

lfp/ss 6/22/81

80-396 City of Newport v. Fact Concerts

At Conference today, the question came up as to why I had indicated that I would recuse in this case.

I pointed out, as I had earlier at our voting Conference that the case arguably would affect municipalities generally in an adverse manner since punitive damages were at issue.

We had a full discussion of this since Justices Brennan and Stewart said that they also would disqualify if I did, as they (their wives, I believe) also owned municipal securities. The Court unanimously agreed that neither the statute nor any other reason existed for disqualification. It was suggested that I was being overcautious.

As I have previously noted in my file, I do not believe we own now any municipal securities. We do own bonds of states and counties. States have an immunity not possessed by municipalities, and possibly counties do also.

L.F.P., Jr.

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