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4 THE ASSOCIATION
5 OF THE FEDERAL BAR
6 OF THE
7 STATE OF NEW JERSEY
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10 The Twenty-First
11 Annual Dinner
12 Commemorating
13 The
14 William J. Brennan, Jr.
15 Award
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20 Mayfair Farms
21 West Orange, New Jersey
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June 11, 1997

1 MR. BARRY: Would everybody please be
2 seated?

3 MS. SIEGAL: Good evening. I gave John
4 Barry, who is our President, two very difficult tasks.
5 The first was to call this meeting to order. And, as
6 you know, he has done that successfully.

7 The second was to seat everybody very
8 carefully. If you have any issues, John is seated
9 right here.

10 On behalf of the Association of the
11 Federal Bar of the State of New Jersey, I warmly
12 welcome each of you to our 21st Annual William J.
13 Brennan Award Dinner. My name is Ronny Siegal and I'm
14 the dinner chairperson.

15 As you can well see, there are almost 500
16 people gathered here this evening. This is probably
17 the largest gathering we've ever had. Clearly, it
18 reflects the respect and admiration and, I think, the
19 warmth that we feel for tonight's recipients, the
20 Honorable Sidney M. Schreiber, a former Justice of the
21 New Jersey Supreme Court, and William B. McGuire, who
22 has been the former President of the Association as
23 well as the former President of the New Jersey State
24 Bar.

25 We would like to welcome Justice

1 Schreiber, his wife, his friends and Bill McGuire, his
2 family and friends.

3 Mr. McGuire called my attention to the
4 fact that there should be another recipient as well.
5 He is joined with Mr. and Mrs. Bill Kenny. They've
6 been married 40 years this evening. Being a
7 matrimonial attorney, I truly think that is a great
8 award.

9 (Applause.)

10 MS. SIEGAL: I'd like to mention some
11 other distinguished members that are present here
12 tonight. First, our Chief Judge of the United States
13 District Court, the Honorable Anne Thompson.

14 (Applause.)

15 MS. SIEGAL: Our judges of the United
16 States Court of Appeals for the Third Circuit are
17 here. Our United States District Court Judges, judges
18 and former judges of the New Jersey Supreme Court, our
19 magistrate/judges, Chief Judge Ginden from the
20 Bankruptcy Court and our bankruptcy judges.

21 There are many former William J. Brennan
22 Brennan Award recipients and many of our past
23 Presidents.

24 As you know, these are the men and women
25 before whom we practice, with whom we practice. They

1 represent the standard of excellence that each of us
2 hope to achieve. We are honored and graced with their
3 presence tonight.

4 As always, we're indebted to Stan Rizman
5 and Howard Rappaport. They listen to us every day in
6 court and they still volunteer their services to come
7 here tonight.

8 Finally, on behalf of the Association, I
9 would like to extend our deep appreciation to our
10 Executive Director, Ginny Whipple Berkner. She's
11 helped to make this evening most perfect and she's
12 helped me in the planning of an event.

13 It's now my most distinct pleasure to
14 introduce our Association's President, John Barry.

15 (Applause.)

16 MR. BARRY: Thank you, Ronny, for
17 organizing this outstanding event and for your
18 eloquent introduction and opening remarks.

19 Following a tradition established by a
20 former President of this Association, I intend to be
21 very brief with my remarks and -- so that we can
22 proceed almost immediately to have the presentations
23 of the award prior to dinner. So that following the
24 awards, we can all relax and enjoy each other's
25 company.

1 Tonight we have two very distinguished
2 honorees, Retired Justice Sidney Schreiber and former
3 President of this Association and of the State Bar
4 Association, William B. McGuire.

5 Since this Association has been founded
6 and since the Brennan Award has been established
7 honoring Supreme Court Justice -- Supreme Court
8 Justice both of the New Jersey Supreme Court and of
9 the United States Supreme Court William J. Brennan,
10 the recipients of the award have constituted,
11 probably, one of the most distinguished assemblage of
12 lawyers and judges one could imagine.

13 One need only look at the program which
14 each of you have beginning with our first honoree,
15 Chief Justice Joseph Weintraub of the New Jersey
16 Supreme Court, and all the honorees since then for you
17 to recognize and for each of us to recognize what a
18 truly distinguished group of honorees we have had.

19 We are honored by each of these men. And
20 they confer great honor on the Association by agreeing
21 to accept the award, just as Justice Brennan conferred
22 great honor on the Association by agreeing that the
23 award could be presented in his name.

24 Before proceeding to the awards, however,
25 I would like to honor a distinguished judge who cannot

1 be with us because of his untimely passing. As you
2 all know, in February of this year, Magistrate/Judge
3 John Manna, a part-time magistrate/judge, who
4 basically presided at Fort Monmouth and presided over
5 cases arising at Fort Monmouth and other military
6 installations in the state as well as the National
7 Park and in the Gateway recreational area, passed on.

8 Judge Manna, in addition to being our
9 part-time magistrate/judge, was also a very active
10 practitioner in Monmouth County, where he was one of
11 the best loved and most highly respected lawyers in
12 that county. He formerly served as President of the
13 County Bar Association and, in addition, was the
14 county's representative on the State Judicial
15 Selection Committee.

16 In honor of Judge Manna, the Association
17 has commissioned a formal portrait which will hang in
18 the courtroom at Fort Monmouth, in which Judge Manna
19 so ably presided for so many years with such great
20 distinction.

21 In further recognition of his outstanding
22 service, I am pleased to announce that the United
23 States Army is also honoring Magistrate/Judge Manna by
24 formally naming that courtroom "The Honorable John J.
25 Manna Courtroom."

1 Later this year a suitable ceremony will
2 be held formally dedicating that courtroom and the
3 portrait sponsored by this Association in conjunction
4 with the United States Army and the Monmouth County
5 Bar.

6 I would like at this time for all of us
7 to recognize the widow of John Manna, who is here as a
8 guest of the Association, Gail Manna, along with
9 Magistrate Manna's two sons, John and Michael, and his
10 brother Carlo and his wife.

11 On behalf of the Association, I would ask
12 the members of the Manna family to please rise and be
13 recognized by all here present.

14 (Applause.)

15 MR. BARRY: We are now at the point where
16 we will begin the presentations of this year's Justice
17 Brennan Award to Supreme Court Justice Sidney
18 Schreiber and to Mr. McGuire.

19 The award to Justice Schreiber will be
20 presented by United States Court of Appeals Judge
21 Robert Cowen, who has had a very exemplary and
22 outstanding career of his own. He's one of the few
23 members of the federal judiciary who has basically
24 proceeded through all steps of the federal judiciary
25 beginning with magistrate/judge to United States

1 District Court judge and more recently a member of the
2 United States Court of Appeals for the Third Circuit.
3 And even more recently, appointed to the Criminal Law
4 Committee of the United States Judicial Conference,
5 which my wife Maryanne so capably chaired for the past
6 several years.

7 (Laughter)

8 MR. BARRY: Prior to his attaining all of
9 that eminence, Judge Cowen began his distinguished
10 legal career as the law clerk to tonight's honoree,
11 Justice Schreiber, and, therefore, I could think of no
12 more fitting person to present the award to Justice
13 Schreiber.

14 Judge Cowen, would you please?

15 (Applause.)

16 JUDGE COWEN: I brought my own drink.

17 Like Justice William J. Brennan, Jr.,
18 Justice Sidney W. Schreiber is a native son of which
19 all of us in New Jersey can be proud. Justice
20 Schreiber grew up and still lives in Elizabeth.

21 The Schreiber household, by way of a
22 little background, had immigrant roots and worked hard
23 to achieve a place in this country.

24 Justice Schreiber's father, a local
25 tailor in Elizabeth, was guided by only two polestars

1 which he insisted his children follow. These were
2 academic excellence and human decency in every
3 endeavor.

4 Our future Justice breezed through the
5 public school system, excelling in virtually every
6 subject and he had little difficulty in gaining
7 admission on an academic scholarship to Yale College.
8 He met Yale's expectations by graduating in 1936 summa
9 cum laude and with a Phi Beta Kappa key.

10 By way of further background, he then
11 matriculated at Yale Law School, where he was
12 graduated near the top of his class and as a member of
13 the prestigious Yale Law Journal.

14 With war clouds on the horizon, the young
15 scholarly attorney launched his career as a government
16 lawyer in Washington first with the United States
17 Railroad Retirement Board, General Counsel's Office,
18 and then with the Securities & Exchange Commission.

19 With his career in Washington barely
20 begun, Justice Schreiber, as so many other young men
21 at that time, became a member of the armed forces.
22 His scholarly background particularly suited him for
23 the grueling and demanding task of Judge Advocate,
24 Office of the Third Army under General Patton, where
25 he helped the War Crimes Section; something many

1 people are not aware of. In that assignment he
2 monitored charges and reviewed records concerning the
3 Dachau concentration camp. Much of his backbreaking
4 work and the records of those proceedings were later
5 used at the Nuremberg war trial -- war crimes trials.

6 With peacetime came the private practice
7 of law and Justice Schreiber's long association with
8 his two partners, Roger Lancaster and John Demos.
9 Three more dissimilar individuals could not have been
10 assembled for the practice of law. Each was a giant
11 in his own right. Justice Schreiber was the total
12 intellectual and scholarly thinker; research and
13 contemplative thinking preceded, accompanied and
14 followed every single decision. Roger Lancaster was
15 the consummate trial lawyer, opinionated but not to a
16 fault, decisive in action as well as, unlike you,
17 Sidney, the life of every party.

18 (Laughter.)

19 JUDGE COWEN: John Demos complimented the
20 triumvirate by coming forward as the practical,
21 political figure who attempted to resolve all issues
22 with meditation, mediation and paternal understanding
23 of the practicalities of life.

24 It was at that point in 1958 -- my God,
25 Sidney, that was 40 years ago -- that I first got to

1 know Justice Schreiber as his newly-minted law clerk.
2 Working for the Justice and his partners for several
3 years had to be the most fulfilling and satisfactory
4 introduction to the law that one one could ask for.

5 Research. Performing research for Sidney
6 Schreiber meant more than digging ten feet under an
7 issue. After you dug ten feet under an issue and
8 researched it, you would have to dig another ten feet
9 for some hidden revelation or meaning that could
10 possibly arise.

11 After the research came the grueling oral
12 confrontation. This was a no-holds-barred mental
13 wrestling match in which every position had to be
14 defended and long-held principles were attacked.

15 All of us, Sidney, who worked at the firm
16 learned how to read a case like we never learned in
17 law school. Every aspect of a case was dissected and
18 no word was left untouched.

19 To my judicial colleagues: I could tell
20 you this. Opinions were decimated. As a matter of
21 fact, to this day I occasionally at night wake up in a
22 cold sweat and I think that there is some young lawyer
23 out there -- one of you lawyers here -- a young Sidney
24 Schreiber who is reading my opinions and doing to that
25 opinion what Sidney Schreiber did to so many other

1 opinions.

2 Perhaps, most of you have recalled, if
3 you got a few gray hairs like I have, the most famous
4 case the firm had in terms of publicity and impact on
5 the law was Henningsen versus Chrysler. I mentioned
6 that briefly to John Francis, for I met him earlier.
7 Just to fill you in, it went something like this.

8 The firm represented Chrysler corporation
9 in suits arising from various mishaps. I say
10 "mishaps." Chrysler was never wrong, according to
11 Schreiber. Now, 40 years ago, car manufacturers had a
12 virtual immunity under the renowned case of Buick
13 versus McPherson. That case held that the
14 manufacturers could not be liable absent a contract
15 between the car manufacturer and the purchaser.

16 Of course, no car owner ever contracted
17 with car manufacturers such as Buick or Chrysler,
18 since the vehicles were uniformly marketed through
19 dealers. We represented Chrysler in a lawsuit in
20 which our client was wrongfully saddled with a large
21 verdict because of an alleged defect. I didn't like
22 the diplomacy. I'm a judge. Alleged defect in a
23 Chrysler automobile.

24 Sidney appealed the verdict through to
25 the New Jersey Supreme Court, and we were all

1 confident of the outcome. A few months after oral
2 argument before the New Jersey Supreme Court, we were
3 making our way over to Schrafts Restaurant on Broad
4 Street in Newark -- I don't know if it is still
5 there -- for dinner. It is not there.

6 (Laughter.)

7 JUDGE COWEN: In those days, everyone had
8 dinner at Schrafts. You worked a few more hours and
9 you went home. That was a short day for Sidney
10 Schreiber. We met Justice Proctor, who was also a
11 habitue of Schrafts Restaurant where they both used to
12 sup on such delicacies as the staid food there was
13 like asparagus tips, brussel spouts on white toast,
14 which Justice Schreiber and the other luminaries would
15 wash down with tea. I want to call it a watering
16 hall. I got to confess sometimes, Sidney, to you.
17 When I went over to Schrafts with Roger Lancaster, we
18 ate steak and didn't wash it down with tea, Sidney.

19 Anyway, we met Justice Proctor and
20 Justice Proctor announced to lawyer Schreiber that the
21 Supreme Court had just decided and filed Henningsen
22 and the decision was seven zip. So Schreiber
23 confidently responded. "Great, seven for reversal,"
24 to which Proctor retorted, "No, seven to affirm."

25 That case probably had to be Justice

1 Schreiber's most significant loss as an attorney,
2 since the law up to that point was totally in his
3 favor and he lost the case. I know from having been
4 there, trial through appeal, that the case was
5 prepared and tried strictly on the theory of
6 negligence and the word "warranty," which was decided
7 by the Supreme Court, was not mentioned until the
8 charge to the jury.

9 Nevertheless, the decision by Justice
10 Francis was brilliant and, as many of us have come to
11 conclude through the years, there comes a time in
12 every lawyer's life when the winds of social change
13 come buffeting up against legal precedent and the
14 interests of one's client. When that occurs, all of
15 us know a lawyer can do nothing to affect whether he
16 or she is cast down to despair or propelled up to the
17 stars.

18 Sidney was on the wrong side of the
19 social movement at that time. I do not believe that
20 to this day Justice Schreiber has fully accepted his
21 defeat in Henningsen. He still is arguing the same
22 case.

23 (Laughter.)

24 JUDGE COWEN: But I hasten to add that
25 although the Henningsen case was Schreiber's greatest

1 legal thrashing, the result -- he won't admit it --
2 was extremely lucrative. Something, incidentally,
3 which Schreiber has never sought in the practice of
4 law. But I was there and I saw.

5 Prior to Henningsen, the firm would get
6 maybe a half dozen suits against Chrysler a year. Who
7 could sue a car manufacturer 40 years ago? These
8 cases would come in and we'd immediately have a this
9 thick (indicating) summary judgment motion, and would
10 get billed out on a case where there was nothing to
11 bill out.

12 After Henningsen, I would walk in every
13 morning and literally I would have to step over the
14 suits that were filed against Chrysler. I'd gather up
15 all the suits. These suits would go pretrial,
16 deposition, interrogatories, trials, appeals and
17 they'd get billed out three or four years later this
18 thick. I don't want to tell you how much they were
19 billed out for.

20 Although I know the firm in general, and
21 Schreiber in particular, generated considerable income
22 as a result of losing Henningsen, I tell you without
23 the slightest doubt that Sidney Schreiber would give
24 back every dime he made as a result of that opinion if
25 his oral argument before the Supreme Court would have

1 prevailed.

2 All of you, I think, are pretty well
3 familiar with the career of Justice Schreiber
4 following his years in private practice.

5 He was appointed to the Superior Court by
6 Governor Byrne in 1972 and elevated to the Supreme
7 Court by the Governor in 1975, where he served until
8 November of 1984 when he reached mandatory retirement
9 age.

10 The hallmark of Justice Schreiber's
11 tenure on the Supreme Court has been his independent
12 thinking, keen intellect and high standard of
13 precision in opinion writing.

14 The New Jersey landscape is enriched by
15 his approximately 130 majority opinions in virtually
16 every area of the jurisprudence.

17 To mention but a few landmark decisions,
18 in 1974 as a Superior Court Judge in Hackensack
19 Meadowlands versus Municipal Sanitation Landfill, he
20 held that the exclusion of out-of-state solid waste
21 deposits in New Jersey landfills was unconstitutional
22 under the United States Commerce Clause.

23 The New Jersey Supreme Court promptly
24 reversed his decision and thereafter, even as
25 promptly, the United States Supreme Court in 1978

1 reinstated his judgment.

2 In Suter versus San Angelo he wrote that
3 in a strict liability context contributory negligence
4 exists only when the plaintiff voluntarily proceeds
5 and encounters a known risk.

6 Westfield Center Service versus Cities
7 Service Oil held that it was a violation of the
8 Franchise Practices Act for a franchiser to terminate
9 or to fail to renew a franchise for any reason other
10 than a breach of the franchise agreement.

11 In 1984, in Matthews versus Bay Head, he
12 had the unbelievable foresight to hold that the public
13 had a right under the Trust Doctrine to use the ocean
14 beaches which line our state.

15 And In Matter of Conroy, an opinion well
16 before its time, he clarified the law concerning the
17 right to receive or deny life-sustaining treatment.

18 All of these cases bear the indelible
19 Schreiber mark of clarity, precision and thoroughly
20 researched decision.

21 While still on the Supreme Court and
22 thereafter, our honoree partook fully in
23 administrative and bar-related activities, not the
24 least of which was as chairperson of the Supreme
25 Court's Committee on Civil Case Management and

1 Procedures. This committee made major recommendations
2 for reform of the civil justice system. He was a
3 member of the Supreme Court's Committee on the Tax
4 Court and on the Civil Trial Court Support System and
5 served as chairperson of the Committee on Budget and
6 Procedure in 1980.

7 But in addition to all this, he has been
8 a lot more. He recently was chairperson of the New
9 Jersey Supreme Court Advisory Committee on Judicial
10 Conduct and he's vice chairperson of the Editorial
11 Board of the New Jersey Law Journal as well as -- and
12 I could name a dozen other selfless contributions to
13 other professional, civic and social organizations.

14 Ladies and gentlemen, distinguished
15 lawyers, fellow judges, friends all, I, personally,
16 know of no individual who more personifies the aims
17 and the objectives of this organization, nor who is
18 more the embodiment of the spirit for which the
19 William J. Brennan, Jr. Award was established than
20 Justice Sidney M. Schreiber.

21 And, Sidney, I am proud to present that
22 award to you at this time.

23 (Applause.)

24 JUSTICE SCHREIBER: Thank you.

25 Mr. Barry, Mrs. Siegal, Judges and

1 Justices, members of the Federal Bar Association of
2 New Jersey, my co-honoree, Bill McGuire, and friends
3 and guests.

4 I really had a wonderful and an exciting
5 evening, enhanced in part by Judge Cowen's gracious
6 introduction.

7 I might add, Bob, at least some of it was
8 true.

9 (Laughter.)

10 JUSTICE SCHREIBER: What they knew was
11 true was the Henningsen case. We really ended up with
12 an awful lot of business; not only from Chrysler, but
13 from many others.

14 Recently, I read a biography of Justice
15 Hugo Black and the biographer noted that Justice Black
16 as a young man, a young boy, would visit the local
17 courthouse and witness various cases. And later on it
18 became his practice to sometimes refer to those cases
19 when he discussed matters with his friends or,
20 perhaps, with his law clerks.

21 One such case involved an action against
22 a sharecropper who was charged with having stolen the
23 landlord's mule. The case was overwhelming in favor
24 of the State. As a matter of fact, the tenant, the
25 sharecropper, just didn't even bother to testify and

1 the jury was out, oh, I'd say about five minutes or
2 so, as I understand it. And they returned with their
3 verdict in which they found the defendant not guilty
4 provided that he return the mule.

5 (Laughter.)

6 JUSTICE SCHREIBER: "There is no such
7 verdict in the law," the judge said as he banged his
8 gavel down. He says, "You're either guilty or you're
9 not guilty."

10 So he sent them out again. And they
11 returned again in about five minutes. And the verdict
12 this time was: "We find the defendant not guilty and
13 he can keep the mule."

14 (Laughter.)

15 JUSTICE SCHREIBER: This case in a way
16 exemplifies the principle that communication is the
17 life blood of the judicial system.

18 The military say that victory depends on
19 good communications. Likewise, a successful legal
20 system depends on good communications.

21 Now, let us unwrap that thought for a few
22 minutes. As the Justice Black anecdote reminds us,
23 the judge must explain to the jury in understandable
24 language the issues that it must resolve. Too
25 frequently there has been a failure to put the issues

1 in the factual context of the case. I have often
2 wondered how a jury could possibly perform its
3 factfinding responsibilities when a charge dealt only
4 in complicated legal principles. Admittedly, at times
5 this is a very difficult assignment.

6 As recently as this past December, the
7 New Jersey Supreme Court was troubled by a trial
8 court's explanation to a jury of what "beyond a
9 reasonable doubt" means. The concept does defy an
10 easy explanation. Yet, it is vital.

11 On occasions, the courts have thrown up
12 their hands because of their inability to express
13 their thoughts. You may recall Justice Potter
14 Stewart's comments as to pornography. "I can't define
15 it," he wrote, "but I know it when I see it."

16 The need to communicate understandably
17 crops up, albeit infrequently, in court opinions.

18 I recall one occasion many years ago when
19 I was practicing law when the issue that I was dealing
20 with was covered in an opinion written by an
21 outstanding judge. The key to my problem was snuggled
22 in one paragraph. I spent hours reading and rereading
23 that paragraph and never was certain as to what the
24 writer intended. Clear statements, undecorated by
25 adjective flourishes, should have priority over

1 literary style.

2 And as Francis Bacon wrote, "There should
3 not be too affectionate study of eloquence so that
4 there is a hunt more after words than matter and more
5 after the choiceness of the phrase and the sound and
6 clear composition of the sentence and the sweet
7 falling of the clauses than after the weight of the
8 matter or soundness or depth of the argument."

9 This is not to say that descriptive
10 phrases should be outlawed. To the contrary, they may
11 drive the point home persuasively. For example, who
12 can forget Chief Justice Weintraub's use of the term
13 "judicial surgery." Or Justice Clifford's dissent in
14 State against Saunders.

15 In that case two defendants were charged
16 with raping two women in a car parked in a vacant lot
17 in Newark. The defense was consent. The trial judge
18 introduced in his charge the issue of fornication.
19 The majority of the New Jersey Supreme Court declared
20 the fornication statute unconstitutional. Justice
21 Clifford opined that the case could and should be
22 decided on non-Constitutional grounds. And as he so
23 aptly put it, "This case was a" and I quote him,
24 "wretched vehicle," end quote, to adjudicate the
25 Constitutional question.

1 We as attorneys have the comparable
2 burden of effective expression to the Court and to
3 juries. Let me assure you that oral arguments are
4 extremely important. Persuasive arguments can and
5 have changed results.

6 From the Court's perspective, oral
7 argument serves at least two important purposes.
8 First, it gives the Court the opportunity to have some
9 matters clarified and, second, the judge or justice
10 may not be satisfied with your argument with respect
11 to a particular issue and the question affords you the
12 opportunity to respond and convince the Court
13 otherwise.

14 Effectual communication is essential. I
15 read recently a newspaper account of an oral argument
16 in which one justice admonished a lawyer during that
17 argument to speak in plain English.

18 Are there any solutions or remedies to
19 these problems? I have a few suggestions.

20 As for the judges. Before he or she
21 releases an opinion, another judge or bright young law
22 clerk, unfamiliar with the case, might read it
23 critically. Is it just? Is it sound? Is it
24 comprehensible? Is it clear?

25 As for the lawyers. Perhaps, the law

1 schools might require an intensive complete course on
2 communication covering all the aspects a lawyer will
3 probably experience. Oral arguments, briefs,
4 summations to juries, and the like.

5 Now, outstanding jurists have always been
6 able to communicate, be it in an opinion, in oral
7 argument, or in discussion with their peers.

8 Justice Black recognized this quality in
9 Justice Brennan when he wrote a few weeks after
10 Justice Brennan joined the United States Supreme
11 Court, and I quote him.

12 "He has a very nice personality, has
13 understood the cases argued and has expressed himself
14 with references to those cases in a fine, wholesome
15 manner.

16 Justice Brennan exhibited effective
17 communicative qualities when he served on the New
18 Jersey Supreme Court. I, and I'm certain many of you,
19 fondly recall his service as one of the Harvard ends
20 on the Court; the other being Justice Jacobs. Justice
21 Brennan's dissent in State against Toon is a prime
22 example of a clear, persuasive, well-crafted opinion.
23 In that case the defendant had been charged with
24 rape -- with murder sought a copy in pretrial
25 discovery of statements in the prosecution's

1 possession, including a written confession. Justice
2 Brennan's opening sentence graphically portrayed the
3 problem from his perspective.

4 He wrote, "That old hobgoblin, perjury,
5 invariably raised with every suggested change in
6 procedure to make easier the discovery of the truth
7 has again disappeared from the grave when I had
8 thought it was forever buried under the overwhelming
9 weight of the complete rebuttal supplied by our
10 experience in civil causes where liberal discovery has
11 been allowed."

12 Justice Brennan's distinguished career is
13 the embodiment of the exacting standard of a great
14 jurist. A standard made possible by his proficiency
15 and skill in the art of communication. Justice
16 Brennan applied form to meet ends and ends to meet
17 form. By entitling this award in his name, we
18 rightfully acknowledge that Justice Brennan was not
19 only a Justice for all, but a Justice for all seasons.

20 Thank you.

21 (Applause.)

22 MR. BARRY: I will now call upon William
23 J. Brennan to present the Brennan Award to William B.
24 McGuire.

25 Bill Brennan, we all know, is one of the

1 more distinguished lawyers in this state. And he
2 shares with tonight's honorees a double distinction.
3 He, like Bill McGuire, is a Brennan Award recipient
4 and, like Bill, he shares the distinction of being one
5 of the only two lawyers in the state to have been
6 President of both this Association and the New Jersey
7 State Bar Association.

8 So without further ado, I'll call upon
9 Bill Brennan to present the award to Bill McGuire.

10 (Applause.)

11 MR. BRENNAN: Thank you, John.

12 Over the years, I've consulted with my
13 father about prospective nominees to receive the
14 Brennan Award. I followed that practice this year.

15 As to Justice Schreiber, my father
16 responded, "It's about time." As to McGuire, he said,
17 "Too soon."

18 (Laughter.)

19 MR. BRENNAN: That being said, the
20 question is not so much whether McGuire should receive
21 this award, but where he will put it when he gets it.
22 Those of you who have been in his office know that his
23 trophy wall is so laden with plaques and testimonials
24 that it sags under their collective weight. Table
25 tops, groaning under trophies and other bowls, afford

1 little room for this one. Like Imelda Marcos and her
2 shoes (laughter), McGuire's constantly expanding
3 collection of awards challenge his ability to house
4 them.

5 Those awards, however, are symbols of a
6 remarkable career at the Bar and selfless service to
7 his community. I can think of few people who have
8 held so many positions within the organized Bar with
9 so much distinction.

10 Bill has served as President of the Essex
11 County Bar Association, New Jersey State Bar
12 Association, of this Association, and is New Jersey
13 Chairman of the Fellows of the American Bar
14 Foundation.

15 His prowess as a trial lawyer has been
16 marked by his election to Fellowship in the American
17 College of Trial Lawyers, the International Academy of
18 Trial Lawyers and the International Society of
19 Barristers.

20 A Diplomat of the American Board of
21 Trial Advocates, Bill was also honored by the Trial
22 Lawyers Association of New Jersey when in 1984 it
23 presented him with the Trial Bar Award for
24 Distinguished Service and by the Seton Hall University
25 Law School when in the same year he received its award

1 for the distinguished alumnus of the year.

2 However daunting the array of awards
3 which Bill has received to date, the one that we are
4 about to present to him tonight eclipses them all.
5 The Brennan Award commemorates all those qualities
6 about my father which we hold dear and is awarded only
7 to those whose lives, devotion to the nation and their
8 communities, careers at the bench and Bar and
9 principles reflect those qualities.

10 Bill McGuire is one such person. And it
11 is my privilege tonight to present to this modest man,
12 who has so little to be modest about, the 1997 Brennan
13 Award.

14 (Applause.)

15 MR. MC GUIRE: You can hold it. I may
16 never see it again.

17 Thank you, Bill.

18 Justice Schreiber, other Justices, Chief
19 Judge Thompson, other members of the federal and state
20 benches, Monsignor Corr, Sister Thomas Mary, Dean
21 Riccio, Mrs. Gerry, Mrs. Manna, members of the Bar and
22 friends. I'd like to thank John Barry and Ronny
23 Siegal for all their hard work in putting this dinner
24 together. I'm sure everybody in this room is grateful
25 to them.

1 It is a rare honor, indeed, to stand
2 before you this evening to receive the William J.
3 Brennan, Jr. Award. When I consider the outstanding
4 members of the bench and Bar who have preceded the
5 Justice and me, it is with deep appreciation and
6 gratitude that I thank the Association. I can think
7 of no more prestigious award a New Jersey lawyer could
8 aspire to receive.

9 To share a place of honor this evening
10 with Justice Schreiber only compounds my elation.
11 I've known Justice Schreiber and respected him for
12 almost 40 years. Judge Cowen and I broke in at or
13 about the same time. I think that Roger Lancaster
14 might have lifted one or two, Justice, tonight. I
15 think Roger was more known for his evenings at King's
16 than he was at Schrafts, Justice.

17 (Laughter.)

18 MR. MC GUIRE: It has been my great
19 privilege to work with and sometimes drink with the
20 wonderful men and women of this Association. And now
21 I have the privilege of thanking all of them, from
22 John Barry and Freddie Becker to the other officers,
23 trustees and members. God knows, I don't deserve this
24 award. But God also knows I don't intend to return
25 it.

(Laughter.)

MR. MC GUIRE: I also appreciate the presence this evening of three of my sons here, Jamie from Binghamton, New York, Keith, who is now living in Pennsylvania, and Grant William and his bride, Karen.

I have long been in awe of Justice Brennan. He is, as everyone in this room is well aware, a towering figure in the history of our jurisprudence. Certainly, one of the most important American figures in the latter half of this century. His work on the Court has had a profound impact on our law and society. But what has always impressed me is the spirit that lies at the core of Justice Brennan's wonderful personality and flows through the lines of his opinions.

On a personal note. In 1992 my son Grant was graduating from Georgetown and Joan and I were in Washington, of course. And through the efforts of Three, as I call Bill, arrangements were made. One of the few nice things Bill has ever done for me, I might add.

(Laughter.)

MR. MC GUIRE: But Bill had made arrangements for Joan, Grant and me to meet with the Justice and we went over to the Supreme Court with the

1 idea that we might spend five or ten minutes with this
2 great man whom we had met on a number of occasions
3 before. But he took more than an hour to entertain us
4 and tell us stories about the Court. Just a wonderful
5 display of friendship and decency. He apologized
6 because, physically, he wasn't able to take us around,
7 himself, to give us a tour of the Court, but he made
8 certain that staff members did on condition that we
9 would return to say good-bye to him.

10 Of course, he gave Joan and Grant an
11 awful lot more hugging than he gave me. But that was
12 typical of the Justice. But it is something that I
13 shall never forget. I know Grant will never forget it
14 because to this very day on his night table he has an
15 autographed picture of Justice Brennan, and I'm sure
16 that will remain there forever.

17 Justice O'Hern, who is in the room this
18 evening, clerked for Justice Brennan some 40 years
19 ago. Writing in the Rutgers Law Review, he
20 characterized Justice Brennan's view of a judge as "an
21 impartial guardian who stands between the citizen and
22 the state." As concise and true a definition of
23 Justice Brennan and his role on the Court as any could
24 ever be written.

25 Speaking at New York University over a

1 decade ago, Justice Brennan described his philosophy
2 of jurisprudence as one that recognizes human beings
3 as the most distinctive and important feature of the
4 universe which confronts our senses and the function
5 of law as the historic means of guaranteeing that
6 preeminence.

7 The Brennan spirit, that confidence in
8 the individual and optimism about the human condition,
9 has great relevance today and should continue to be a
10 guide to all of us.

11 His place in history is assured. In his
12 34 years on the Court he wrote 533 majority opinions,
13 346 concurrences and 694 dissents. I guarantee you
14 Three didn't read one of them.

15 (Laughter.)

16 MR. MC GUIRE: Surely, the Justice is and
17 will continue to be recognized as one of the greatest
18 Associate Justices of all time.

19 A few years ago a panel of distinguished
20 law school professors, all experts on the United
21 States Supreme Court, were asked to rate the top ten
22 U.S. Supreme Court Justices since the formation of the
23 Court. Justice Brennan ranked within the type five of
24 all time. An incredible feat for a native of Newark,
25 graduate of Barringer High School in this city, which

1 still exists.

2 His letter of retirement to the President
3 said, in part, quote: It is my hope that the Court
4 during my years of service has built a legacy of
5 interpreting the Constitution and federal laws to make
6 them responsive to the needs of the people whom they
7 were intended to benefit and protect. This legacy can
8 and will withstand the legacy of time. Close quote.

9 There's an old adage that says, "Don't
10 walk in front of me. I may not follow. Don't walk
11 behind me. I may not lead. Walk beside me. Just be
12 my friend."

13 How wonderful Justice Brennan must feel
14 knowing that as a result of the magnificent
15 contributions he has made to our society, all of us
16 and all of those in generations to follow will walk
17 beside him as friends and admirers for lifetimes to
18 come.

19 Let us not, therefore, forget the Brennan
20 spirit, the Brennan world view that fueled the United
21 States Supreme Court for so many years. Our lesson
22 from Justice Brennan is a simple one. Do not lose
23 faith in the dignity, hopes and aspirations of the
24 individual, the common man. Do not lose sight of the
25 need for our legal system to continue to secure the

1 blessings of liberty for every one of us.

2 One of Justice Brennan's favorite quotes
3 comes from the Yeats play, Kathleen N. Houlihan.

4 In it, an old woman leaves a house.
5 Bridget, one of the characters in the play, asks, "Did
6 you see the old woman going down the path?"

7 Patrick, who had just arrived, replies,
8 "No. I did not. But I saw a young girl and she had
9 the walk of a queen."

10 These lines from Yeats sum up the
11 irrepressible Brennan spirit. That great faith and
12 optimism in humanity. May it continue to flourish.

13 Thank you very much

14 (Applause.)

15 MR. BARRY: On that eloquent note, the
16 formal proceedings of this dinner are concluded. I
17 think you will all agree with me that we have been
18 treated to a memorable and inspiring event by both of
19 the honorees and the presenters. And I would like at
20 this time for us to recognize each of these
21 distinguished gentlemen by a standing round of
22 ovation.

23 (Applause)

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