

Jill Lepore, "[The Great Paper Caper](#): Someone swiped Justice Frankfurter's papers. What else has gone missing?" *The New Yorker*, December 1, 2014.

### **A Note about Sources**

*N.B. For readers who'd like to read more, or who are undertaking their own research, here is a select bibliography of my sources for this piece. As with all the bibliographies for New Yorker essays that I post on my Harvard faculty website, this brief discussion mentions a good number of works consulted but it's neither an exhaustive inventory of my sources nor a survey of the scholarship in a given field. Instead, I've listed works I found most useful or especially provocative. I have generally only included manuscripts, journal and magazine articles, and books; I haven't listed interviews here at all; I've generally not included things like newspapers, advertisements, patents, legislation, and policy statements; and I've left out citations from specialized bodies of literature in fields like medicine and law. A last caveat: these brief bibliographies are all frozen in time: I do not update them, and they therefore don't include anything written on these subjects after the date on which my essay was published.*

This essay, which investigates both the general question of what happens to the papers of U.S. Supreme Court justices and the particular fate of Felix Frankfurter's Papers, relies on a range of materials, including many interviews, but draws chiefly on correspondence found in a number of archives. This note on sources divides this research into sections. It discusses sources that I used to write the essay and also points readers to some additional, closely related material.

### **The Papers of Supreme Court Justices and the Public Documents Commission**

The single best discussion and inventory of the justices's papers is Alexandra K. Wigdor, *The Personal Papers of Supreme Court Justices* (New York: Garland Publishing, 1986). A somewhat more recent inventory, which locates the surviving papers not only of Supreme Court justices but of all federal judges, is the "Directory of Manuscript Collections Related to Federal Judges, 1789-1997," compiled by Peter A. Wonders at the Federal Judicial History Office (1998), and available [online](#). Wigdor's *Personal Papers* is a product of the work of the Public Records Commission (it began as background report for the Commission) and her Introduction is a shrewd summary of the testimony taken and the range of possible positions on the question of what should be done with the justices's papers. The Public Documents Commission was officially the National Study Commission on Records and Documents of Federal Officials; informally, it was known as the Brownell Commission: Herbert Brownell, who had been Eisenhower's Attorney General, served as chair. An essential summary and criticism of the Commission's work is Anna Hasten Nelson, "The Public Documents Commission: Politics and Presidential Records," *Government Publications Review* 9 (1982): 443-451. Nelson, a historian who served on the Commission's staff, wrote the Commission's background report on Federal Records. Summarizing the Commission's final report, Nelson lists its three key recommendations:

1. The records and documents of all Federal officials ‘in the discharge of their official duties’ are public property.
2. The records of Federal officials fall into three categories. There are Federal records as defined by the Federal Records Act. There are personal papers which clearly reflect the non-official life of the official, and there is a third category of records which the Commission called public papers. Traditionally, this third category has been regarded by Presidents, Members of Congress, and Judges, as their private property to be thrown away, donated to repositories, or stored in damp basements. The Commission recommended that this vast body of material, which in fact documented the decision-making process, now be classified as public property.
3. In order to avoid the temptation to ‘chill the record’ through the destruction of such public papers, the Commission urged that all Federal officials, including the President, Members of Congress, and Judges, be allowed to control their papers for 15 years, after which they would be released to the public under a procedure similar to that of the Freedom of Information Act (5 U.S.C. 552) in order to protect security classified records and material the disclosure of which would constitute a clear invasion of the privacy of an individual. (Nelson, 477)

In a minority report, some Commissioners argued that the records of federal officials ought to fall under the Freedom of Information Act immediately following the official’s departure from office. Nelson reports that the Commissioners and the staff also disagreed on the length of the delay recommended in the final report, the staff supporting a delay of “no more than 5 or 10 years” (Nelson, 447). According to Nelson, Brownell also made a unilateral decision to withhold from the final report the material the Commission had collected, including solicited testimony and statements made at public hearings held in several cities. Nelson writes, “Perhaps the greatest mistake, the greatest failure of the Commission, was its failure to publish this material” (Nelson, 449). The Commission’s final report is the National Study Commission on Records and Documents of Federal Officials, *Selected Records* (Washington, DC: The Commission, 1977). I did not consult the full [records of the Commission](#) but they are available at the National Archives and see also the [selected collection](#) at the Gerald R. Ford Library.

The record of hearings held in 1993 on the subject of the justices’s papers is *Public Papers of Supreme Court Justices: Assuring Preservation and Access*, Senate Hearing before the Subcommittee on Regulation and Government Information, 103-847, June 11, 1993, and is available [online](#).

### **Felix Frankfurter and His Papers**

Biographical treatments of Frankfurter include Harry N. Hirsch, *The Enigma of Felix Frankfurter* (New York: Basic Books, 1981); Michael E. Parrish, *Felix Frankfurter and His Times: The Reform Years* (New York: Free Press, 1982); Melvin I. Urofsky, *Felix Frankfurter: Judicial Restraint and Individual Liberties* (Boston: Twayne, 1991); and, more recently, Noah Feldman, *Scorpions: The Battles and Triumphs of FDR’s Great*

*Supreme Court Justices* (New York: Twelve, 2010). The most influential study of Frankfurter is Joseph P. Lash's introductory essay in *From the Diaries of Felix Frankfurter: With a Biographical Essay and Notes* (New York: Norton, 1975). In 1940, *The New Yorker* published a three-part profile: "Jurist-I," "Jurist-II," and "Jurist-III," *The New Yorker*, November 30, December 7, and December 14, 1940. Also cited in my essay, for its argument about the history of contention on the Court, is Cass Sunstein, "Unanimity and Disagreement on the Supreme Court," working paper, Harvard Law School faculty colloquium, September 2014; a revision is forthcoming in the *Cornell Law Review*.

Regarding my own assessment of Frankfurter, beyond reading the secondary literature and interviewing legal historians, I researched Frankfurter's relationship with the public and with his long-time friends by reading some of his own papers and by reading his correspondence with Alice Hamilton in the [Alice Hamilton Papers](#) and in the [Hamilton Family Papers](#), both at Radcliffe's Schlesinger Library.

I traced the initial disposition and custodianship of Frankfurter's papers through the following manuscript collections:

[Felix Frankfurter Papers](#), Historical and Special Collections, Harvard Law School  
[Felix Frankfurter Papers](#), Manuscripts Division, Library of Congress  
[Alexander Mordecai Bickel Papers](#), Manuscripts and Archives, Yale University  
[Paul A. Freund Papers](#), Historical and Special Collections, Harvard Law School

In 1955, Frankfurter made arrangements for his personal papers to go to the Library of Congress, restricting them by date only: "No access shall be granted to any of my papers in the aforementioned collection for a period of sixteen years from the date of each paper" (Frankfurter, Deed of Gift, April 19, 1955, Library of Congress, Manuscript Division, Administrative Files). In a will written in 1959, Frankfurter gave his judicial papers to Harvard: "I hereby give and bequest to the Harvard Law School all of my Court Papers, including the bound black volumes containing all of my Supreme Court Opinions, Term by Term, and all judicial photographs in my possession at the time of my death" (The Last Will and Testament of Felix Frankfurter, May 8, 1959, Harvard Law School Library). In 1962, he instructed his secretary Elsie Douglas that Alexander Bickel and Paul Freund were to field requests from researchers interested in using the Court Papers: "As for application by other scholars for access to the papers to be deposited in the Harvard Law School, such applications are to be passed upon by Professor Paul Freund and Professor Alexander Bickel" (Frankfurter to Elsie Douglas, July 19, 1962, Freund Papers, Box 11, Folder 27).

My essay describes the disposition Frankfurter made of his papers but it does not discuss the relationship between Frankfurter's papers and Robert Jackson's papers, so I note it here. At the same time that Frankfurter was making arrangements for his papers, which were largely handled by Elsie Douglas, the matter of the disposition of Jackson's papers was being discussed by the very same people, mostly because Douglas had been Jackson's secretary before she became Frankfurter's secretary. Erwin N. Griswold, dean

of the Harvard Law School, wrote to Douglas, on November 8, 1955, “I have learned very recently that consideration is now being given to the disposition of the Court papers of Mr. Justice Jackson. I hope that you will not regard it as an intrusion if I convey to you the great interest which the Harvard Law School would have in becoming the depository of those papers.” (Freund Papers, Box 11, Folder 27.) Erika Chadbourn was the curator of manuscripts at the Harvard Law School Library. In 1969, Chadbourn wrote to Douglas, inquiring about Jackson’s papers, Douglas replied that she no longer had Jackson’s papers but had given them to Philip Kurland, who intended to write a biography of Jackson. Chadbourn then wrote to Kurland: she was interested in whatever letters of Frankfurter’s were among Jackson’s papers because she wanted to add them to the Frankfurters papers at Harvard. Kurland replied to Chadbourn to say he would be willing to look for those papers but, meanwhile, he wanted permission to see Frankfurter’s papers, whereupon Chadbourn wrote to Freund, enclosing all of this correspondence, which Freund then sent to Bickel. (Chadbourn to Douglas, January 10, 1969; Kurland to Chadbourn, June 2, 1969; Chadbourn to Freund, June 12, 1969.) This exchange is a good illustration of the tight control Freund and Bickel exerted over the Frankfurter Papers, not least because it makes clear that, in spite of Kurland’s stature, Chadbourn had no authority to grant him permission to see the papers. When Freund sent Bickel this material on June 14, 1969, he wrote, “Will you look at the enclosed correspondence and give me your thoughts on Phil’s request? You will note that the only unique items are letters from Jackson, making the question simple, I suppose.” Bickel to Freund, June 23, 1969: “I have no objection to photostating the Jackson items in the Frankfurter papers for Phil Kurland.” (This correspondence can be found in Bickel Papers, Box 39, Folder 60.)

Also worth noting is that a group that eventually became the Brandeis Papers Commission, at Brandeis University, was formed in 1967, at a meeting at the Harvard Law School Library, to recover, collect, and publish the papers of Louis Brandeis. Freund and Bickel both eventually served on the Commission. Its initial report, “The Lost Scrolls of Louis Dembitz Brandeis,” argued that Brandeis was in danger of being forgotten because no one had really written about him. The records of the Commission are in the Bickel Papers, Box 39, Folder 55. Regarding the relationship between Frankfurter and Brandeis, a particularly illuminating collection is Louis D. Brandeis, *“Half Brother/Half Son”*: *The Letters of Louis D. Brandeis to Felix Frankfurter*, ed. Melvin I. Urofsky and David W. Levy (Norman, OK: University of Oklahoma Press, 1991). And see Bruce Allen Murphy, *The Brandeis/Frankfurter Connection* (New York: Oxford University Press, 1982).

At Frankfurter’s own request, portions of his papers were published, beginning with *Roosevelt and Frankfurter: Their Correspondence, 1928-1945*, ed. Max Freedman (Boston: Little Brown, 1967), and followed shortly thereafter followed by *Felix Frankfurter on the Supreme Court: Extrajudicial Essays on the Court and the Constitution*, ed. Philip Kurland (Cambridge: Harvard University Press, 1970). In 1971, Kurland published *Mr. Justice Frankfurter and the Constitution* (Chicago: University of Chicago Press, 1971). On Frankfurter requesting that Kurland work with his papers, see Kurland to Bickel, May 21, 1964: “At F.F.’s request, I am collecting two sets of papers for publication by the Harvard Press” (Bickel Papers, Box 4, Folder 87). There was

considerable tension between Freedman and Kurland. On October 10, 1967, after reading Freedman's edited collection for the purpose of reviewing it, Kurland wrote Bickel, "I have just read the galleys of Freedman's collection of F.F.-F.D.R. letters. The materials are wonderful, the editing is miserable. The editing is so bad that my fears about the Freedman biography have been greatly exacerbated. Do you think that you might intervene with Little, Brown for an opportunity to vet the biography?" (same folder).

My essay refers to exchanges found in the Bickel and Freund Papers regarding requests to use the Frankfurter papers at Harvard made by Mary F. Berry, Richard Danzig, Richard Kluger, Roger K. Newman, and Michael E. Parrish. Many other such exchanges can be found in the Bickel and Freund papers and, as they cast light on the custodianship of the papers, I discuss them briefly here. "I have been commissioned by Coward-McCann, publishers, to write a biography of the late associate justice of the Supreme Court, Felix Frankfurter," Liva Baker wrote to Freund in 1967, seeking permission to read Frankfurter's Harvard papers. Freund replied, "I have to say that the Court papers of Justice Frankfurter are not open at this time." On January 18, 1968, Baker again wrote Freund, "What I wonder is: when will the Court papers of Justice Frankfurter be open. As I understand the situation—correct me if I'm wrong—the Justice left them to the Law School, to be opened to researchers at the discretion of yourself, Professor Bickel at Yale, and the Dean of Harvard Law School." To this, she received only a curt note—a definitive no—from the Librarian's Office. (All the Baker correspondence is in the Freund Papers, Box 2, Folder 25.) Baker's biography of Frankfurter appeared in 1969; she was not able to use any of Frankfurter's Harvard papers. (Liva Baker, *Felix Frankfurter* [New York: Coward-McCann, Inc., 1969]; see "A Note on Sources.") Aside from allowing Kurland to make photocopies of Frankfurter's correspondence with Jackson, Freund and Bickel did not grant permission to anyone to see the papers in the early years of their stewardship. For another sample decline, see Freund and Bickel's correspondence from January 1969, regarding whether to grant permission to the Bancroft Prize-winning historian William Leuchtenberg for his study of the packing of the court in 1937 (Freund Papers, Box 4, Folder 7).

Early in 1969, Chadbourn predicted that she'd complete work of cataloging the papers by September 1, 1969, but she seems not to have finished until December 1969. Bickel and Freund continued to turn away researchers while they searched for just the right biographer. The historian Sidney Fine wrote to Chadbourn on March 9, 1970 (Bickel Papers, Box 39, Folder 60). Chadbourn put him off, saying the papers were not yet ready. Fine wrote back, and Chadbourn forwarded his request to Freund (see Chadbourn to Freund, March 17, 1970, same folder). Freund, forwarding this note to Bickel, asked, "Would opening the papers derogate unduly from an eventual judicial biography?" (Freund to Bickel, March 23, 1970, same folder). At this point, Bickel had invested his hopes in the possibility that Danzig would write the biography. Bickel wrote to Freund, May 6, 1970 (same folder): "I think we should in some measure protect the turf of a biographer, and yet I suppose that forays into a particular correspondence, or even examination of one or a limited number of case files ought to be permitted." Fine was allowed to see exactly three folders: see Chadbourn to Fine, May 8, 1970 (same folder), with a handwritten addendum, in Freund's hand: "This is for the purpose of protecting

the interests of a biographer who will present the judicial career of the Justice comprehensively. P.A.F.” Already there were rumors that some papers were missing, presumably from the collection at the Library of Congress. That fall, Frederick M. Eaton, an old law school friend of Freund’s, wrote to Freund to alert him that he believed Freedman had some of Frankfurter’s papers, and that Freund ought to try to get them back. “I hope you have the Frankfurter papers weaned away from our friend Max,” Eaton wrote to Freund on November 19, 1970 (Freund Papers, Box 12, Folder 22).

Keen to “protect the turf of a biographer,” Freund and Bickel continued to turn away nearly all researchers into the nineteen-seventies. In 1971, they denied permission to the acting dean of Northeastern University Law School, Thomas P. Campbell, Jr., who wanted to edit a collection of Holmes-Frankfurter correspondence. See his exchange with Bickel and Bickel’s related letters to Freund in Freund’s Papers, Box 4, Folder 7. Freund wrote to Bickel, December 18, 1971 (Bickel Papers, Box 39, Folder 61): “the question of permission to Campbell of Northeastern U. to edit the Holmes-F.F. correspondence: Grant Gilmore hasn’t made our decision any easier by assuring C. that he would welcome such publication. I confess I haven’t been through the correspondence and I’m leaving tomorrow for ten days in Sarasota. Perhaps the decision, already delayed, can be put off until I do the homework on my return.” After further consultation, Bickel wrote to Campbell, February 17, 1972 (Bickel Papers, Box 39, Folder 61): “Since our telephone conversation, I have seen Paul Freund. He had examined the Holmes-Frankfurter correspondence, and his examination confirmed my recollection. I am authorized to say, therefore, with regret, that our joint decision is against the project.” Another seeker was David J. Danelski, a political scientist from Cornell, who wrote to Bickel on July 15, 1971, “I am still interested in examining Felix Frankfurter’s Court papers for the 1943 and 1944 Terms. Has any procedure been worked out for securing permission to do so?” (same folder). Even for Danelski, Bickel was reluctant to make an exception, writing to him on July 28, 1971, “We have not made it a practice to open these papers to others while we were working on them, but, if you will let me know what it is you want to look into, perhaps we will be able to arrange something. In any event, I might be able to save you a trip” (same folder).

Several scholars appear to have grown frustrated with the tight control Freund and Bickel held over the papers, believing that it was retarding the study of the Court. On January 10, 1972, Samuel Krislov and Harold W. Chase wrote to Freund (a carbon is in Bickel Papers, Box 3, Folder 58): “We would like to suggest as a logical biographer our distinguished colleague, Carl Auerbach.” Freund replied, with thanks but said he was in no hurry: “I may say that what we have had in mind is a judicial biography which would utilize the working papers, memoranda, and other items contained in the case files. Because of the obvious relation of elapsed time to the use of such materials we have not felt a sense of urgency about the work, and indeed the finding of the right person to undertake it is a more important consideration than expedition. The right person is manifestly one who has a feel for the work of the Court and a deep-down interest in Felix Frankfurter as an individual and a judge.” Freund, in a covering handwritten memo to Bickel, forwarding the correspondence, wrote, “What do you think of this suggestion? I’d

prefer an ex-law clerk, but the market seems bearish—unless you have some brighter news.”

Bickel was also, at the time, corresponding with University of Kentucky political scientist S. Sidney Ulmer, who had corresponded with Hugo Black in 1970 regarding the fate of the justices’ papers, an exchange he describes in S. Sidney Ulmer, “Bricolage and Assorted Thoughts on Working in the Papers of Supreme Court Justices,” his presidential address to the Southern Political Science Association, November 3, 1972 (a typescript is filed with the Bickel Papers, Box 39, Folder 61). Ulmer wrote, “My occasion to correspond with Black stemmed from a need to quote a Black letter which reposes in the Harold Burton Papers. Over the length of the correspondence Black spelled out several of his views on the private papers of justices and the uses to which they are put. First of all, he opposed the leaving of inter-court memoranda. ... A second position taken by Black pertained to the reliability of judicial papers. In general, he argued that such ‘... so called historical sources’ are basically unreliable in determining the main hooks on which the justices hang their work and that the use of such sources may frequently leave a false impression of history.” Ulmer had corresponded with Black just a few months before Black, who was dying, instructed his children to burn his papers. Black died on September 25, 1971. Shortly thereafter, his children burned “more than 600 green covered loose leaf binders” full of his case notes. (The quotation is from an Associated Press story, December 2, 1971, quoted by Ulmer on p. 4.)

Staff at the Library of Congress began the work of organizing Frankfurter’s papers in June 1967. A first draft of a finding aid was completed in August 1969. A revision was made available to researchers in 1971: *Felix Frankfurter: A Register of His Papers in the Library of Congress* (Washington, DC: Library of Congress, 1971). Like all versions of the finding aid, it lists materials only down to the folder level. It is not an item-by-item inventory. After the discovery of the theft, in November 1972, staff at the library made a list of material known to be missing. In March 1974, when the FBI abandoned the investigation, this list was printed as a pamphlet and made available to researchers: “Material Missing from the Felix Frankfurter Papers” (Washington, DC: Library of Congress, 1974). But this list is understood to be incomplete, since the library never at any point had a complete inventory against which to check.

I reconstructed the theft and the FBI’s investigation from newspapers accounts, from interviews, and from documents found in:

[Jack Anderson Papers](#), Gelman Library, George Washington University  
[Leslie Hunter Whitten, Jr. Papers](#), Special Collections, Lehigh University Library  
[Jack Anderson’s FBI File](#), the U.S. Justice Department, FBI Vault  
 Administrative Files, the Library of Congress  
 Alexander Mordecai Bickel Papers, Manuscripts and Archives, Yale University  
 Paul A. Freund Papers, Historical and Special Collections, Harvard Law School

Among the most illuminating documents in these papers are (in chronological order):

R.R. Franck to Mr. Callahan, FBI Memo, September 12, 1973 (for context), Jack Anderson's FBI File.

R.R. Franck to Mr. Callahan, FBI Memo, October 5, 1973, Jack Anderson's FBI File. John C. Broderick, Acting Chief, Manuscript Division, "Felix Frankfurter Papers" (an internal memo marked FOR THE RECORD), October 23, 1973, Library of Congress, Manuscript Division, Administrative Files.

Paul T. Heffron, Specialist, 20<sup>th</sup> Century Political History, Manuscript Division, "Photocopies of Felix Frankfurter Papers" [an internal memo marked FOR THE RECORD], October 25, 1973, Library of Congress, Manuscript Division, Administrative Files.

Henry E. Petersen, Assistant Attorney General, Criminal Division, Justice Department, to the Director of the FBI, November 8, 1973, Jack Anderson's FBI File.

Henry E. Petersen, Assistant Attorney General, Criminal Division, Justice Department, to Jack Anderson, December 6, 1973, Leslie H. Whitten Papers, Lehigh University, Box 56, Folder 8.

The date of the theft is unknown. It's possible that items were taken over a rather long stretch of time and, as the correspondence between Eaton and Freund reveals, some items may have been inadvertently removed by Max Freedman even before 1970 (Freedman had permission to take Frankfurter's papers out of the library so the only question is whether he may have not returned all of them before he had his stroke). But volumes of the diary later discovered to have been stolen were used by researchers as late as October 1971. The FBI seems to have believed the theft had taken place between August 21, 1972 and November 6, 1972 (see Henry E. Petersen, Assistant Attorney General, Criminal Division, Justice Department, to the Director of the FBI, November 8, 1973, Jack Anderson's FBI File), but I have not seen any evidence to support that precision.

Hendrik Hertzberg's story about Anderson is "Getting the Goods," *The New Yorker*, January 22, 1972. A full-length biography is Mark Feldstein, *Poisoning the Press: Richard Nixon, Jack Anderson, and the Rise of Washington's Scandal Culture* (New York: Farrar, Straus and Giroux, 2010).

Jack Anderson's three articles about the theft are:

"Scholar Steals Frankfurter Papers," *Washington Post*, September 14, 1973.

"Thief Heeds Plea to Return Papers," *Washington Post*, October 19, 1973.

"The Frankfurter Papers," *Washington Post*, October 21, 1973.

Anderson's papers were given to George Washington University following his death in 2005. The FBI demanded to review them before they were opened to the public. Anderson's family refused (Editorial, "The Anderson Files," *New York Times*, April 24, 2006). The papers were opened in 2010. The Anderson Papers include several folders of material labeled "Felix Frankfurter Papers." They contain Frankfurter correspondence from 1940-1962: photocopies of letters that were stolen from the Library of Congress. It is unclear whether the photocopies filed in Anderson's papers are those that Anderson received in the mail in October 1973 or whether they are duplicates made by Whitten.



The staff at the GW library went through these photocopies for me, checking them against the list of lost items from the Library of Congress. Only two letters in the Anderson Papers were not returned to the Library of Congress, as photocopies, in 1973.

Regarding the history of journalists' use of anonymous sources, see *Branzburg v. Hayes*, 408 U.S. 665 (1972); Stephen Bates, "The Reporter's Privilege, Then and Now," Shorenstein Center, Harvard Kennedy School of Government, Research Paper R-23, April 2000; and Ronald Goldfarb, *In Confidence: When to Protect Secrecy and When to Require Disclosure* (New Haven, CT: Yale University Press, 2009).

### **The Rehnquist Nomination**

The fullest account is John W. Dean, *The Rehnquist Choice: The Untold Story of the Nixon Appointment That Redefined the Supreme Court* (New York: Simon and Schuster, 2002). For further background, see Robert Shogan, *A Question of Judgment: The Fortas Case and the Struggle for the Supreme Court* (Indianapolis: Bobbs-Merrill, 1972).

Rehnquist's 1952 memo is Memorandum from William H. Rehnquist to Justice Robert H. Jackson, A Random Thought on the Segregation Cases 1, circa December 1952, Robert Houghwout Jackson Papers, Library of Congress, Manuscript Division, Box 184, Folder 5. Shogan broke the story of the memo and quoted portions of it in "Supreme Court: Memo from Rehnquist," *Newsweek*, December 13, 1971, p. 32. He then gave out copies to newspapermen in the pressroom of the Supreme Court. The memo was printed, in full in a number of newspapers, including "Text of 1952 Memo Written by Rehnquist," *Washington Post*, December 10, 1971. Further coverage includes John P. MacKenzie, "Controversy Deepens Over Rehnquist Memo," *Washington Post*, December 10, 1971. And see also S.J. Micciche, "The Mystery of the Memo," *Boston Globe*, December 11, 1971. The fascinating law-review article I refer to in my essay, in which two legal scholars reconstruct what Rehnquist may have written to Frankfurter in a letter in 1955, is Brad Snyder and John Q. Barrett, "Rehnquist's Missing Letter," *Boston College Law Review* 53 (2012): 635-6.

Heartfelt thanks to everyone I interviewed and to the many incredible archivists who answered my queries and pulled boxes out of storage for me, especially those at the Harvard Law School, the Library of Congress, George Washington University, Lehigh University, the University of Chicago, the National Archives, the Archives of Manitoba, Radcliffe's Schlesinger Library, and Yale University.

--Jill Lepore  
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