

John Paul Stevens Leaves Too Soon

*John Q. Barrett**

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In May 1947, a Northwestern University law professor, Willard Pedrick, visited Washington, D.C., the Supreme Court of the United States and, while there, an old friend who was a former law professor, Associate Justice Wiley B. Rutledge. During their conversation, Rutledge mentioned that he was hoping that appropriations legislation would pass soon that would allow him to hire, for the coming Court Term, a second law clerk.

Pedrick replied that John Stevens, a top Northwestern law student who soon would graduate, would make an excellent clerk. Pedrick added that their mutual friend Bill Wirtz, another Northwestern professor, knew Stevens well. Rutledge said he was interested in learning more, and that Pedrick should have Wirtz write a letter to Rutledge about Stevens.

When Pedrick returned to Chicago, he told Wirtz of this conversation. Within days, Wirtz—W. Willard Wirtz, who later served as U.S. Secretary of Labor under Presidents Kennedy and Johnson and is today, at age 98, the oldest living former Cabinet member—wrote back to Rutledge:

Let me simply say that I consider Stevens to be one of the two most outstanding students whom I have ever worked with. The other is a classmate of his who is here with him now.^[1] The members of the faculty who were here during the war [unlike Wirtz and, for that matter, Stevens] add Francis Allen^[2] to this group, and are then almost unanimous

* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). An earlier version of this text was posted to my Jackson Email List on April 15, 2010.

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¹ Stevens's classmate was Arthur R. Seder, who went on to clerk for Chief Justice Fred M. Vinson during the Supreme Court's October Terms 1948 and 1949.

² Francis A. Allen clerked for Chief Justice Vinson during the Supreme Court's October Terms 1946 and 1947.

in their feeling that these are the three most promising men ever to attend this school. I know that this must sound like exaggerated praise, and yet it is literally true.

Stevens has the quickest, and at the same time balanced, mind I have ever seen at work in a classroom. I have worked with him, too, in connection with two or three law review projects. The man is just as solid as he is brilliant. Beyond all this he has a personality which makes it a pure delight to work with him. I suppose that he is undoubtedly the most admired, and at the same time, the best liked man in school.

I guess it would be foolish for me to try to say more. I could add a number of details but they would all be of so much the same character that you would begin to apply a general discount rate. I can't tell you how much I hope that your plans will work out so that you can take advantage of Stevens's abilities and that he may, at the same time, enjoy what I should consider the finest single opportunity that any man could possibly have.

In July 1947, President Truman signed the appropriations law authorizing Supreme Court justices, including Rutledge, to employ second law clerks. Rutledge communicated this to Wirtz and asked him to offer the job to Stevens. Stevens promptly wrote the Justice to accept, adding that he would not finish law school until September. Rutledge wrote back, telling Stevens he would be expected to stay as a law clerk for two years, and that he should take a week of vacation in September before moving to Washington to begin his clerkship.

When Stevens wrote back, he thanked Justice Rutledge for his consideration in encouraging Stevens to take a week off between law school and clerking. Stevens also pushed back a little bit against the Justice's preference that Stevens clerk for two years:

If you decide that you would like to have me stay on for a second year, I shall be happy to do so. Frankly, my personal preference would be to stay for only one year, but this preference is by no means strong enough to cause me to reconsider my decision. I definitely want to accept the

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position whether it be for one year or two, and you may be sure that I will do my utmost to do the kind of work that will persuade you to keep me for two.³

John Stevens did, as a Rutledge law clerk, exactly that kind of excellent work. Stevens also, however, persuaded the Justice to let him go after only one year. In summer 1948, Stevens finished his clerkship. He explored the possibility of entering law teaching but ultimately decided to enter law practice. In September 1948, he became associated with a Chicago law firm.

Justice Rutledge missed law clerk Stevens. In December 1948, for example, Rutledge wrote to Bill Wirtz that “the way John Stevens panned out makes me wonder if your own recommendation even at long distance isn’t better than my own judgment on personal interview.” Indeed, in a letter he wrote at this time to another confidant, Rutledge stated that

John Stevens, although taken sight unseen, turned out to be one of my best clerks. I now think I made a mistake in not keeping him for a second year, that is, in leaving the choice to him whether he would return [to Chicago] and plunge into his more active professional and political life when he did.

In spring 1949, Justice Rutledge described Stevens to a third friend as one of his “ablest clerks” and lamented again that Stevens was “with me only one year....”

During 1948-49, Justice Rutledge and young attorney Stevens stayed in regular written contact. Tragically, Justice Rutledge, only 55 years old, suffered a stroke late that summer and died. His Supreme Court service was less than six years.

* * *

Justice Rutledge would be delighted, of course, with the later turns of history. John Stevens succeeded as a Chicago lawyer. In time, like

³ John Paul Stevens to The Honorable Wiley Rutledge, July 24, 1947, in Wiley B. Rutledge Papers, Library of Congress, Manuscript Division, Washington, D.C., Box 42. An image of this letter is attached at the end of this text.

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Rutledge before his Supreme Court appointment, Stevens also became a federal circuit judge.

John Stevens also returned to the Supreme Court. I do not believe that he ever has indicated that he regards his 1948 departure after only one law clerk year as a mistake for which he has been atoning. But we are certainly lucky that Justice John Paul Stevens has not been, for the past 34 years, in a hurry to get on to do anything else.

JOHN PAUL STEVENS
5641 BLACKSTONE AVENUE
CHICAGO 37, ILLINOIS

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July 24, 1947

The Honorable Wiley Rutledge
P.O. Box 183
Ogunquit, Maine

Dear Mr. Justice Rutledge:

Thank you for your considerate letter. I shall follow your advice and delay for a week after my last examination before undertaking my duties with you. A short vacation will undoubtedly pay dividends in the long run. Moreover it will make it somewhat less difficult for Mrs. Stevens and me to arrange for a place to live in Washington. We have several friends who are living there now, and I think that with their help we shall be able to solve the housing problem without troubling Mr. Temko or Miss Lingreen. It was thoughtful of you to give me their names, however, and I shall not hesitate to write to them if my other efforts are unproductive.

If you decide that you would like to have me stay on for a second year, I shall be happy to do so. Frankly, my personal preference would be to stay for only one year, but this preference is by no means strong enough to cause me to reconsider my decision. I definitely want to accept the position whether it be for one year or two, and you may be sure that I will do my utmost to do the kind of work that will persuade you to keep me for two.

I shall look forward to seeing you on September 22nd.

Respectfully,

John Paul Stevens