To the Bag

The Card and the Court

To the *Bag*:

I have found a respectable place for the renewal postcard you sent me. As luck would have it, I recently collected a photograph of the Supreme Court from that same era (1932-37, as both Justices Willis Van Devanter and Benjamin Cardozo are in it). You asked me about the provenance of the picture. I fear I have fallen down the rabbit hole attempting to answer your question. The short answer: I do not know exactly where it came from, but I think it was a giveaway from an enterprising lawyer who worked in 1930s Washington, DC.

The inscription in the corner states "Compliments of Clarence A. O'Brien." The signature is preprinted on the photograph; it is not a one-of-a-kind.[1] Perhaps he was a friend of the Court, but I have my doubts. As it turns out, O'Brien, a Washington, DC patent attorney of the era, was a forerunner of the modern-day billboard lawyer. He churned out all sorts of trinkets with his name on them – most notably letter openers. These paperknives are so common that *The Weekly Screw*, a website dedicated to corkscrew collectors, noted that wine-opener enthusiasts cannot help but find this man's advertising in junk drawers across our great country.[2] The

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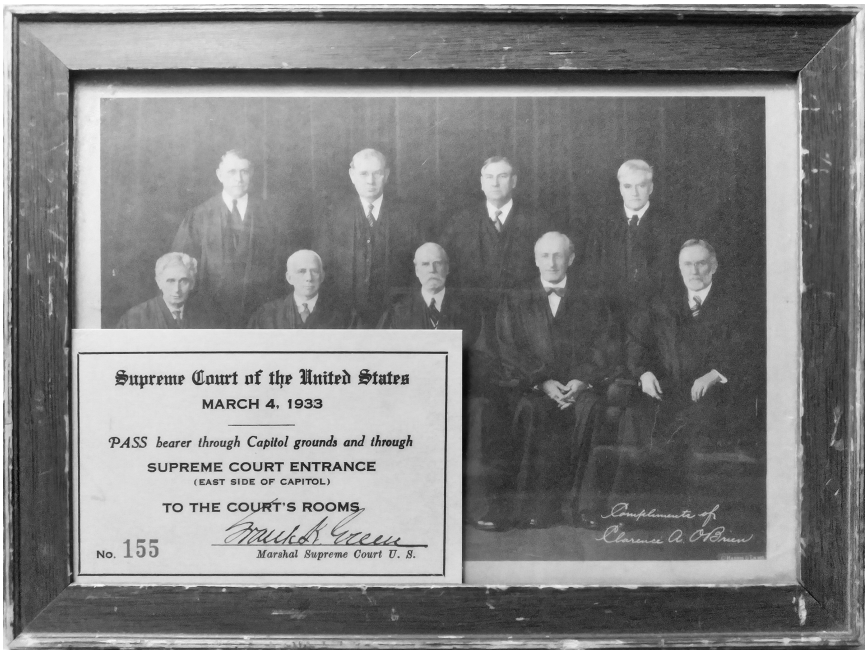
[1] *E.g.*, Chapman Historical Museum, *Photo Record*, chapmanmuseum.pastperfectonline.com/photo/B3B017C8-269F-4679-BEA8-753844967668 (last accessed Jan. 28, 2021).

[2] The Weekly Screw: The Virtual Corkscrew Museum's Weekly Newspaper, *Clarence O'Brien*, www.bullworks.net/daily/20090920.htm (Sept. 20, 2009). As of this writing, there are no less than fifty brass letter openers emblazoned with his name for sale on eBay.



engraving on the back of the opener typically exhorts the reader to send O'Brien sketches or models, with the promise of a free booklet on patent and trademark procedure. Apparently no huckster, O'Brien reportedly obtained a number of patents, including all sorts of corkscrew-related contrivances.[3]

Eagle-eyed readers might be able to make out the name of the photography studio below O'Brien's signature – Harris and Ewing. The firm, at one point, "ran the largest photo studio in Washington and sold photos to media outlets throughout the nation and world."[4] By the end of the 1930s, the business had five million file photos – about 700,000 of the negatives were eventually donated to the Library of Congress.[5] There is a cache of

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[3] *Id.*

[4] Michael Livingston, Washington Business Journal, *Harris & Ewing studio was photographer to presidents*, www.bizjournals.com/washington/stories/2000/11/13/focus8.html (Nov. 13, 2000).

[5] *Id.*; Library of Congress, *Harris & Ewing Collection*, www.loc.gov/collections/harris-ewing/about-this-collection/ (last accessed Jan. 28, 2021).

candid photographs of Depression-era Washington from this collection available online.[6] Perhaps because of my ineptitude, I could not find this photograph of the Court with the Library of Congress.

So what happened at the Supreme Court on March 4, 1933? It appears that the Court handed down orders (but no opinions). No cases were argued. But across the street, Chief Justice Charles Evans Hughes swore in President Franklin D. Roosevelt; Roosevelt then gave his famous "nothing to fear but fear itself" speech. When I look at the photograph and the postcard, I wonder what it would have been like to have been there and hear the President concede that "only a foolish optimist can deny the dark realities of the moment" but argue that our nation had "no unsolvable problem if we face it wisely and courageously." Perhaps Clarence A. O'Brien, in some ways an everyman just trying to make a buck during hard times, was there and was inspired.

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[6] Library of Congress, *Harris & Ewing Collection*, www.loc.gov/pictures/collection/hec/ (last accessed Jan. 28, 2021).

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