognized throughout his subsequent
career.

When he left the service, Justice
Stevens pursued law school at the suggestion of
his brother. At Northwestern, he became
co-editor-in-chief of the Law Review and
graduated first in his class. His outstanding
performance and a lucky coin flip with a
classmate won him a clerkship with Justice Wiley
B. Rutledge.

Upon completion of the 1947 term,
Justice Rutledge gave Justice Stevens a photo
inscribed "To my friend and former clerk with
appreciation and affection." Years later,
Justice Stevens made a practice of inscribing
photos to his own clerks in the same way.

After his clerkship, Justice Stevens
returned home to Chicago. He became a leading litigator in private practice and argued a case in this Court. He specialized in antitrust law, a subject he also taught as an adjunct professor of law at Northwestern and at the University of Chicago.

He accepted important opportunities for public service, including as an advisor on the Attorney General's Advisory Committee on the antitrust laws and as a counsel to a special commission to investigate charges of corruption in the Illinois Supreme Court.

He took cases pro bono, including a criminal matter in which he won reversal of his client's murder conviction premised on a coerced confession.

In 1970, he became a judge of the U.S. Court of Appeals for the Seventh Circuit, and then, in 1975, President Gerald R. Ford appointed him to the Supreme Court of the United States.

My distinguished predecessor, Attorney General Edward Levi, called Stevens, "a craftsman of the highest order whose opinions were gems of perfection."
In 2005, former President Ford reflected on the appointment with pride, writing of his own presidency, "I am prepared to allow history's judgment of my term in office to rest, if necessary, exclusively on my nomination 30 years ago of Justice John Paul Stevens to the U.S. Supreme Court."

As a member of this Court, Justice Stevens was independent, insightful, and prolific. His vast body of opinions touched almost every corner of federal law. It would be impossible to do justice to that remarkable body of judicial work in these brief remarks, so I will limit myself to just a few examples.

In the realm of criminal law, Justice Stevens' landmark opinion in Apprendi versus New Jersey was the first in a line of cases that transformed the law of sentencing, a line that also included Justice Stevens' opinions in United States versus Booker and Gall versus United States.

His opinions in INS versus St. Cyr, Rasul versus Bush, and Hamdan v. Rumsfeld protected the writ of habeas corpus as a means of testing the legality of executive decisions.
His opinion in Chevron versus Natural Resources Defense Council, holding that courts must defer to reasonable agency interpretations of ambiguous statutes, has chartered the course of administrative law for a generation.

And in antitrust law, his first love, his influential opinions in cases like NCAA versus Board of Regents and American Needle versus NFL have guided the principles governing horizontal restraints adopted by associations and joint ventures.

Justice Stevens' time on the Court was defined not only by what he contributed to the law but by how he did so. He was kind and unassuming without any airs. He would often preface his questions from the bench with, "May I ask you a question?"

He was a warm colleague both on and off the bench. The affection that his fellow Justices felt for him was manifest. He also made good on the words he inscribed on the photos he gave his law clerks. They were both his former clerks and his friends.

I first met the Justice just a few years after he came on the Court. As a new
clerk for Justice Brennan, I dropped by the
Stevens chambers to talk with his clerks about a
case. When he heard us talking in the clerks'
room, the Justice came in, plopped himself down
in an easy chair and immediately entered into
the conversation.

It was clear that he loved the give
and take of the conversation. It was clear that
this kind of discussion was central to the way
he made up his mind about cases. It was very
clear that even though he was very attentive to
what we thought, the final decision would be his
based on his own independent judgment. And it
was also very clear that his clerks loved being
part of that process.

For a moment, I was jealous of the
fact that he had hired only two clerks who had
undoubtedly become closer to their Justice than
the rest of us in chambers with twice that many,
but then I remembered, because they were not in
the cert pool, those two clerks would be working
on every single cert petition.

But, while he was a congenial
colleague and boss, Justice Stevens was also
fearless in going it alone, whether piloting
small airplanes, disputing that William
Shakespeare actually wrote the Shakespeare
plays, rooting for the Cubs as a south-sider,
writing the first drafts of his opinions, or
concurring or dissenting solo when his views
departed from those of other Justices.

He placed a premium on exercising
independent judgment and was insistent on
explaining the legal reasoning underlying that
judgment. He also believed that it was
important to change your mind when you concluded
that your original position was wrong or even if
one of your published opinions was wrong.

As he put it just a few years before
his retirement, "learning on the bench has been
one of the most important and rewarding aspects
of my own experience over the last 35 years."

Justice Stevens embodied the
independence and commitment to judging each case
on its own merits. That is essential to the
rule of law.

When Justice Stevens retired from the
Court at age 90, he had been working long after
most people his age had retired. Yet he
appeared to have become younger each year he sat
on the bench. In the words of President Obama, he retired "at the top of his game." Not that he really retired in any conventional sense. In the years after leaving the Court, he published three books, including "The Making of a Justice: Reflections on My First 94 Years."

Although he traded tennis for ping-pong and acceded to his family's wishes that he stop swimming in the open ocean on his own, he kept up the kind of pace that made many believe there might well be a second 94 years.

In his last days, he flew to Portugal to participate in a conference. His travel companions reported he hadn't lost a step. At the time of his passing in 2019, Justice Stevens had been retired from active service for nearly a decade and yet, in the words of Justice David Souter, he remained "the soul of principle and an irreplaceable friend."

Justice Stevens will long be remembered for his extraordinary service to our country, for his commitment to the rule of law, for his fundamental decency, and for the integrity with which he worked and lived.

Mr. Chief Justice, on behalf of the
lawyers of this nation and in particular the
members of this Court's Bar, I respectfully
request that the resolutions presented to you in
honor of John Paul Stevens be accepted by the
Court and that together with the chronicle of
these proceedings, they be ordered be kept for
all time in the records of this Court.

RESPONSE BY THE HONORABLE JOHN G. ROBERTS, JR.,
CHIEF JUSTICE OF THE SUPREME COURT
OF THE UNITED STATES

CHIEF JUSTICE ROBERTS: Thank you,
General Garland, General Prelogar, for your
presentations in memory of Justice John Paul
Stevens. We also extend our appreciation for
the resolutions you have read today to Co-Chairs
Jamal Greene and Carol Lee and members of the
Committee on Resolutions and to Co-Chairs David
Barron and Teresa Wynn Roseborough and the
members of the Arrangements Committee.

Your motion that they be made part of
the permanent record of the Court is granted.

As you've heard, John Paul Stevens was
nominated to the office of United States Circuit
Judge for the Seventh Circuit by President
Richard M. Nixon on September 22, 1970. And
just five years later, President Gerald Ford
nominated him to be the 101st member of this
Court. As Justice Stevens often noted, his
appearance before the Senate Judiciary Committee
marked the last untelevised confirmation hearing
for a Supreme Court nominee. The Senate
confirmed him unanimously, and he took his seat
on December 19, 1975.

He led an extraordinary life of
exemplary service to our country. He was born
in Chicago. In the year he was born, Woodrow
Wilson was president, and Prohibition had just
become the law of the land. William Howard Taft
had not yet become Chief Justice, and the
Supreme Court did not yet have a building of its
own. Young John's parents ensured that he had
an extraordinary upbringing. In 1927, he met
both Amelia Earhart and Charles Lindbergh at the
grand opening of the Stevens Hotel launched by
his family in Chicago. Perhaps those encounters
influenced his enthusiasm for aviation.

Although he grew up in a steadfastly
Republican family, his father took John to see
President Franklin Roosevelt's acceptance speech
on the last day of the Democratic Party's
convention in 1932, at which FDR first used the term "New Deal." FDR was just the first of many presidents John Paul Stevens encountered personally. Eighty years later, in another memorable encounter, President Barack Obama awarded Justice Stevens the Presidential Medal of Freedom, citing his "clear and graceful manner in the defense of individual rights and the rule of law always favoring a pragmatic solution over an ideological one."

Among other memorable encounters with persons of note, John was in attendance at Wrigley Field when Babe Ruth made his famous "called shot" home run. A life-long Cubs fan, he proudly displayed the box score from that game in his office. In 2006, he became the first Supreme Court Justice to step on the mound at Wrigley Field and throw out the first pitch at a Cubs game. He threw a strike. He called that the high point of his career.

(Laughter.)

CHIEF JUSTICE ROBERTS: But there were, to say the least, other impressive accomplishments. He attended the University of Chicago and, upon graduation in 1941, enrolled,
as you've heard, in a secret program for cryptographic work in the United States Navy. Stationed in Oahu, Lieutenant Commander Stevens was part of a team of signal officers that cracked Japanese codes and hastened the end of the war.

After that, he chose to study at Northwestern Law, both for its excellence and because of the opportunity it offered to complete three years of law study in two years. He became co-editor in chief of the Law Review and earned record grades. He paid for his legal education through the GI Bill, and it proved to be an outstanding investment both for Stevens and for the country.

John Paul Stevens came to the Supreme Court as a law clerk for Wiley Rutledge, and among the cases decided by the Court that term was Ahrens against Clark, a challenge to postwar deportation brought by German prisoners detained on Ellis Island. Justice Rutledge dissented from an opinion limiting the writ of habeas corpus. In 2004, then Justice Stevens relied on the Rutledge dissent when writing for the Court in Rasul versus Bush, which found that federal
courts were not barred from reviewing the
constitutionality of detention of terrorists at
Guantanamo Bay.

He was always confident that a judge's job was simply to articulate the best way to decide each case. And when in dissent, he never seemed to doubt that the Court would eventually see things his way.

Following his clerkship, John Paul Stevens returned to practice in Chicago. He initially joined the firm that is now known as Jenner and Block, where he developed a specialized interest in antitrust law. His focus on that field led to his appointment as an associate counsel to the Subcommittee on the Study of Monopoly Power of the House Committee on the Judiciary.

In 1952, he co-founded his own law firm. He devoted his time and considerable energy to various public service and pro bono work, observing later that most good lawyers devote a significant amount of time to public service for which they receive no pay.

After 18 years in private practice, John Paul Stevens began his career of
distinguished service to the judiciary. In nearly 35 years on this Court, Justice Stevens wrote 400 majority and plurality opinions for the Court, beginning with Mathews versus Diaz in 1976. On a few occasions, 1,415 to be precise, he wrote a concurring or dissenting opinion or separate statement.

In this courtroom, Justice Stevens was universally polite and probing. He consistently asked questions that illuminated aspects of the case others had not spotted. Indeed, Justice Stevens' penetrating perception extended even to matters of civility and grace. In 1980, before Sandra Day O'Connor joined the Court, he was a catalyst for dropping the traditional salutation of "Mr. Justice" in favor of simply "Justice."

When he retired in 2010, he noted with satisfaction that a letter written to the other Justices when he joined the Court would have been addressed "Dear Brethren," but he would begin "Dear Colleagues."

He did it all with a smile, an even keel, and a warm generosity, not just to those with life tenure or learned in the law but to all people he encountered. His service would be
noteworthy alone for its length, the third longest tenure in the Court's history and just a few months shy of the record. But he will remain an enduring inspiration to everyone associated with this Court because he served so well and with such a spirit of decency and kindness.

John Paul Stevens said that he hoped his legacy would be to be remembered as an honest judge and a good judge who tried to reach the best result in every case. Perhaps he would have welcomed our affirmation of that sentiment to be the last word today. But I hope he would not mind a concurring opinion from the members of the Court and the members of the Bar of this Court that this one-of-a-kind American will long be remembered for his extraordinary patriotism, humanity, and contributions to the rule of law.

If everyone will now proceed to the East and West Conference Rooms for the reception.

Madam Marshal.

THE MARSHAL: The honorable Court is now adjourned sine die.

(Whereupon, at 3:28 p.m., the Court adjourned sine die.)
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