

To the Bag

known as a stickler on points of usage and diction in the Court's opinions (see, e.g., Greg Goelzhauser, *Justice Blackmun's Blood Oath*, 18 Green Bag 2d 163 (2015)) – is known to have read much of the Nero Wolfe corpus. See *Harry Blackmun, Meet Nero Wolfe*, 2012 Green Bag Alm. 408. A document found in Blackmun's papers at the Library of Congress infers – I mean implies! – that Blackmun's reading included *Gambit*. That book's opening scene must have made Blackmun smile, and would surely make Scalia smile as well.

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MORE SISTREN

To the *Bag*:

In her article “The Sistren: Ranking the Top Ten Supreme Court Justices,” Meg Penrose identifies Florence Allen as “the only other woman [besides George W. Bush's failed Supreme Court nominee, Harriet Miers] to have been seriously considered, but ultimately passed over for the Court.” This is not so: Cornelia G. Kennedy, who served as a federal district judge in the Eastern District of Michigan from 1970 until 1979 and on the Sixth Circuit Court of Appeals from 1979 until 2012, was seriously considered for the Supreme Court by three different presidents: Richard Nixon, Gerald Ford, and Ronald Reagan. See Douglas Martin, *Cornelia G. Kennedy, 90, a Pioneering Judge, Dies*, N.Y. Times, May 25, 2014, at A21. Like the women on Penrose's list, Kennedy accomplished many firsts in her day: she was the first woman to serve as the chief judge of a federal district court, the first woman to serve on the Judicial Conference of the United States, and the first woman to be director of the Detroit Bar Association.

Kennedy was probably also the first female judicial nominee to face serious opposition to her nomination in the Senate Judiciary Committee. After progressive groups raised concerns about her record as a federal district judge, Kennedy's nomination to the Sixth Circuit by President Carter was approved by only a 9-4 vote, with the then-chairman, Senator Edward M. Kennedy, Democrat of Massachusetts, in opposition.

In this regard, Judge Kennedy's experience parallels that of two other women to have been seriously considered for the Supreme Court by

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Republican presidents, Edith Jones and Priscilla Owen (both currently judges on the Fifth Circuit Court of Appeals). Jones and Owen were short-listed for the Supreme Court by President George H.W. Bush (in 1990) and President George W. Bush (in 2005), respectively. Both were probably passed over due to fear that their nominations would face opposition from liberal senators. See Tinsley Yarbrough, *David Hackett Souter: Traditional Republican on the Rehnquist Court* 104 (2005) (“Judge Jones, with whom [President George H.W.] Bush also met that morning, was clearly a more familiar figure nationally than [eventual nominee David] Souter. But she was also more likely to provoke the confirmation battle the White House wished to avoid.”); David D. Kirkpatrick, *Parties Set for Showdown on Court Choice*, N.Y. Times, Oct. 31, 2005 (“[Sen. Harry] Reid already said he would object to the selection of Judge Luttig or Judge Owen”).

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