

1/31/83

Supreme Court of the United States

Washington, D. C. 20543

ABA

Speech



CHAMBERS OF  
THE CHIEF JUSTICE

Juris

This is not as good as  
the Saturday Republic speeches + I  
impose on you only to read it for  
SUBSTANCE. I'll have a couple of days  
on final style. My purpose is to  
stimulate if not shock!

WEB

P.S. It will help you sleep many case cases



cg  
January 21, 1983

Dear Chief:

Vera and Jo have been sharing concern over your health and mine, particularly our long-drawn-out head colds.

Jo has come upon the "Cambridge" formula for restoring health and vitality. With Vera's approval Jo sends you the samples that I now deliver.

Good luck!

Sincerely,

The Chief Justice

lfp/ss



February 1, 1983

ABA Speech

Dear Chief:

I like your draft, and have made only a limited number of suggestions in red ink.

You make two basic recommendations: (i) a Commission to resume the study of the Freund and Hruska Commissions, and (ii) the creation of a temporary appellate panel to resolve Circuit conflicts. Your draft does not make clear to me what the new Commission actually would study. The creation of a new permanent 4th tier may well have been studied enough already. We would know a great deal more about its need following several years of experience with your new appellate panel.

You may wish to consider focusing your address on this recommendation.

As I have indicated, I would eliminate reference to possible adoption of the English appellate system.

Perhaps you should address more specifically the need for Congress to address the jurisdiction of the federal courts, particularly diversity and habeas corpus jurisdiction. I enclose a copy of the talk I made last summer at the ABA meeting to the Division of Judicial Administration. This may be helpful on these points.

Sorry I won't be present to hear you speak. Then, we hope you and Vera will spend most of the next two weeks at Palm Beach. You and she deserve it - and also need it.

As ever,

The Chief Justice

lfp/ss



March 25, 1983

Dear Chief:

At your request, I am delivering to Penny, to make available to you upon your return, xerox copies of my Friday's Conference votes. I will be glad to expand on these if you wish it.

Sincerely,

The Chief Justice  
c/o Ms. Penny Weaver

lfp/ss  
Enc.



April 6, 1983

Dear Chief:

Whit Seymour will be here for the ALI meeting in May, and Leslie will be with him. They have agreed to have family dinner with Jo and me in our apartment on the evening of Tuesday, May 17, at 7:30 p.m. We would like very much to have you and Vera join us.

I told Whit, in a telephone talk with him this afternoon, that we were inviting you and Vera. He hopes particularly that you both will be free.

Sincerely,

The Chief Justice

lfp/ss



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

*Amen!*

April 8, 1983

MEMORANDUM TO THE CONFERENCE:

I have reached the point where I propose to designate a "committee" to draft a rule amendment on Amicus briefs.

This will be on the next conference agenda for discussion.

Regards,

*WRB*



Office of the Doorkeeper  
U.S. House of Representatives  
Washington, D.C. 20515

April 21, 1983

Dear My dear Mr. Chief Justice,

The President of the United States will deliver an Address to the Congress at a Joint Session of the House and Senate on April 27, 1983, at 8 PM, and Members of the Court are invited to attend.

The Message will be delivered in the House Chamber, and we request that you present yourselves at 7:30 PM in Suite H 219 in the Capitol, so that seating can be concluded on the Floor before the set time.

Please confirm the presence of the Court on this occasion by calling this office, 225-3505.

Sincerely,

JTM:rb

The Honorable Warren Earl Burger, Esq.  
Chief Justice of the United States  
One First Street, N.E.  
Washington, D.C. 20543



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

April 25, 1983

no  
✓

MEMORANDUM TO THE CONFERENCE:

Please advise the Marshal whether you will be attending the Joint Session of the House and Senate, at which the President of the United States will deliver an Address to the Congress on Latin American Affairs, on April 27, 1983, at 8:00 p.m.

The formal invitation never reached me, but did reach Mr. Wong. You recall we have confirmed our attendance to the Constitutional State of the Union Address.

Enclosed for your information is a copy of the letter from James T. Molloy, Doorkeeper. .

Regards,

WJ

CC - The Marshal  
Justice Stewart



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

✓

May 10, 1983

MEMORANDUM TO THE CONFERENCE:

A Mildred Gibson, who describes herself as administrative director of Population Photographers International, wants to take photographs of all the Justices this week, if possible, to include in an exhibit on "active aging."

For my part, I am not interested in having my photograph taken for the "active aging" or any other kind of aging.

*Amen*

When I want to have it taken, I will do it on my own!

However, I do not want to speak for the rest of you or for the President, Speaker of the House, or others to whom this request is being addressed.

Regards,

*W. B.*



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

✓

May 20, 1983

Dear Chief,

After reading the responses in the matter of the silver trays, I am inclined now to agree with Sandra that we might explore the possibility of getting the quality silver plated trays. But to borrow Sandra's comment, "either way, count me in."

Sincerely,

*Bill*

The Chief Justice

Copies to the Conference



May 20, 1983

Dear Chief:

I am agreeable with whatever the majority thinks  
with respect to the trays.

Sincerely,

The Chief Justice

lfp/ss

cc: The Conference



May 20, 1983

Dear Chief:

This refers to your note of May 6, advising that I have been elected to participate in a scan of possible changes in several of our Rules.

In view of plans that I have for this summer, and will discuss with you, I would prefer to be relieved of this honor.

As Chairman of the Budget and Atex Service Committees, I have two other Court responsibilities. Moreover, having had no past experience with the Rules, my knowledge of them is limited to the few that we refer to frequently.

I suppose Bill Rehnquist also has been "elected". He seems to have a special interest in the proposed changes. I give you my proxy now to impose a higher fee for admissions to the bar on motion personally made before our Court. I would raise the fee to \$150. You also have my proxy with respect to an appropriate filing fee for rehearing petitions.

The capital case problem, in which I do have some interest, requires far broader reforms than we could accomplish here. I enclose a copy of my letter to Professor Dan Meador requesting information as to his proposed reform.

The basic need is to eliminate the dual system of repetitive appeals, as has been done in the D.C. Circuit. A high level joint commission should be appointed to consider the problem of repetitive recourse to courts - perhaps a commission set up along the lines of the salary commission. It should be provided with an adequate staff (headed, for example, by Dan Meador).

Sincerely,

The Chief Justice

lfp/ss



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 23, 1983

Re: Silver Trays

Dear Chief:

Like Harry and Thurgood, I will go along with the wishes of the majority.

Sincerely,

WJW

The Chief Justice

cc: The Conference

Chief,

As the Court was  
generous enough to give me  
of these handsome trays to  
Henry III, <sup>I would</sup> ~~I~~ be happy to  
accept the discounted offer  
Gail has obtained for the 12"  
~~the~~ sterling silver trays.

~~Of course~~  
Also, of course, I am  
agreeable to any gift  
preferred by ~~the~~ a majority.



May 23, 1983

Dear Chief:

As the Court was generous enough to give one of these handsome trays to Lewis III, I would be happy to accept the discounted offer Gail has obtained for the 12" sterling silver trays.

Also, of course, I am agreeable to any gift preferred by a majority.

Sincerely,

The Chief Justice

lfp/ss

cc: The Conference



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

May 23, 1983

Re: Six Trays

Dear Chief,

I am satisfied with any choice you make.

Sincerely,

*Sandra*

The Chief Justice

Copies to the Conference



CJ  
JULY 15, 1983

BARBARA IN THE CHIEF'S OFFICE CALLED TO SEE  
IF YOU AND MRS. POWELL PLANNED TO ATTEND THE  
DINNER ON SEPTEMBER 27. THE CHIEF WAS TRYING  
TO GET AN APPROXIMATE COUNT. IF THERE ARE  
MANY NEGATIVES HE WILL RESCHEDULE IT.

GINNY



July 21, 1983

Dear Chief:

No one deserves a change and rest more than you and Vera.

The 1982 Term may well be viewed as the most demanding in the history of the Court. A number of cases were of unusual public interest and long term importance. I was glad that you wrote several of these yourself. Even the press has been more approving (perhaps I should say finding less fault) than usual. I think Linda Greenhouse's summary in the New York Times was both fair and accurate.

When you and Vera are in London, if you have the opportunity, please remember Jo and me particularly to the Dennings, DiPlocks and to Ann Widgery. Tom Denning, with his hip problem, is spending most of his time at his home in Whitchurch. I think Ann Widgery is quite lonely. We are fond of all of these friends.

And my thanks to you and Vera for your thoughtfulness about my eye surgery. So far, it seems to have gone very well. We expect to be in Richmond for most of the remaining summer.

As ever,

The Chief Justice

LFP/vde



Supreme Court of the United States  
Washington, D. C. 20543

32  
Felt

CHAMBERS OF  
THE CHIEF JUSTICE

August 16, 1983

Dear John:

I have your note of August 15, which reaches me as I am getting ready to leave town for several weeks of vacation.

There is a long history of the "Rule of Four." In essence, it is that when Chief Justice Taft appeared before the Judiciary Committee in support of the 1925 amendments relating to certiorari he, in effect, assured Congress that the "Rule of Four" would remain intact.

Concern had been expressed in Congress and elsewhere that requiring more than four votes would adversely affect access to this Court.

I do not know precisely the rules in this respect in state supreme courts, for example, except that more of them allow appeals as a matter of right.

This may change with the advent of the intermediate courts of appeals in the state systems.

My comment about advancing the deadline for initial circulations was something on the nature of a "tongue in cheek" observation, but I do not see how it would "aggravate the problem" as you suggest. However, let's keep the discussion going.

We have had almost as much by way of a dialog and response as Felix Frankfurter stimulated over a period of ten years.

Regards,

WRS

Justice Stevens

Copies to the Conference



Supreme Court of the United States  
Washington, D. C. 20543

*Tell*

CHAMBERS OF  
JUSTICE BYRON R. WHITE

September 28, 1983

Dear Chief,

With gratitude for your administration  
of the mess fund, I enclose one likeness of  
Lincoln and five of Washington. Perhaps a  
Hamilton would have served as well, but he  
lost a duel — in New Jersey, of course.

Cheers,

*Byron*

The Chief Justice

Copies to the Conference

cpm



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

September 12, 1983

MEMORANDUM TO THE CONFERENCE:

Justice Powell will celebrate his birthday on Monday, September 19th. We will follow our usual procedure at lunch on Monday, September 26, 1983, in the Justices' Dining Room.

Regards,

*LFB*

*Memo to CJ*

*Although I am much younger than the Chief (his birthday is the 17<sup>th</sup>), I suggest we celebrate both on the 26<sup>th</sup>. As the "junior," I will provide the wine.*

*L.F.P.*

*Sally - Be sure to remind me to ~~bring~~ - on the Friday before (the 19<sup>th</sup>) to bring me wine.*



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

Dear Lewis  
Congratulations!  
But no matter how you try  
you can never "catch up"  
Barbara

9/19/83



Supreme Court of the United States  
Washington, D. C. 20543

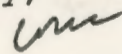
CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

September 29, 1983

Dear Chief:

I enclose my check for \$10.00 in order to keep the "mess fund" healthy. Byron's similar letter of transmittal of his share refers to Hamilton losing a duel "in New Jersey, of course." Since he has brought up the subject of New Jersey, and since New Jersey is the ancestral home of one of our colleagues, I cannot help but recommend to you all a recent article in Harper's about New Jersey being the cancer center of the nation. It appears that the New Jersey Tourist Agency had adopted a slogan for a new campaign to get people to come to New Jersey, a slogan which consisted of the punchy phrase "New Jersey's Got It!" It seems that they had to withdraw the slogan, because too many New Jersey wags were adding "And I Hope I don't Catch It!"

Sincerely,



The Chief Justice

cc: The Conference



CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

September 29, 1983

Dear Chief,

I enthusiastically join Byron, Bill and John in thanking you for your magnificent administration of the "mess fund." I too am happy to enclose a likeness of Hamilton. I overlook Byron's and Bill's snide references to New Jersey. It's enough to say it's too bad for Hamilton that Burr was a better shot. I hope neither Byron nor Bill catches it.

Sincerely,

The Chief Justice

Copies to the Conference



✓  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

October 14, 1983

Re: ABA Rules of Discipline

MEMORANDUM TO THE CONFERENCE:

Absent dissent, this letter will go out Saturday, October 15.

Regards,

WRB

The CJ has  
followed my  
recommendation  
LFP



DRAFT LETTER

Dear Mr. Harrison:

On behalf of the Court, I am authorized to commend your Committee for the careful work embodied in proposing Rules of Discipline for the Supreme Court Bar. The Rules have been carefully examined by us, as well as by the Senior Court staff.

The proposed Rules might well be of substantial value to a tribunal that has original authority for imposing discipline on attorneys, but since both admission to and removal from the Supreme Court Bar depend to a large extent upon the determinations made in the first instance by other tribunals, the system your Committee has proposed exceeds the present needs of the Supreme Court in relation to its Bar.

Please express to each member of the Committee, however, our sincere appreciation for their labor.

Cordially,

Mark I. Harrison, Esq.  
Chairman  
ABA Standing Committee on Professional Discipline  
33 West Monroe Street, Seventh Floor  
Chicago, Illinois 60603



November 1, 1983

Dear Chief:

As I have in the past (with your approval), I suggest below clerk applicants whose names you may wish to have your committee consider.

I interviewed 15 applicants, selecting four. The group was the strongest I have seen in several years. I would have been happy with most of them. Three who ended up on my final small list were as follows:

Susan Cole: Graduate of Vassar, Tufts and Duke, now clerking with Judge Seitz.

Rory Little: Graduate of Virginia and Yale Law School. He clerked last year for Judge Oberdorfer who recommended him highly, and is now with the Miller, Cassidy law firm.

Marlin Risinger: Colorado College, University of Virginia, where he was Editor-in-Chief of the Law Review. He is now with Judge Seitz. Risinger's father is a successful lawyer in Shreveport.

All three of the above impressed me most favorably, and each had strong recommendations from faculty members. I would have been 100% happy to have any of them.

Sincerely,

The Chief Justice

lfp/ss



<sup>The</sup>  
TO, Chief Justice:

MEMORANDUM

TO: CHIEF JUSTICE BURGER  
FROM: Jim Donovan *JD*  
DATE: November 14, 1983  
SUBJECT: Holiday Schedule

*Chief - Jim asks a question. See my answer below*

Following the same schedule as last term on the Atex System, I recommend the system be shut down on special holidays as follows:

Thanksgiving Day -- all day

? Christmas -- from 4 p.m. Saturday (Christmas Eve) through Christmas Day.

*I'd shut down all of Christmas Eve!*

(Due to observance of the federal holiday on Monday, Dec. 26 and Monday, Jan. 2, may the system be shut down on those days also? Alternatively, be in operation for only the day shift, 8:00 a.m. to 4:00 p.m.?)

New Year's -- all day

This schedule would be subject to change at your direction.

*Chief - I'd favor a shut-down all day on Dec 26. I'd not oppose a shut down on Jan. 2<sup>nd</sup> but would prefer a day shift.*

1983 NOV 14 AM 10 50

RECEIVED  
CLERKS OF THE  
CHIEF JUSTICE

*Lewis*



November 15, 1983

Holiday Schedule

Dear Chief:

This replies to your inquiry about the holiday schedule.

I see no reason for the Atex system to be operational at all on Christmas Eve. Not only is this Saturday, it is de facto a traditional holiday.

Similarly, I would favor a shut down all day on Monday, December 26. A good many people here will be spending the long Christmas weekend away. It will be difficult indeed to return to Washington in time to work on December 26.

I do think a good many of us will be here on Monday, January 2. I expect my Chambers to be functioning that day. I would be content, however, with the Atex day shift only (8:00 a.m. to 4:00 p.m.).

Sincerely,

The Chief Justice

lfp/ss

cc: The Conference



December 12, 1983

Dear Chief:

Friends in Virginia have proposed Professor A. E. Dick Howard to serve on the 1987 Bicentennial Commission. My understanding is that the members of this Commission are to be nominated, four each, by the President, the Speaker of the House and the Chief Justice. I am not familiar with the timing or the procedure with respect to appointments. I write only to call your attention to Dick Howard.

I believe you know Dick, although his clerkship here with Justice Black was - as I recall - in the early 60s. Dick, a Rhodes scholar, has been on the faculty of the University of Virginia Law School since he graduated there, and holds one of the better chairs. He has taught constitutional law, and become recognized also as a leading authority on the founding of our country. He has published a good deal on the Bill of Rights, was a Woodrow Wilson scholar in residence here in Washington for two years, and is widely recognized as a scholar of genuine quality.

As Dick is from Richmond, I have known him since he was a teenager. I had the opportunity to work with him closely when he was the Executive Director of the staff of lawyers who worked for a year with the Virginia Constitutional Revision Commission on which I served. He is an indefatigable worker, and writes with great facility.

Sincerely,

The Chief Justice

lfp/ss



December 28, 1983

PERSONAL

Dear Chief:

Bill Foley's memorandum of December 23 to all federal judges prompts me to write. (copy enclosed).

Bill's letter refers to the requirement that the FTS telephone system be used "exclusively for official business". I was told when I came to the Court, as I recall by Potter, that Justices properly could use the FTS to call children out of town and for necessary personal matters such as calling my bank and CPA firm in Richmond.

I also understood that the Court paid a fixed annual fee for the service without regard to how much or little it was used. Last year, as I understand it, our annual fixed fee was substantially increased, and we were told that if use of the phones exceeded the coverage of the fee, there would be additional charges. This applied, however, only to calls made between 8:00 a.m. and 5:00 p.m., on normal business days. Mr. Cornelison advised that calls after 5:00 p.m., for example, added nothing to what the Court would be required to pay.

I have continued to make calls as indicated above to family members, and on necessary personal business in Richmond. For example, I am required by the Ethics in Government Act, to keep appropriate records and this is done for me both by the bank and CPA firm.

In light of Bill Foley's memorandum, I would like to be sure that my understanding from Mr. Cornelison is correct, and also to know your private opinion as to whether the type of calls I have described properly may be made.

Sincerely,

The Chief Justice

lfp/ss



ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

WASHINGTON, D.C. 20544

WILLIAM E. FOLEY  
DIRECTOR

December 23, 1983

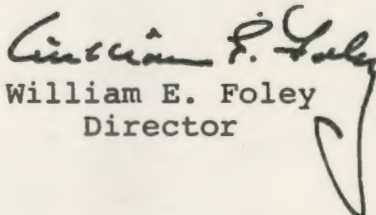
JOSEPH F. SPANIOL, JR.  
DEPUTY DIRECTOR

DEC 23 1983

MEMORANDUM TO ALL UNITED STATES JUDGES

SUBJECT: Use of Government Telephone Facilities.

Attached please find a revision to the Judges' Manual (Vol. III, Guide to Judiciary Policies and Procedures) which provides that Government telephone facilities are to be used exclusively for official business. I assume that many judges and other judicial branch personnel have been adhering to this principle as an implied rule of conduct, but this revision will remove any ambiguity and will serve as a permanent and formal notification that Government telephone lines are not to be used for personal calls, especially long-distance calls. Although this rule may seem unduly inflexible, note that the Government has long imposed strict regulations on the use of telephone services. For example, 31 U.S.C. § 1348(a)(1) prohibits the use of appropriations to install telephones in private residences, and the Comptroller General has made clear that the prohibition is absolute, "irrespective of the desirability or the necessity of such services from an official standpoint." 35 Comp. Gen. 28, 30 (1955). While it is perhaps unrealistic to expect that no personal calls will ever be made over Government lines, judges and their staff are obligated to avoid usage which might result in any additional expense to the Government and, in particular, to avoid making any personal long-distance calls on Government facilities.

  
William E. Foley  
Director

Attachment



## AMENDMENT TO THE JUDGES' MANUAL REGARDING TELEPHONE SERVICE

Regulations in the Judges' Manual regarding telephone service (Vol. III, Guide to Judiciary Policies and Procedures, Title VII, Part A) are amended by adding a new paragraph 2 as follows:

### 2. Restrictions on Usage.

Government telephones are to be used for official business only. In particular, personal long-distance calls are prohibited from being made on Government telephones. If made, such calls will be charged to the employee and, in addition, a penalty or disciplinary action may be incurred. See generally, 43 Comp. Gen. 163, 165 (1963), 5 C.F.R. § 735.205 and 41 C.F.R. § 101-37.105-4 (relating to executive agencies) and GAO General Regulation No. 121 (1955) (which provides that Government telephone facilities may be used for unofficial purposes only in emergency situations when no public facility is immediately available).

Furthermore, use of Government-issued telephone credit cards is disfavored, in that calls charged to credit cards include a premium for operator assistance. If official calls must be made from a private phone (e.g., from a judge's home after regular office hours), it is far more economical if the caller places the call directly and obtains reimbursement by voucher in the same manner as for office expenses, taxi fares, etc. See generally, 31 U.S.C. § 1348(b).

Existing paragraphs 2 through 6 of this section are renumbered 3 through 7.

Under separate cover, this amendment will be transmitted in a format suitable for physical insertion in the Judges' Manual.