

A TRIBUTE TO JUSTICE WILLIAM J. BRENNAN, JR.

*The Honorable Daniel J. O'Hern**

I am pleased to join in your tribute celebrating the contributions made by Justice William J. Brennan, Jr. in safeguarding and extending the basic freedoms set forth in the Bill of Rights. His zeal for justice was rooted in his own life's experience in Newark where Seton Hall Law School is located. His father had been active in the public life of Newark as a labor leader and City Commissioner. Young Bill Brennan became a leader of the Essex County bar and labored for the adoption of the New Jersey Constitution of 1947. This constitution remains the charter of our society as our courts and our legislative and executive branches all derive their powers from this document.

Justice White has recalled that Justice Brennan's creed was that a judge should proceed with "a sparkling vision of the supremacy of the human dignity of every individual."¹ That personal philosophy emphasizing the dignity of the individual had been evident as early as 1953 with Justice Brennan's dissenting opinion in the New Jersey Supreme Court case of *State v. Tune*.² Justice Brennan would have allowed a capital defendant to inspect, before trial, a copy of his own confession. Justice Brennan wrote: "In the ordinary affairs of life, we would be startled at the suggestion that we should not be entitled as a matter of course to a copy of something we signed."³

Chief Justice John Marshall was the dominant influence on American law in the nineteenth century. I believe that Justice Brennan will be remembered as the dominant influence on American law in the twentieth century. He made the United States Supreme Court into an instrument of liberty and equality during troubled times. Justice Brennan's opinions have influenced almost every aspect

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¹Bryon R. White, *Tribute to the Honorable William J. Brennan, Jr.*, 100 YALE L.J. 1113, 1116 (1991) (quoting William J. Brennan, Jr., *The Constitution of the United States: Contemporary Ratification*, 27 S. TEX. L.J. 433, 439 (1986)).

²13 N.J. 203, 98 A.2d 881 (1953).

³13 N.J. at 232, 98 A.2d at 896 (Brennan, J., dissenting).

of American life, from the way in which we vote,⁴ to the way in which our newspapers may report freely,⁵ to the way in which we absorb literature.⁶

I also believe that, even outside of the legal realm, Justice Brennan will be remembered as one of the most influential figures of the twentieth century. The respect for human dignity that he nurtured inspired a world-wide movement for human rights, in South Africa, in Latin America, and behind the Iron Curtain.

For Justice Brennan, the words of the Constitution were not abstractions but constant guarantees of freedom and equality. His pursuit of justice has ended but he has left us an ideal that each may follow. That ideal could never have been more eloquently described than by his successor, Justice Souter, at his own confirmation hearings. Justice Souter stated that, "Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have."⁷

When William J. Brennan, Jr. became a judge, constitutional law focused primarily on Commerce Clause issues, issues of trade and commerce. Today, constitutional law concerns itself as well with the fundamental guarantees of a free society. Justice Brennan would have greatly admired the work of the *Seton Hall Constitutional Law Journal*, a journal devoted to the understanding of constitutional rights. Understanding and defending those rights was his lifelong quest.

⁴*Baker v. Carr*, 369 U.S. 186 (1962).

⁵*New York Times v. Sullivan*, 376 U.S. 254 (1964).

⁶*Board of Educ., Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853 (1982).

⁷136 Cong. Rec. S14, 350 (daily ed. Oct. 2, 1990) (statement of Senator Kohl quoting David Souter).