January 9, 1986

A-531 Roach v. Aiken

Dear Chief:

On the basis of the information now available to us, my vote also is to deny an application for a stay of execution if and when it is filed.

As I am trying to shake off the effects of the flu, I am leaving early but will be available on the telephone.

Sincerely,

The Chief Justice

Copies to the Conference

LFP/vde
January 13, 1986

Budget Committee

Dear Chief:

Would it be convenient for me to be relieved from duty as Chairman of the Court Budget Committee?

I believe I served as Chairman for some six or seven years.

I appreciate that other Justices have committee assignments, and although I have not fully regained the physical endurance I had prior to last year's illnesses, I certainly want to carry my share of the extracurricular work.

Accordingly, I would be glad to remain as a member of the Committee if it were chaired by someone else. As usually is the case, the time-consuming responsibility falls primarily on the Chairman of the Committee.

Sincerely,

The Chief Justice

Ifp/ss
January 24, 1986

PERSONAL

Assignments for January Arguments

Dear Chief:

As you know, I rarely make suggestions as to assignments as I fully appreciate that this is your responsibility. I do want to bring to your attention, and for your consideration, the following:

1. I have circulated all eight Court opinions assigned to me.

2. In addition to the Court opinions, I wrote the major dissent in Vazquez (that you were good enough to join) and concurring opinions in two other cases that have been handed down. I am working on a major dissent in 84-773 Bandemer (the Indiana apportionment case), as I think Byron's opinion will result in a serious imbalance in state legislatures and Congress. I view his opinion as contrary to our Equal Protection holdings, and to the basic rationale of Reynolds v. Sims. Apart from Bandemer, I now have no major opinions to write.

3. A recent note from David Utz reminded that I should have my six months checkup at Mayo in June, and he advises that the three principal physicians who are in charge of this elaborate procedure will be available June 9-11. That is a busy time for us here, but I suppose my health comes first. Another necessary absence that comes at an inconvenient time is the Eleventh Circuit Conference, May 11-14.

* * *

Your records no doubt show that I am out of the two telephone company related cases argued on January 13 (84-871 LA PSC v. FCC, et seq.) and 84-1362 PSC of Maryland v. C&P Telephone Co.). I believe I was with the majority in all of the other January cases, except U.S. v. Koecher (marital privilege case). I voted to create an exception, but not to eliminate the privilege entirely.

Although I was in the majority (and with you) in 84-1479 LeFavre v. Wilson, I would prefer not to write Wil-
son because my rationale did not win a majority. I would hold, quite simply, that where there has been no change in the law, the facts are not in dispute, and the only issue in the case has already been fully adjudicated in one federal habeas corpus proceedings, principles of finality would preclude a second habeas corpus case.

* * *

In sum, I am anxious to get as much of my work behind me as possible. My Chambers now are fully up to date, with only one major dissent to write. I also have Bob Stack for the next two months (pursuant to Potter Stewart's request last fall to help keep his clerk busy). I therefore would welcome three cases to write.

Sincerely,

The Chief Justice

lfp/ss
MEMORANDUM TO THE CONFERENCE:

I have a letter from Mr. Nevas of Mutual Broadcasting System.

In the first paragraph, he makes the statement "you [meaning me] seemed to imply that circumstances could exist in which you [meaning me] might look favorably on such [television] coverage of Supreme Court proceedings. That is dead wrong.

I repeat what I have said previously; that I would not sit on a Bench with television coverage.

I write this memo for fear that the failure to challenge this misstatement might produce some confusion.

Regards,
March 18, 1986

Dear Chief:

In the event you may not have seen it, I enclose an article from the Post this morning about the number of monuments that Congress - in its wisdom - has authorized.

As you know, except for the one modest monument of John Marshall on the first floor of this building, there is no recognition anywhere in Washington, D. C., of the man who did more to establish the final structure of our government (Marbury v. Madison) than perhaps any other American. John Marshall made clear the meaning of separation of powers, and the necessity under our system of judicial review.

Note, as stated in this article, some of the people either honored by monuments or who are under consideration: General Milhailovich, Haym Salomon, and Kahlil Gibran.

Down on the water front where we live, there is a monument - a rather impressive one - in honor of New England lobster fishermen!

I wonder if Senator Heflin of Alabama would be interested in heaping ridicule on what other Congressmen are proposing, and supporting an appropriate memorial for John Marshall.

Sincerely,

The Chief Justice

lfp/ss

P.S. Since writing the above, Jo called on the telephone to say that she heard on the radio that a Senate Committee is meeting today to consider memorial monuments, and that the number of remaining available spaces is small.
Re: Washington Monuments

Dear Lewis:

I have your memo and agree with you wholeheartedly.

In the summer of 1969, shortly after I took office, I wrote a letter to you and four or five other ABA former presidents saying that we should get the ABA moving on an appropriate recognition of the incomparable contributions of John Marshall. That has had to be somewhat laid aside because of more pressing problems, but I have never altered my concern. As a matter of fact, I have revived it in private conversations in connection with the Bicentennial in the hope that that will culminate with the development of a Center for the Development of Constitutional Studies, and, I hope, bearing the name of John Marshall. Also, all of the five movies produced for the 1976 Bicentennial celebration focused on John Marshall's contributions.

I cannot believe that any of these ridiculous suggestions that are being considered by the Congressional committees will get anywhere, but you may be sure that we will press to have the Bicentennial focus on this subject.

Regards,

Justice Powell
Full in Letters of Credit

Foe from C.D. rent to me while we were on Bench argument in 84-1777. May Reply

Supreme Court of the United States

Memorandum

84-1777 3/25/86

Chief - I did "blow it" by voting to grant.

I'll pay the $25 (check enclosed) on
default case will not be assigned to
me!

After all you gave me two lemons
last month (two Social Security benefits
over)
Also I'm still
struggling from having
to write Matsushita.

[Signature]

[Note: The handwriting is difficult to read, but it appears to be a personal note or comment.]
April 8, 1986

PERSONAL

Assignment of Cases

Dear Chief:

The enclosed memorandum came to me a few minutes ago unsigned, and in an envelope that did not identify its source.

As you had agreed following our conversation this morning to review the situation and call me when you were free, I assume this memo comes from some other source. It does not make much sense.

For example, it purports to compare what each Justice has been assigned, and states that I have 15 cases. As you know from our conversation today, one is 85-162 New Mexico v. Earnest that is merely being held with the view to GVR on Lee. It is not an assignment of a Court opinion.

In addition, the enclosed curious memorandum puts stars beside three Justices, and notes that "all are senior in rank, but have less than 15 [opinions]." Apart from the fact that none of these Justices is as current as I am with my work, this is the first time I have ever understood that the number of cases assigned was based on seniority or that it was relevant.

I have understood that, while there is sort of a general rule of maintaining rough equivalency, the Chambers that demonstrates the capacity to do the work are - and should be - given the opportunity to help keep the Court abreast. Otherwise, we may again be here until July.

In any event, what will the "senior" Justices think of the assignment of four cases to Bill Rehnquist.

Sincerely,

The Chief Justice
1fp/ss
MEMORANDUM TO THE CONFERENCE

April 9, 1986

On numerous occasions, we have discussed over recent years and earlier, the elimination of all courtroom admissions. That was seriously considered in the Fall of 1969 and again in the Spring of 1970, and the "compromise" was to give applicants their option to appear or to be admitted on papers. That at least took off the outrageous limitation which required a lawyer from Hawaii or Alaska and other distant places to come to Washington for the sole purpose of being admitted to practice so that he could file a petition a writ. There were times, before my time, as Bill Brennan and Thurgood and Byron will remember, when the combination of the reading of opinions and admitting lawyers took the Court well into the afternoon on the first day of a sitting before getting down to business--for which we are being paid so highly!

I have checked with a number of other countries over the years, as to their policies and practices on admissions. In a federal system like ours, of course, the admission of lawyers is a matter for the component states. That is true in Canada. In some of these countries, and Canada is one example, if a person is admitted in Alberta or Vancouver, that lawyer may appear in any court in the entire system so long as he is in good standing at his point of origin.

I think it is time that we should at least consider allowing any lawyer who wishes to appear in this Court, on any matter, to appear on the basis of his admission to practice and his status of good standing in any one of the states. This would eliminate the admission matter entirely.

This would be a drastic change in terms of the first day of the Court's sitting on February 1, 1790, but it makes sense in the 20th century and will make a great deal more sense 14 years from now. Let's consider whether we should wait until 2,000 A.D., or whether we should amend the rules now, effective the first Monday in October, so that admission requirements to this Court correspond with Canada, for example. This would save hundreds of hours a year, and eliminate at least one employee in the Clerk's Office. In the spirit of "Grimm-Rudman," I suggest this for consideration by the Rules Committee and, ultimately, by the Conference. This is also open for discussion in the meantime.

Let's see what the Rules Committee thinks.

Regards,
On numerous occasions, we have discussed over recent years and earlier, the elimination of all courtroom admissions. That was seriously considered in the Fall of 1969 and again in the Spring of 1970, and the "compromise" was to give applicants their option to appear or to be admitted on papers. That at least took off the outrageous limitation which required a lawyer from Hawaii or Alaska and other distant places to come to Washington for the sole purpose of being admitted to practice so that he could file a petition a writ. There were times, before my time, as Bill Brennan and Thurgood and Byron will remember, when the combination of the reading of opinions and admitting lawyers took the Court went well into the afternoon on the first day of a sitting before getting down to business--for which we are being paid so highly!

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Let's see what the Rules Committee thinks.

Regards,

[Signature]
MEMORANDUM TO THE CONFERENCE:

Enclosed is a memorandum from Al Wong, which will be on the agenda for our April 18th Conference.

Regards,

[Signature]

April 10, 1986
MEMORANDUM

TO: Chief Justice
SUBJECT: GAO Request - Vehicles

As previously discussed, attached herewith is the letter from the GAO setting forth a list of five questions to which they request a voluntary response.

I note their legal opinion with respect to their lack of legal authority in connection with the above requests.

Attachment
Mr. Alfred Wong
Supreme Court Marshal
1 First Street, N.E.
Washington, D.C. 20543

Dear Mr. Wong:

As you requested in your phone conversation with Mr. James Mitchell of my staff on March 17, 1986, this letter provides the purpose and scope of our planned review of the uses being made by the Supreme Court Justices of federal vehicles assigned to the Supreme Court. Also, as you requested, this letter discusses the legal authority for our performing the review.

Our planned review of vehicle use was requested by Senator William Proxmire and the scope of our review will be guided by the specific information, outlined below, that Senator Proxmire requested us to develop and provide to him. In making his request, Senator Proxmire cited the enclosed article from The Washington Post as the basis for his request.

The specific information we will be attempting to develop for Senator Proxmire is as follows:

1. Is The Washington Post story factually correct?

2. Was home-to-work transportation provided to the Associate Justices prior to congressional authorization but after the Comptroller General had established guidelines to preclude abuse of the security threat?

3. Do the transportation logs reflect any other uses of federal vehicles that do not conform with the Comptroller General's past rulings?

4. Was the Court ever exempted by the Congress from the provisions of law governing the appropriate use of federal vehicles? If not, is the Judiciary subject to the Comptroller General's decisions regarding the proper use of federal vehicles?

5. What are the proper rules concerning the appropriate use of federal vehicles by the Justices or by judiciary branch employees?
Regarding the authority for our review, 31 U.S.C. 712 (1982) authorizes the Comptroller General to "... investigate all matters related to the receipt, disbursement, and use of public money ..." While we recognize that under 31 U.S.C. 716 (1982) the Supreme Court is not required to grant the Comptroller General access to the Court's records, we trust that the Court will voluntarily cooperate with us in our performance of this review so that we can respond to Senator Proxmire's request.

If you have any additional questions or concerns about the planned review, please contact Mr. Mitchell on 275-8676. We would appreciate your prompt attention to this matter so that we can begin our review as soon as possible.

Sincerely yours,

W.J. Anderson
William J. Anderson
Director

Enclosure
Six Lincolns Among the Wheels of Justices

The Supreme Court is called upon often to interpret congressional intent. But the court's interpretation of a matter close to home—or, more precisely, to and from home—appears to be a closely guarded secret.

When Justices Byron R. White and Sandra Day O'Connor made the Supreme Court's annual pilgrimage to Congress last year to make a pitch for the court's $17 million budget, they asked for authorization to use the court's car pool to take the nine justices to and from home each day.

Congress gave them the authority to use the court's vehicles, including six Lincoln Town Cars, for home-to-court travel, essentially authorizing what several of the older justices had been doing.

But the Senate emphasized that the approval of cars and court police drivers was "to meet legitimate security needs" and insisted its language "does not provide a blanket authorization of home-to-work transportation."

Congressional sources said the language does not authorize the justices' use of the cars after hours for personal reasons.

Knowledgeable sources said that such uses have included taking O'Connor to the Arena Stage to see "The Good Woman of Szechuan," picking up the daughters of Justice Harry A. Blackmun at National Airport; fetching Chief Justice Warren E. Burger's daughter's laundry from the cleaners; ferrying friends about town, and dispatching the court station wagon to Baltimore-Washington International Airport to help White with his luggage and take him to his Northern Virginia house.

The court's press officer said court officials would not discuss the issue because it affects decisions involving the security of the justices. But one source who has done a lot of driving for the justices said: "They'll say it's for security, but it's really a taxi service."

It's not clear whether O'Connor, joined by Justice Lewis F. Powell Jr., will talk about transportation when they make the annual budget pilgrimage to the Hill today, according to the press officer.

-Al Rascon
MEMORANDUM TO THE CONFERENCE:

The attached memo from the Reporter will be on the agenda for this Friday's Conference.

Regards,

[Signature]

U. S. Reports

The Table

of Cases

[Some handwritten notes]
Honorable Warren E. Burger
The Chief Justice
of the United States

Dear Chief Justice:

Ten years ago, upon the recommendation of Henry Putzel, the Court approved discontinuing publication of the Table of Statutes Cited in the bound volumes of the United States Reports. This was done primarily because such Table had outlived its usefulness. At the same time, of course, elimination of the Table would result in rather substantial cost and time savings in compiling and printing it. The Table was discontinued beginning with 419 U.S.

Mr. Putzel, in his letter to you of November 19, 1975, making such recommendation, stated that the reason for dropping the Table of Statutes Cited "would to a large degree also apply to the Table of Cases Cited." But because of an informal survey that he conducted of views of several representative users of the United States Reports disclosed that some of these users found the Table of Cases Cited useful "to some extent," he did not recommend its discontinuance "at this time."

I would now like to revive the possibility of eliminating the Table of Cases Cited. What prompts this is the difficulties the Alex system has had and is still having in producing the Table (the exact nature of these difficulties can be better explained by Roland Goldstraw). But this is not the main reason for bringing up the question again. I now feel strongly that the Table has far outlived its usefulness and should be dropped in view of the further growth and development of the computerized services available for use in determining how many times a particular case has been cited by the Supreme Court. For instance, Shepard's Citations are now incorporated in both the LEXIS and Westlaw computerized research systems. Certainly, as was the case with the Table of Statutes Cited, the cost and time in producing the Table of Cases Cited are highly disproportionate to whatever minimal usefulness might still remain. The Table of Cases Cited usually takes up from 20 to 25 pages per bound volume.

I agree we can eliminate it.

Yours truly,

April 15, 1986
As a matter of information, the Table of Cases Cited first appeared in the United States Reports in 100 U.S., the first volume of the October Term 1879. West Publishing Co. discontinued the Table of Cases Cited in its Supreme Court Reporter in 1950. Similarly, Lawyers Co-operative Publishing Co. discontinued such Table in its United States Supreme Court Reports, Lawyers' Edition, in 1945 (88 L. Ed.). If you agree that the Table should be discontinued in the United States Reports, it would be done beginning with 464 U.S., the first volume of the October Term 1983.

After you and other Members of the Court have had an opportunity to evaluate this proposal, I would appreciate your indicating your decision on the copy of this letter that is attached hereto.

Respectfully,

Henry C. Lind
Reporter of Decisions

Do not ______ discontinue publishing the Table of Cases Cited.
MEMORANDUM TO THE CONFERENCE

Re: Henry Lind's proposal of April 15th on publishing the Table of Cases Cited

This letter will serve to confirm my notes that the vote on Henry Lind's proposal to discontinue publishing the Table of Cases Cited was approved by majority vote of the Conference.

If anyone wishes to identify a position other than a vote to grant that motion, please do so by memo to me and the Conference.

Regards,

cc: Mr. Henry Lind
April 21, 1986

Henry Lind's Proposal of April 15

Dear Chief:

My understanding of the decision of the Conference was to obtain an estimate of providing a Lexis station in the library room that Harry's uses.

Perhaps I am mistaken, but I have a vague recollection that we were told a Justice could have such a station in his or her Chambers if desired.

Sincerely,

The Chief Justice

lfp/ss

cc: The Conference
May 19, 1986


Dear Chief:

As all of us were today served as defendants in the above case, apparently pending in the Western District of North Carolina, I write simply to make sure that the Attorney General will represent us and make a proper response.

Sincerely,

The Chief Justice

LFP/vde
May 30, 1986

Justice Black - Medal of Freedom

Dear Chief:

Confirming our talk yesterday afternoon, I enclose a copy of Mr. Newman's letter to you of January 2, and a draft of a letter you might want to write Mr. Newman.

Also enclosed is a copy of George Freeman's letter to me of January 7 - on the same subject. You may recall that George clerked for Justice Black some years ago, and is now one of the senior partners of Hunton & Williams. Apparently Newman has been in touch with George.

Sincerely,

The Chief Justice

LFF/vde
Chief Justice Warren E. Burger
Supreme Court of the United States
Washington, D. C. 20543

Dear Mr. Chief Justice:

As part of the ceremonies honoring Justice Black on the celebration of his one hundredth birthday, February 27th, I hope that the Presidential Medal of Freedom can be awarded to him posthumously. The appropriateness of such a tribute is self-evident; I know I need say nothing further. It would be of tremendous help in this drive if you would lend your weight to the idea and speak about it to those individuals in the Administration who decide who receives these awards. I hope you can do this.

The bill proclaiming February 27th as "Hugo Black Day" was introduced by Senator Heflin and Congressman Erdreich. And I thank you for making available the reception room at the Court for the stamp that will be released that day. Incidentally, I believe that the only judges who have been honored by stamps are Chief Justices Marshall, Hughes and Stone, and Justice Holmes; and that Justice Frankfurter is the only Justice who has received the Presidential Medal of Freedom.

With much thanks and best wishes,

Sincerely,

Roger K. Newman
May 30, 1986

CJ7 GINA-POW

Mr. Roger K. Newman
209 East 25th Street
New York, New York 10010

Justice Black

Dear Mr. Newman:

In some unaccountable way your letter to me of January 2 was misplaced here. This was the letter in which you expressed the hope that the Presidential Medal of Freedom would be awarded posthumously to Justice Black, and inquired whether I would speak favorably to people in the Administration.

I am not aware of possible developments since you wrote. I doubt whether it would be appropriate - or even desirable - for me or other members of this Court to take the initiative in speaking to the Administration. Rather, if the Alabama Senators and Congressmen - particularly Senator Heflin - made the recommendation to the President,
this would at least insure that the proposal would receive serious White House consideration. It would be helpful, also, if the University of Alabama (where a wing of the library is named after Justice Black) actively supported the nomination.

If such a nomination is made by responsible Alabama leaders, I would find an opportunity to express my enthusiastic support for the proposal.

I am sending a copy of this letter to Mrs. Black for her information. I understand you are completing a biography of Justice Black with her full approval and support.

Sincerely,

Warren E. Burger

cc - Mrs. Hugo Black
Dear Lewis,

Your and Bill have matched my record for brevity while preserving a tradition. Congratulations.

E.A.B.
June 17, 1986

My dear Mr. President:

Last year when you asked me to be Chairman of the Commission on the Bicentennial of the United States Constitution, I agreed to undertake at least to try to get the program under way. My old friend John Warner who was similarly "drafted" to chair the 1976 Commission later cautioned me that the chairmanship of such a project was a full time enterprise.

I have discovered that John was right. Between my purely judicial work and my administrative duties, I already had two "full time jobs."

I know we share the view that the story of our great constitutional system must be recalled to the American people—and indeed told to people everywhere who seek freedom. To tell that story as it should be told is an enormous and challenging task. I fear, however, it is now too late to enlist a new full time Chairman. Accordingly, I have resolved to request that I be relieved as Chief Justice of the United States effective July 10, 1986, or as soon thereafter as my successor is qualified, pursuant to 28 U.S.C. §371(b).

It has been an honor and privilege to hold this great office for seventeen years during a stirring period in the history of the Republic and of the Court. I am grateful that our system is such that this opportunity could come to me. So long as I am able, I expect, as I told the Senate Judiciary Committee on June 6, 1969, to continue to devote every energy to help make our system of justice work better.

Sincerely and respectfully,

Warren E. Burger

The President
The White House
Washington, D.C.
June 18, 1986

Dear Chief,

Although not entirely surprised, I personally am saddened by the thought that we will not continue to be colleagues in the full sense of that term.

I am fond of you personally and admire the way you preside over the Court. We all appreciate your thoughtfulness and generosity. Your place in history is secure.

With affection,

Lewis
June 23, 1986

Dear Chief:

Andy Stewart called me early Sunday morning about the unfair article in the Post by Totenberg and Barbash. She was deeply distressed by the statement that Potter had retired from the Court because of his displeasure with you. Andy said this was totally false, and that Potter respected you and had quite different reasons for retiring.

We knew the Stewarts before I came on this Court - just as we knew you and Vera. I was close to Potter, and was as surprised as others when he announced at Conference that he was retiring. Later that day he explained to me that he had not even told his children, and felt a bit "guilty" for not telling me.

Neither in that conversation, nor in the many times I saw Potter after he retired, did he ever say that he left the Court because of disagreement or displeasure with you. He told me explicitly that having been a federal judge since he was 39 years old, and on this Court since 1957, he was simply tired, and wanted to spend more time with his children and grandchildren.

Andy was willing to write the Post, but I advised her that this would be futile. She recalled that after The Brethren slandered Andy that it took Potter several weeks of effort to have the Post acknowledge (probably on page 291) that The Brethren's statement was erroneous.

I know what the press says does not concern you, but I write this note for the archives and posterity.

Sincerely,

The Chief Justice

lfp/ss

bc: Mrs. Potter Stewart
June 30, 1986

The National Law Journal - Issue of Monday, June 30

Dear Chief and Bill,

I think you will find this issue of the National Law Journal of interest. If not available in your office, it can be obtained from the library.

The lead editorial on p. 14 (enclosed) appropriately recognizes your great contributions, Chief, to the improvement of the federal court system and the administration of justice in these courts.

Sincerely,

The Chief Justice
Justice Rehnquist

1fp/ss
Enc.
July 3, 1986

United States Supreme Court - Index to Opinions
(Blandford and Evans)

Dear Chief:

You will recall the two volume book prepared by Linda Blandford and Pat Evans that was published in 1983. It contains, in convenient form, the opinions (for the Court, concurring and dissenting) of every Chief Justice and Justice since 1789. You wrote an approving Foreword.

Although published in 1983, the two volume book covers the life of the Court only through 1980. When your retirement was announced, and Bill Rehnquist was nominated to succeed you, I am told that reporters wanted a list of opinions you and Bill have written. Jack Kilpatrick called me, for example, and said that there was no convenient place to obtain this information.

I have talked to Linda, and she is willing to undertake - subject to Sandra's approval - a third volume that would bring her convenient index through the current Term - your full 17 years. It would not be fair to expect her to do this without compensation, as she would have to do it primarily at night and on weekends. The cost of publication also would have to be borne.

The purpose of this letter is to inquire whether the Supreme Court Historical Society has funds for this purpose, and if not, do you know of an organization or individual who might make a special donation to the Historical Society for this purpose? It would be worthwhile.

Sincerely,

The Chief Justice

Ifp/ss

bc: Mrs. Linda Blandford
Ms. Gail Galloway
July 3, 1986

Dear Chief:

As you know, during the few weeks in the summer when we are in Richmond, I occupy vacant Chambers at the Federal Courthouse there. I prefer to keep abreast of the filing of cert petitions, and have these sent to me in Richmond. In addition, I read briefs for the new Term, and dictate memos on each case. Finally, as I have more capital cases than all of the other Chambers together (if CA5 is excluded from the total), I often need a secretary when I work on these - sometimes late in the evening.

The first few years I used one of the CA4 secretaries in the offices of the staff clerks. As the workload of these clerks increased (habeas corpus and §1983 prisoner petitions), the loan of a secretary was discontinued a few years ago.

At that time, when Clement Haynsworth was Chief Judge, the secretary provided for me was included in the budget of CA4. Occasionally, this secretary also did some work for others at CA4. A couple of years ago - I believe it was when Harrison Winter became Chief Judge - the Administrative Office here paid my secretary for these two months.

Sam Phillips, the Circuit Executive for CA4, called today to say that the Administrative Office advises it has no place in its budget for this payment. Apparently discussions have been had with Betsy Saxon, our personnel officer, and Betsy has advised that the Supreme Court budget can accommodate the help I need for the few weeks in the summer. I write to make sure that this is satisfactory.

Sincerely,

The Chief Justice

lfp/ss
Note to Jo from
Nan Rehnquist.
(We think some members
of the Senate Judiciary
Committee are "playing
polite" at a low
level)
Aug. 2, 86

Dear Jo-

Thanks a heap!
You can't know how
much Bill and I
appreciate your care
and now your dear note.
It is friends who make life pleasant under these circumstances. I hope your summer is going pleasantly.

Much love,

[Signature]
August 7, 1986

The Honorable Lewis F. Powell, Jr. '59
1238 Rothesay Road
Richmond, Virginia 23221

Dear Justice Powell,

Our trustee Bob Hatcher suggested that I send you a copy of a letter I wrote asking Chief Justice Warren Burger to speak at our Commencement next May.

Any help you may be able to offer in persuading Mr. Burger to accept this invitation would of course be greatly appreciated. Senator Bill Spong, an alumnus of Hampden-Sydney, has written the Chief Justice in support of our hopes. I think, withal, that our chances of success are good because the request is sound—because there is such a rare fitness to his coming to this ancient place during that Bicentennial year to speak on the subject of our Constitution. Apart from that I think he would enjoy himself here, and I know our seniors and their families would be honored to have him.

I trust this finds you well, and enjoying the summer.

With best regards,

Yours sincerely,

Josiah Bunting III

Enclosure
July 29, 1986

The Honorable Warren E. Burger
Chief Justice
The Supreme Court of the United States
Washington, D. C. 20543

Dear Chief Justice Burger,

I wrote some weeks ago asking that you attend and address a Bicentennial Conference here in October. And I hope earnestly that you will, though I recognize that the great demands on your time in the coming months may make that impossible.

But that invitation suggested another that matters even more to me—and to this College; and I write now to invite you, on behalf of the Trustees of Hampden-Sydney College, to come here next May 10th and speak at the Commencement of the Bicentennial Class of 1987.

I can think of nothing more fitting or satisfying than that you, as the Chairman of our national observances, should welcome to mature citizenship the latest sons of a college uniquely close in its connections to the era of the Founding and the aspirations and debates that surrounded it. Hampden-Sydney was established in 1776, five months before the Revolution. It is the only college to have been established in that year of our nation’s birth. We were founded by James Madison and Patrick Henry, among others, who of course came in succeeding years to disagree profoundly, yet fruitfully, on the nature of our proper constitution. The greatest Federalist and the greatest anti-Federalist (one of Henry’s classic statements of the anti-Federalist position was made about a mile from where I sit to write this) were united in at least two things, their love of this new nation, and its hard-won liberty, and their love of this College to which Henry sent seven of his sons.

Our last five Commencement speakers have been Vice President George Bush, Senators Paul Tribble and William Cohen, William Styron and Malcolm Forbes. This is a college with a strong government department and a long and close connection with the profession of the law, which claims a large percentage of our graduates. (Perhaps our most distinguished alumnus in the law is former Senator and William and Mary Dean William Spong.) The curriculum that prepares our young men for law school is that of the traditional liberal arts, with a concentration upon literature—upon Shakespeare and Milton, the Bible and Homer, Locke and Aristotle—and upon writing about that literature. I think you will find us, and springtime in Virginia, extremely congenial to your vision; I know we would be pleased to make you comfortable among us.
Chief Justice Burger

July 29, 1986

We would be honored on that occasion to award you the degree of Doctor of Humane Letters, honoris causa, in recognition of your long work with pen in hand at interpreting and explaining our law— at deriving it, in a sense, from that sublime edifice of republican prose, the Constitution of the United States.

I pray fervently that you will see the fitness of this invitation, and will accept it and join us, adding your voice and experience to our celebrations next May.

Sincerely yours,

Josiah Bunting III
August 19, 1986

Dear Chief:

This is to support enthusiastically the invitation you have received from Dr. Bunting, President of Hampden-Sydney College, to speak next May 10 at the Commencement of the College's Bicentennial Class of 1987.

Hampden-Sydney is one of the last survivors of the traditional small liberal arts colleges that have done more than provide a quality education. Colleges of this size, particularly those with great traditions like Hampden-Sydney, emphasize the values - of mind and character - that have made our country uniquely great.

As Dr. Bunting noted in his interesting letter, Hampden-Sydney was established in 1776, and was closely associated with the historic years that lead to the adoption of the Constitution.

I am sure that the college would provide a helicopter that would fly you to and from the campus. I used a helicopter for a similar trip some years ago. I am sure that you and Vera would find the historic campus of interest, and you would be most warmly received.

On a personal note, I am proud to have an Honorary Degree from Hampden-Sydney and would like to have you join me.

Sincerely,

The Chief Justice
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

LFP/djb
bc:  Dr. Josiah Bunting III
    Hampden-Sydney College
    Office of the President
    Hampden-Sydney, Virginia 23943

    Mr. Robert V. Hatcher, Jr.
    Chairman
    Johnson-Higgins, Inc.
    95 Wall Street
    New York, New York 10005

    Honorable William B. Spong, Jr.
    Marshall-Wythe School of Law
    College of William & Mary
    Williamsburg, Virginia 23185

LFP/djb
August 19, 1986

PERSONAL

Dear Chief:

Jo and I regretted not seeing more of you at the ABA Meeting, but I understood that you were under a great deal of pressure and also that Vera was not well.

I hope you went on out to Mayo for your annual physical, and that you will take the advice of your physicians not to push yourself so hard. Because of my genuine affection and admiration for you, I have been concerned about the pressure on you in recent months, and your determination to carry on in spite of "walking pneumonia".

I know you are relieved and pleased that the Judiciary Committee gave Bill Rehnquist a solid vote of confidence. This should assure Senate approval. The widely prevailing view here in Richmond, and also among friends at the ABA Meeting, is that the Senators on the Committee who opposed Bill discredited themselves.

We return to Washington Labor Day weekend, and hope we can soon spend an evening with you and Vera.

As ever,

The Chief Justice
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

LFF/djb
MEMORANDUM TO THE CONFERENCE

My naturally superstitious nature prevents me from doing anything associated with being Chief Justice until I have actually been confirmed by the Senate in that position. But with the Chief's encouragement I have decided that in the interest of ordering our affairs I ought to set a day for the Court session at which Nino Scalia and I will be sworn in to our new positions. It seems to me that the format used by the Chief when Sandra was sworn in in 1981 would be an appropriate model to follow, and after consulting with the Chief and with Nino I would hope the ceremony could take place at 2 p.m. on Friday, September 26th, in the Courtroom. Please reserve that date.

Sincerely,

WM

cc: Al Wong, Marshal