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The following documents appearing in FBI files have been reviewed under the provisions of The Freedom of Information Act (FOIA) (Title 5, United States Code, Section 552); Privacy Act of 1974 (PA) (Title 5, United States Code, Section 552a); and/or Litigation.

FOIA/PA Litigation Executive Order Applied

Requester: _____
Subject: _____
Computer or Case Identification Number: _____
Title of Case: _____ Section _____
* File _____
Serials Reviewed: _____

Release Location: *File _____ Section _____

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b2

File Number: 77-HQ-106904 Section 3
Serial(s) Reviewed: A4

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FOIPA Subject: _____
FOIPA Computer Number: 1029206

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DATE: 10/27/05

ATTENTION

DO NOT REMOVE FROM FILE

LAST SERIAL: 144

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Cleveland *WVC*

DATE: 10-27-71

FROM : L. H. Martin *LHM*

SUBJECT: LOUIS FRANKLIN POWELL, JR.
WILLIAM HUBBS REHNQUIST, JR.
SUPREME COURT NOMINEES

- Tolson _____
 - Felt _____
 - Rosen _____
 - Mohr _____
 - Bishop *B* _____
 - Miller, E.S. _____
 - Callahan _____
 - Casper _____
 - Conrad _____
 - Dalbey _____
 - Cleveland _____
 - Ponder _____
 - Bates _____
 - Tavel _____
 - Walters _____
 - Soyars _____
 - Tele. Room _____
 - Holmes _____
 - Gandy _____
- b6
b7c

The New York Office has advised that it had occasion to interview [redacted] in New York, who until 1969 was in the Office of Legal Counsel in the Department of Justice. He was in the latter office for a short period after Rehnquist took over in 1969.

New York advised that on contacting [redacted] he volunteered that he had already been contacted by representatives from both Senator Edward M. Kennedy (Democrat-Massachusetts), and Senator Birch Bayh (Democrat-Indiana), soliciting his comments regarding Rehnquist.

[redacted] commented favorably regarding Rehnquist and furnished an unqualified endorsement. He added his comments to FBI were the same as those furnished Kennedy's and Bayh's representatives.

ACTION:

This is for information. The Office of the Deputy Attorney General is being advised.

- 1 - Mr. Felt
- 1 - Mr. Rosen
- 1 - Mr. Mohr
- 1 - Mr. Bishop
- 1 - Administrative Review Unit
Crime Records Division
- 1 - Mr. Cleveland
- 1 - Mr. Martin
- 1 - [redacted]

77-106904-101

NOT RECORDED

JAN 19 1972

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMM

JAN 25 1972

JAN 20 1972

UNRECORDED COPY FILED IN 77-121928

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE DENVER	OFFICE OF ORIGIN BUREAU	DATE 10/27/71	INVESTIGATIVE PERIOD 10/26/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY <div style="border: 1px solid black; width: 150px; height: 15px; margin: 5px 0;"></div>	TYPED BY pr
		CHARACTER OF CASE DEPARTMENTAL APPLICANT JUSTICE SUPREME COURT OF THE U.S.	

b6
b7C

REFERENCE: Phoenix telcall to Denver 10/26/71.

RUC

*1 Def...
3 doc...
[Signature]*

V

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *JEM*
COPIES MADE *9/15*

SPECIAL AGENT IN CHARGE *W*

DO NOT WRITE IN SPACES BELOW

77-106904-102

NOT RECORDED
OCT 29 1971

5 - Bureau (77-106904) (AM, RM)

1 - Denver (77-6394)

Agency	Request Recd.	Date Fwd.	How Fwd.	By

Notations

[Signature]

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

A*
COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

[REDACTED]

Office: DENVER

Date:

October 27, 1971

Field Office File #:

77-6394

Bureau File #: 77-106904

Title:

WILLIAM HUBBS REHNQUIST

b6
b7c

Character:

DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES

Synopsis:

[REDACTED], Dept. of Justice, made on-the-spot interviews in Arizona during 1964 in connection with proposed appointment of [REDACTED] as Federal Judge, District of Arizona. Does not recall interviewing REHNQUIST but may have.

- RUC -

DETAILS:

[REDACTED] advised on October 26, 1971 that in 1964 when he was [REDACTED] Department of Justice, Washington D.C., the appointment of [REDACTED] as United States District Judge, District of Arizona, was under consideration. As a result, he made a trip to Arizona and talked to a number of attorneys in Phoenix and Tucson about the qualifications of [REDACTED]. Whether WILLIAM HUBBS REHNQUIST was one of the attorneys interviewed is not now recalled by [REDACTED] but he may have been. [REDACTED] noted he no longer has any notes regarding the matter, and is not personally acquainted with REHNQUIST.

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

1*

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63 (Rev. 12-19-67)

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE ALEXANDRIA	OFFICE OF ORIGIN BUREAU	DATE 10/27/71	INVESTIGATIVE PERIOD 10/24 - 27/71
TITLE OF CASE ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE WILLIAM HUBBS REHNQUIST, aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY <div style="border: 1px solid black; width: 100px; height: 15px;"></div>	TYPED BY kma b6 b7C
		CHARACTER OF CASE DAPLI JUSTICE UNITED STATES SUPREME COURT	

REFERENCES: Bureau teletype to Washington Field, 10/22/71.
 Milwaukee teletype to the Bureau, 10/23/71.
 Washington Field teletype to the Bureau, 10/23/71.
 Washington Field teletype to the Bureau, 10/24/71.
 Bureau teletype to San Francisco, 10/25/71.
 Bureau teletype to Washington Field, 10/24/71.

- P -

see p 11 re CIA (w/?)

LEADS:

ALEXANDRIA

AT ALEXANDRIA, VA.:

*1 copy
2 copies
etc*

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
							PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO	
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO	

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE

COPIES MADE:
5 - Bureau (77-106904)
1 - Alexandria (77-2186)

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77-106904-103
NOT RECORDED
5 JAN 19 1972

Dissemination Record of Attached Report			
Agency	DATE: 07-11-2006		
Request Recd.	CLASSIFIED BY 60309/UC/TAM/DQG/YMW		
Date Fwd.	DECLASSIFY ON: 25X 3.3(1)		
How Fwd.	07-11-2031		
By	Per OGA letter dated 07/11/06		

Notations
[Signature]
~~SECRET~~

60 JAN 25 1972

- A* -
COVER PAGE

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

[REDACTED]

Office:

ALEXANDRIA,
VIRGINIAb6
b7C

Date:

OCTOBER 27, 1971

Field Office File #:

77-2186

Bureau File #:

77-106904

Title:

WILLIAM HUBBS REHNQUIST

DEPARTMENTAL APPLICANT
JUSTICE

Character:

UNITED STATES SUPREME COURT

Synopsis:

Associate recommends REHNQUIST as possessing judicial temperament, qualifications, and legal expertise for Supreme Court appointment, there being no information developed that appointee is racially prejudiced.

(S)

[REDACTED] Northern Virginia Grievance Committee negative. No restrictions imposed on membership, Langley Swimming and Tennis Club, McLean, Va. Review of land records, Fairfax County, Va., determined no adverse restrictions or covenants covering deed negotiated by REHNQUIST, June, 1969. Fairfax County, Va., PD check negative on applicant and wife.

b1

- P -

DETAILS:

DATE: 07-11-2006
CLASSIFIED BY 60309/UC/TAM/DCG/YMW
DECLASSIFY ON: 25X 3.3(1)
07-11-2031
CLASSIFICATION PER OGA LETTER
DATED 07-11-2006

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AX 77-2186

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AX 77-2186

I. INTERVIEW OF

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- 3 -

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1
AX 77-2186
FL:mlm

The following investigation was conducted by SA
[redacted] at Arlington, Virginia, on October 26, 1971:

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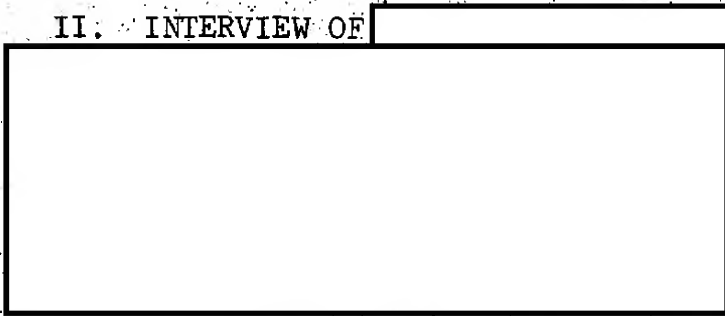
ASSOCIATES

[redacted]
[redacted]
[redacted] advised he has had some professional contacts with the applicant since January, 1969, when the applicant became the Assistant Attorney General for Legal Counsel. The applicant is a very fine man and there is nothing derogatory concerning him. He is a calm, personable, able lawyer who has been helpful to the Department of Defense in its legal problems. The applicant is not known to be a member of any subversive or controversial organization nor to any which is racially prejudiced. He has normal views on civil rights, nothing detrimental is known concerning his temperament, objectivity, or professional ethics. [redacted] does not know the applicant socially and advised he could not furnish any other pertinent information concerning the applicant who is recommended for any position of trust and confidence in the United States Government as he is outstanding in all counts (character, reputation, morals, integrity, personal habits, and loyalty as an American).

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AX 77-2186

II. INTERVIEW OF



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WHC:mlm

The following investigation was conducted on
October 26, 1971, by SA [redacted]

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[redacted]
[redacted] advised
he has known the applicant for two years in a professional
capacity as the applicant was an official in the Department
of Justice. He has not known him socially.

From his experience, he considered the applicant
to be especially well qualified from the standpoint of
legal ability and experience. He said his intelligence
and knowledge of law was outstanding. He has no personal
experience concerning the applicant's trial appearance.

As far as [redacted] knew, the applicant's
personal habits, conduct, sobriety, honesty, loyalty,
and integrity are above reproach. From appearance
applicant's personal health and the character and integrity
of his family are excellent.

[redacted] considered the applicant to be a
person of judicial temperament who was fair, unbiased,
and objective. He knew of no specific organizations
to which the applicant was a member, and he unqualifiedly
recommended the applicant for a judicial position.

Also contacted were [redacted]
[redacted]

all of whom advised they did not know the applicant
professionally or socially but did know him by reputation

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AX 77-2186
WHC:mlm

and that on the basis of this limited knowledge, they were inclined to recommend him for a judicial position.

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AX 77-2186

III. INTERVIEW OF CONGRESSMAN WILLIAM SCOTT

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1
AX 77-2186
HEW:mlm

The following investigation was conducted by
SA on October 24, 1971:

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Congressman WILLIAM SCOTT, Virginia, advised he has met the applicant at least once at a social affair but does not consider himself either socially or professionally knowledgeable of the applicant. However, by reputation and on the basis of his limited knowledge gained through hearsay, he would recommend the applicant for appointment as a Supreme Court Justice.

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AX 77-2186

IV. AGENCY CHECK

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AX 77-2186

V. NORTHERN VIRGINIA GRIEVANCE COMMITTEE

- 12 -

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~~SECRET~~

AX 77-2186

GBH:kma

(1)

NORTHERN VIRGINIA GRIEVANCE COMMITTEE (NVGC)

2054 14th Street
Arlington, Virginia

[REDACTED] NVGC, advised SA
[REDACTED] on October 27, 1971, his records contain
no information of a derogatory nature concerning WILLIAM H.
REHNQUIST.

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AX 77-2186.

VI. MISCELLANEOUS

~~SECRET~~

~~SECRET~~

AX 77-2186

SEL:kma

(1)

MISCELLANEOUS

At McLean, Virginia

The following investigation was conducted by SA
 on October 27, 1971:

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b7C

The
Langley Swimming and Tennis Club, Ball Hills Road, advised
the applicant and family have been members of that club for
the past year.

He advised there is no restrictions whatsoever
regarding membership, such as race, color, creed or national
origin. To his knowledge, there has never been a colored
person or family apply for membership, although they have had
Negro guests on numerous occasions.

He stated the club is limited by Fairfax County to
315 family members and consequently there is normally a long
waiting list of applicants. To date he has never known the
Board to turn down any applicant, for any reason, where a
vacancy exists.

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AX 77-2186

VII. REVIEW OF LAND RECORDS, FAIRFAX COUNTY, VIRGINIA

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AX 77-2186
SEL:mlm

LAND RECORDS

AT FAIRFAX, VIRGINIA

The following investigation was conducted by SA [redacted] on October 26, 1971:

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A review of the records in the custody of the Clerk of Court, Fairfax County, Virginia, contained in Deed Book, Volume 3178, Page 229, revealed the following information:

Instrument Number 15192, described as a Deed of Bargain and Sale, dated June 5, 1969, between [redacted] grantors; and WILLIAM H. and NATALIE C. REHNQUIST, grantees, for the sale of Lot 44, Section, River Oaks, as same appears duly dedicated, platted, and recorded in Deed Book 1579, Page 312, among the land records of Fairfax County, Virginia. The Deed of Bargain and Sale was recorded in Fairfax County, Virginia, on June 10, 1969.

Instrument Number 15193, contained in Deed Book, Volume 3178, Page 231, revealed a Deed of Trust, dated June 5, 1969, between WILLIAM H. and NATALIE C. REHNQUIST and [redacted] Trustee, Arlington County, Virginia, and [redacted] Trustee, Alexandria, Virginia, secured by a promissory note in the amount of \$7,500.00 with interest at seven and one half percent payable in monthly installments of \$75.00 per month, beginning on July 5, 1969, and due and payable in full on June 5, 1974.

Neither of these instruments contained any restrictions or covenants.

A review of Fairfax County, Virginia, Deed Book 1579, Page 312, Instrument Number 19629, revealed a Deed of Dedication in the name of River Oaks, Incorporated, which indicated that 45 lots, located in the Draneville District, Fairfax County, Virginia, were acquired on August 7, 1957, and were to be known as River Oaks, Section Number 3.

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2
AX 77-2186
SEL:mlm

This Deed of Dedication contained the following Restrictions and Covenants:

It shall be residential lots of single family dwellings, not to exceed two and one half stories and a private garage for not more than two cars.

No lot may be subdivided without the express consent in writing of River Oaks, Incorporated, its heirs or assigns.

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

No sign of any kind shall be displayed to the public view on any lot except a professional sign of not more than one foot square; or one sign of not more than five square feet advertising for sale.

No lot will be used for a dumping ground for rubbish.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.

No fences will be permitted nearer the front lot line than the rear corners of the house without the consent of River Oaks, Incorporated.

All plans and specifications for any house to be built on said lot must be approved by River Oaks, Incorporated, prior to the commencement of construction.

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3
AX 77-2186
SEL:mlm

These covenants are to run with the land until January 1, 1980, at which time are automatically extended for successive periods of ten years, unless by a vote of the majority of the then owners of the lots it is agreed to change the said covenants in whole or part.

If parties violate covenants, it shall be lawful for any other person or persons owning real property situated in said development to prosecute any proceedings at law or in equity against the person violating said covenants and either to prevent him or them from so doing and receive damages or other dues for such violations.

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AX 77-2186

VIII. ARREST

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AX 77-2186
HEW:mlm

SA [REDACTED] caused a search to be made of the files of the Fairfax County, Virginia, Police Department, and was advised on October 26, 1971, that no arrest record was located for WILLIAM HUBBS REHNQUIST or his wife, NATALIE C. REHNQUIST, subsequent to January 1, 1964.

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FEDERAL BUREAU OF INVESTIGATION

REC-39 6

REPORTING OFFICE CHICAGO	OFFICE OF ORIGIN BUREAU	DATE 10/27/71	INVESTIGATIVE PERIOD 10/25-26/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST		REPORT MADE BY <div style="border: 1px solid black; width: 150px; height: 15px;"></div>	TYPED BY jto/MDW
		CHARACTER OF CASE DAPLI JUSTICE U.S. SUPREME COURT	b6 b7C

REFERENCES: Butel to WFO, et al, 10/22/71.
WFOtel to Bureau 10/23/71.
Chicago teletypes to New York and Miami, both 10/26/71.

- R U C -

ENCLOSURES

TO THE BUREAU

Five copies each of one article and nine book reviews written by REHNQUIST as listed in instant report.

1 book review with 2 copies of article

ACCOMPLISHMENTS CLAIMED					<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED: *[Signature]*
SPECIAL AGENT IN CHARGE

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ENCLOSURE

77-106904-104 REC-39

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5 JAN 19 1972

ST-118

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Date Fwd.				
How Fwd.				
By				

Notations: *[Signature]*

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- A* -

60 JAN 25 1972

COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of: SA [redacted]
Date: October 27, 1971

Office: CHICAGO

b6
b7C

Field Office File #: 77-16196

Bureau File #:

Title: WILLIAM HUBBS REHNQUIST

Character: DEPARTMENTAL APPLICANT
JUSTICE
UNITED STATES SUPREME COURT

Synopsis: REHNQUIST member of American Bar Association since 1954. No grievances or adverse information in records National Conference of Bar Examiners. Two former associates recommend. Copies of writings by REHNQUIST enclosed.

- RUC -

CG 77-16196
WJB:jto/MDW

DETAILS:

The following investigation was conducted on
October 25 and 26, 1971:

American Bar Association (ABA)
1155 East 60th Street
Chicago, Illinois

[redacted] Clerk, advised REHNQUIST has
been a member of the ABA in good standing since 1954.

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[redacted] Clerk, National Conference of
Bar Examiners, 333 North Michigan Avenue, Chicago, Illinois,
advised her grievance files contained no grievances or any
unfavorable information regarding REHNQUIST.

[redacted]
[redacted] ABA, advised she did not know REHNQUIST
but supplied copies of the following writings by REHNQUIST,
all of which appeared in the American Bar Journal:

1. An article entitled, "The Bar Admission
Cases: A Strange Judicial Aberration."
2. Reviews of following books:
 - "The Grand Convention"
 - "Reapportionment: The Law and Politics of
Equal Representation"
 - "Freedoms, Courts, Politics: Studies in
Civil Liberties"
 - "Felix Frankfurter: The Judge"
 - "Felix Frankfurter: A Tribute"
 - "Libel and Academic Freedom: A Lawsuit
Against Political Extremists"
 - "Race and Property"
 - "Congress: Its Contemporary Role"
 - "The Zoning Game"

ABA, and [redacted]

[redacted] ABA, both advised they did not know REHNQUIST.

CG 77-16196

also supplied the following list of
REHNQUIST's ABA activities:

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WILLIAM H. REHNQUIST*
AMERICAN BAR ASSOCIATION ACTIVITIES
1960-1971

Member, Associate and Advisory Committee to the Standing Committee on Bill of Rights, 1960-62

Member, National Conference of Lawyers and Realtors, 1963-66

Section of Administrative Law:

Agency-Section Liaison for the Administrative Committee for Department of Justice, 1969-71

Member of Council, 1970-73

Council Director, General Committee on Agency Rule Making, 1970-71

Council Director, Special Committee on Military Law

*Mr. Rehnquist has been a member of the American Bar Association since 1954.

10/26/71

CG 77-16196

EJN/mj

1

Miscellaneous

On October 26, 1971, [REDACTED]

[REDACTED] advised that he knew REHNQUIST as his **successor** as law clerk to Justice Jackson, Supreme Court of the United States, in 1952. He said their periods of tenure overlapped about three months in the summer of 1952. He has known REHNQUIST socially since that time while in Washington and occasionally intermittently to the present time. He said REHNQUIST was a top legal scholar, very bright and a first rate law clerk. He said REHNQUIST is a unquestionably loyal American of top moral character and reputation. [REDACTED] said he has always regarded REHNQUIST as a stable, emotionally mature, sober, intelligent, unbiased individual of whom he knows nothing of an adverse nature. He stated he believes REHNQUIST possesses a personality, composure and temperament befitting the position for which he is considered and he highly recommends him as a Supreme Court Justice.

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CG 77-16196

EJN/mj

1

On October 26, 1971, [REDACTED]

[REDACTED] advised he was acquainted with WILLIAM REHNQUIST as a fellow law clerk at the Supreme Court of the United States in 1951-1952. He has had no association with REHNQUIST since that time, but advised that during that period he regarded REHNQUIST as an unquestionably loyal American of excellent character, reputation, morals, associates and habits. He said he knew of no organizations with which REHNQUIST may have been associated and was not privy to his attitude towards civil rights, integration, etc. He said REHNQUIST was a very competent law clerk with high legal ability. He said REHNQUIST by reputation is an excellent lawyer and he believes he would be an excellent justice for the Supreme Court.

b6
b7C

ENCLOSURES (10) TO BUREAU FROM CHICAGO

1 copy ea of following:

1. An article entitled, "The Bar Admission Cases: A Strange Judicial Aberration."
2. Reviews of following books:
 - "The Grand Convention"
 - "Reapportionment: The Law and Politics of Equal Representation"
 - "Freedoms, Courts, Politics: Studies in Civil Liberties"
 - "Felix Frankfurter: The Judge"
 - "Felix Frankfurter: A Tribute"
 - "Libel and Academic Freedom: A Lawsuit Against Political Extremists"
 - "Race and Property"
 - "Congress: Its Contemporary Role"
 - "The Zoning Case"

**RE: WILLIAM HUBBS REHNQUIST
DAPLI, JUSTICE, US SUPREME COURT**

CGfile 77-16196

Transmitted via CGrpt of SA 10/27/71

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77-106904-104
ENCLOSURE
on envelope

The Bar Admission Cases:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

A Strange Judicial Aberration

by William H. Rehnquist • of the Arizona Bar (Phoenix)

Mr. Rehnquist's article is critical of the Supreme Court's decision of last June ordering a reconsideration of the cases of two law school graduates denied admission to the Bar by state character and fitness committees. His quarrel is not so much with the fact that the Court apparently felt that the two young men—suspected of Communist sympathies—should have been admitted to practice law; it is with the Court's treatment of the record.

Communists, former Communists, and others of like political philosophy scored significant victories during the October, 1956, Term of the Supreme Court of the United States, culminating in the historic decisions of June 17, 1957. In two opinions handed down in early May, 1957, the Court held that two applicants to take state bar examinations—one an admitted ex-Communist and one identified as a Communist—had been deprived of constitutional rights by their respective state Bars when the latter refused to let them take the examination. Neither *Schwartz v. Board of Bar Examiners of the State of New Mexico*, 77 S. Ct. 752, nor *Konigsberg v. State Bar of California*, 77 S. Ct. 722, was considered by most newspapers to be of the same front page importance as some of the later decisions of the Court; but for the reasons discussed below, these two bar admission cases may be the most remarkable of the entire term.

In *Schwartz*, the New Mexico Bar Examiners had determined that Rudolph Schwartz, an applicant for ad-

mission to the New Mexico Bar, had failed to show the good moral character which New Mexico (and almost every other jurisdiction) requires for admission. This ruling was upheld by the state supreme court, 291 P. 2d 607, rehearing denied, 291 P. 2d 629. In *Konigsberg*, the California examiners found that Konigsberg had failed to show affirmatively either that he was of good moral character or that he did not advocate the overthrow of the state or federal governments by force or violence. The state supreme court by minute order denied further review. A majority of five of the Supreme Court of the United States held that these factual determinations were not "rationally justified". In *Schwartz*, the remaining three of the eight participating Justices concurred on a separate ground; in *Konigsberg*, the same three dissented, one on jurisdictional grounds and the other two on the merits. This article is concerned only with the opinion of the Court, written in each case by Mr. Justice Black.

What do the reported opinions tell

us of the facts?

Schwartz was born in 1914 in New York City. Finishing high school in 1932, he joined the Communist Party. He left it for a short period in 1937, rejoined and finally left it in 1940. He testified that the reason he joined was his dissatisfaction with the lack of vigor of the socialist movement during the depths of the depression. In the years following his graduation from high school, he was active as a labor organizer in a variety of jobs. During this time, he used two different aliases, both Italian names. He gave three different explanations for why he had done this: (a) to enable him to be a more effective organizer among predominantly Italian workers, (b) to obtain employment in the shipyards, where Jews were not often employed and (c) upon being arrested in connection with the waterfront strike in California in 1934, so that he would not be fired as a striker when he returned to work.

Schwartz had been arrested at least twice during the 1934 California strike on "suspicion of criminal syndicalism". He had been arrested and indicted, in 1940 for violation of the Neutrality Act, in connection with his activities in recruiting soldiers for Loyalist Spain. He was arrested in 1941 while driving a car to the West Coast on suspicion that the car was stolen. None

of these charges was ever prosecuted to conviction.

In 1944, some four years after he, according to his own testimony, had left the Communist Party, Schwarc had written a letter to his wife. The letter, which he offered in evidence, contained the following passage:

Jim Crow is on a par with anti-Semitism, anti-Catholicism, anti-Communism. . . . All the above antis I mentioned are most dangerous and stupid mistakes for Americans to make. . . .

Finally, in response to written request on the application for such information, Schwarc had furnished practically none of the names of persons by whom he was employed or street addresses at which he had lived during the years 1932 through 1944.

Schwarc produced a number of testimonials, both oral and written, to his good moral character. Concededly they would support a finding of good moral character had one been made; since the trier of fact made no such finding, this evidence would not appear to bear on the constitutional question.

On the basis of this testimony, the New Mexico Bar Examiners concluded that Schwarc had not carried his burden of proof on the issue of good moral character. He then appealed to the Supreme Court of New Mexico, which said in its opinion:

On the basis of these considerations, we must approve the recommendations of the Bar Examiners. . . . They questioned petitioner, heard him, and observed his demeanor. . . . [291 P. 2d 607, 617].

The Konigsberg Case . . . The Fifth Amendment

Konigsberg had three hearings before the California Board of Bar Examiners. The position he finally took in these hearings was that he would deny that he advocated the overthrow of the government by force and violence, but would answer no other questions on this subject. He specifically refused to answer whether he was now or ever had been a member of the Communist Party. He ascribed his refusal to answer to his claimed constitutional right to remain silent

(not the privilege against self-incrimination). He was repeatedly told by various examiners that his recalcitrance would make it difficult or impossible for the Committee affirmatively to certify him as meeting the two standards required for the California Bar. At one point, Konigsberg intimated that he feared a perjury prosecution if he denied membership in the Communist Party; the following exchange took place:

Mr. Sterling: You are afraid if you answer the questions as to membership in the Communist Party in the negative and say "No I am not a member and I never have been", assuming you made that answer, you are afraid that we could find half a dozen people that were on a perjury trial and the jury believed them and not you, you committed perjury.

Mr. Konigsberg: I am saying that no matter what answer I gave whether I was or wasn't, undoubtedly there would be several whom you could get to say the opposite, and as I said before—

Mr. Sterling: Subjecting you to a perjury charge?

Mr. Konigsberg: Yes. . . .

A woman who was a former Communist Party member testified in Konigsberg's presence that in 1941 he had attended meetings of the party unit to which she had belonged. Konigsberg had written editorials in a local newspaper which criticized in strong language American participation in the Korean War and the action of the Supreme Court in refusing to review the conviction for contempt of the so-called "Hollywood Ten".

Konigsberg produced numerous testimonials from persons who had known him all of his adult life as to his good moral character. As with Schwarc, these testimonials would have amply supported a finding of good moral character had the trier of fact so found.

On the basis of this evidence, the California Bar Examiners concluded that Konigsberg had failed to show either that he was of good moral character or that he did not advocate the overthrow of the government by force and violence. The Supreme Court of California rendered no opinion in denying him a hearing.

How did the Supreme Court of the United States reach the conclusion that these two applicants had been denied their rights under the Fourteenth Amendment's "due process" clause by their respective state Bars?

Both Schwarc and Konigsberg had contended that certain specific actions of the examining boards or rules governing admission to the Bar were unconstitutional as applied to them. Schwarc argued that (1) the New Mexico examiners had used confidential information to which he was denied access, and (2) New Mexico could not validly consider membership in the Communist Party, at a time when that Party was lawful in the state, as a ground for denying admission. Konigsberg claimed that (1) California could not impose a categorical requirement that a bar applicant must not advocate the overthrow of the government by force and violence, and (2) he had a constitutional right to remain silent in the face of the examiners' questions about present and past membership in the Communist Party. The Supreme Court majority found it unnecessary to decide any of these questions, and it may be inferred that for purposes of argument it overruled them.

Nor does the Court disallow either of the standards for bar admission involved in these cases: good moral character and non-advocacy of violent overthrow. Schwarc states generally that the qualifications required by the state for admission to the Bar must have rational connection with the ability to practice law, 77 S. Ct. 756, but does not suggest that either of these requirements run afoul of such a rule. The Court also declares that states may not apply permissible standards so as to exclude an applicant when there is no rational basis for a finding that he fails to meet these standards, or when such a finding is invidiously discriminatory as to the applicant, citing *Yick Wo v. Hopkins*, 118 U.S. 356, 6 S. Ct. 1064. *Yick Wo* struck down discriminatory administration of a local ordinance, the pleadings showing that all Caucasian applicants received discretionary exemptions from the ordinance's effect while no Chinese applicants received such an exemption. In

neither *Schware* nor *Konigsberg* do the opinions suggest that there is any evidence in the record showing that these applicants were treated differently by their respective examiners from other similarly situated applicants, or that any class to which they belonged was the object of invidious discrimination.

The one proposition, of the two for which it is apparently cited by the Court, for which *Yick Wo* stands, then, is not involved in these cases. The Court actually proceeds on the premise that there is no basis in fact for the finding of the bar examiners, rather than on the premise that the respective states have applied more rigorous standards to these applicants than to others.

This approach, in itself, is something of a novel one; the one case cited for it, *Yick Wo*, does not appear to deal with it. Even in its statement, this new "due process" sounds little different from the test which state appellate courts apply to review jury verdicts in the type of cases which constitute the staple of *their* business. In almost every lawsuit, the losing party is deprived of either life, liberty or property, and this deprivation is based on a factual finding by a judge or jury. If the losing litigant can show to the satisfaction of some court that a factual finding is not "rationally justified", *Schware*, 77 S. Ct. 760, or that there are not "substantial doubts", *Konigsberg*, 77 S. Ct. 728, to support a negative finding, does he then have a constitutional case? Unless there is some reason why being denied admission to the Bar is a constitutionally more serious deprivation than being imprisoned or suffering a large adverse money judgment, or unless former Communists and suspected Communists are a specially favored class who alone may invoke this new due process, logically the Court has made almost every case a "due process" case.

The Supreme Court has long held that when a constitutional claim depends on a finding of fact in a court below, it will review the record to see if the evidence supports the factual finding of the lower court. *Local Union No. 10 v. Graham*, 345 U.S. 192,

197, 73 S. Ct. 585, 587, 97 L. ed. 946 (cited as "cf." in *Konigsberg*, note 17), which in turn cited *Milk Wagon Drivers' Union v. Meadowmoor Dairies*, 312 U.S. 287, 293, 294, 61 S. Ct. 552, 555, 85 L. ed. 836. But this factual review has in the past been ancillary to the decision of an independently presented constitutional question; in *Schware* and *Konigsberg* it is the constitutional *pièce de résistance*.

The novelty of the doctrine is not limited to its statement; even more surprising is its application in these two cases. Many lawyers used to traditional rules of appellate review will be surprised in the manner in which the Supreme Court canvassed the facts in each case.

In *Schware*, the trier of fact had before it admissions by the applicant of previous membership in the Communist Party, use of aliases and criminal charges. In addition, *Schware*, whether intentionally or not, had effectually prevented further checking of his story by failing to furnish names of employers and addresses at which he had lived. In view of the fact that *Schware* had an affirmative burden to prove good moral character, would not many impartial observers say that New Mexico's refusal to accept an applicant who made no explanation of such a record would be far from arbitrary or irrational?

Schware did offer explanations of many of these incidents, which, if believed, would tend substantially to mitigate their gravity. But the Supreme Court treats these self-serving explanations by *Schware* as if they were entitled to the same weight on appeal as the admissions by him which reflect on his character. The Court's opinion states as *facts* the various reasons *Schware* assigned for his conduct. The usual rule of appellate review is that the trier of fact is at all times free to disbelieve the whole or any part of the testimony of an interested party, which *Schware* surely was here. It could hold his admissions against him and yet decide to believe none of his explanations, either because of his demeanor or because of his naturally strong motive to dissemble if dissembling



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were necessary to carry the day for him. The opinion of the highest court of the land, which on such a basis reverses a finding by the trier of fact against the party having the burden of proof, is either a drastic departure from these settled principles, or a constitutional overriding of them which is neither adverted to nor justified in the opinion.

The California Bar Examiners had before them the identification of *Konigsberg* as a Communist in 1941, together with his extreme recalcitrance in answering any questions about membership in the Communist Party, and his editorials (which, while standing alone would by no means brand the author a Communist, were nonetheless wholly consistent with his having been a Communist much later than 1941). Again, would it not appear to impartial observers that when an applicant confronted with such a record stands mute and completely refuses to answer questions clearly relevant to the standard which the Court says, at least *arguendo*, California might apply, his rejection by the examiners was not irrational?

The Court's opinion, however, while

it did not hold that Konigsberg was entitled to the constitutional privilege of silence which he claimed, stated,

... we find nothing in the record which indicated that his position was not taken in good faith. Obviously the State could not draw unfavorable inferences as to his truthfulness, candor, or his moral character in general if his refusal to answer was based on a belief that the United States Constitution prohibited the type of inquiries which the Committee was making. [citing cases] [77 S. Ct. 732].

The two cases of its own which the Court cites for this latter proposition appear to deal only with the permissible inferences from a valid claim of the constitutional privilege against self-incrimination. They appear to leave untouched the question of inferences from an invalid or unwarranted claim of privilege. But even if it is to be from now on a federal constitutional rule that no fact-finding tribunal may draw an adverse inference from the refusal of a party to answer pertinent questions based on an erroneous but honest belief that he was constitutionally privileged in so refusing, see *Barsky v. Board of Regents*, 347 U.S. 442, 457, 74 S. Ct. 650, 659 (dissenting opinion of Mr. Justice Black), the inquiry still remains as to who is to decide whether the refusal was in good faith. The Court's opinion says that there is nothing "in the record" which suggests lack of good faith. Again, as pointed out in the dissenting opinion of Mr. Justice Harlan, such questions are traditionally for the trier of fact, which has the opportunity to observe the witness while he testifies. To many whose acquaintance with ordinary fact-finding is greater than with constitutional law, the Court's opinion does not satisfactorily explain why the California examiners were not allowed to disbelieve Konigsberg's essentially self-serving statement as to why he refused to answer. Such explanation would seem all the more necessary in view of the colloquy between Sterling and Konigsberg with regard to a feared perjury prosecution set forth above. Motive may be immaterial when the claim of privilege is justified, but when the Court's own statement requires an erroneous claim of privilege to be

made in good faith, it is difficult to see why the trier of fact is not allowed to determine the question of good faith.

The Final Effect . . . A Trial De Novo

In short, what the Supreme Court of the United States has done in each of these cases is to give the applicants a *de novo* trial on the basis of the printed record. It has chosen to believe every self-serving statement made by each applicant and on the basis of such "facts" to hold that the findings below were not "rationally justified". One must go back thirty-seven years to the case of *Ohio Valley Water Co. v. Ben Avon Borough*, 253 U.S. 237, 40 S. Ct. 527, to find even a color of precedent for such a procedure. The rule laid down in *Ben Avon Borough*, which in the light of these cases seems quite restrained, was only that where a utility charged that governmentally fixed rates confiscated its property, it was entitled to a trial *de novo* in some court on the issue of confiscation. Even Mr. Justice McReynolds, speaking for a divided Court, did not suggest that the *de novo* trial should take place in the Supreme Court of the United States.

Nor has the recognized doctrine of review of the record where a constitutional claim depends on a lower court's finding of fact. *Local Union No. 10, Milk Wagon Drivers' Union, supra*, ever gone to such lengths. In the past this rule has meant that the Court would, in contrast to its usual policy of refusing to canvass facts at all, review the record the way a state appellate court would. The opinion of the Court in *Milk Wagon Drivers' Union v. Meadowmoor Dairies, supra*, specifically stated in connection with the application of this rule: "It is not for us to make an independent evaluation of the testimony before the master", 312 U.S. 237, 294, 61 S. Ct. 552, 555.

It is all but incredible that the majority of the Court in *Schwartz* and *Konigsberg* can mean their rule of "rational justification" to have general application. Yet if *Schwartz* and *Konigsberg* are to be its beneficiaries, why not every other litigant before the Court? As suggested above, denial of

the right to practice a calling is not invariably and indisputably more onerous than other adverse results commonly reached in both civil and criminal litigation. The only remaining difference between *Schwartz* and *Konigsberg*, on the one hand, and a hypothetical litigant who would seek advantage of the rule of their cases, on the other, is that *Schwartz* was an admitted ex-Communist and *Konigsberg* was accused of being a Communist. Conceding that they should be treated no worse than other litigants, is there any reason why they should be treated better? Rationally it is difficult to understand why such persons are entitled to factual review and trial *de novo* in the Supreme Court while the ordinary man in the street is not. Since the result reached here is not ostensibly based on any "civil liberties" claim, even that ground of distinction is lacking.

If the Court had chosen to give the stamp of approval to those claims of *Konigsberg* and *Schwartz* which it bypassed, many persons would have disagreed with the result. Nonetheless, the result would have been a principle which could have had application to all similarly situated persons. The most serious criticism of the Court's opinions in *Schwartz* and *Konigsberg* is not that they require such persons to be admitted to practice law—a result about which thoughtful people may disagree—but rather that they reach their result by a line of reasoning which appears to be good for these cases only. Just as surely as *Schwartz* and *Konigsberg* cannot rationally be limited to Communist and suspected Communist bar applicants, they cannot practically be applied to other classes of cases without making the Supreme Court of the United States an appellate court of general jurisdiction. A decision of any court based on a combination of charity and ideological sympathy at the expense of generally applicable rules of law is regrettable no matter whence it comes. But what could be tolerated as a warm-hearted aberration in the local trial judge becomes nothing less than a constitutional transgression when enunciated by the highest court of the land.

of justice, the manuscript of an unfinished work he left among his papers and the democratic resolution.

The volume is a welcome repository of the best of Edmond Cahn. It enriches our understanding of his pragmatic approach and serves as an excellent addendum to the three works he published during his lifetime.

—LESTER E. DENONN

LEGAL RESTRAINTS ON RACIAL DISCRIMINATION IN EMPLOYMENT. By Michael I. Sovern. New York: Twentieth Century Fund, 1966. \$6.00. Pages 270. *Reviewed by Robert F. Drinan, S.J., Dean of the Boston College Law School.*

This volume by Professor Sovern of Columbia University Law School is probably the most up-to-date survey of federal and state laws prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, which created the Equal Employment Opportunity Commission, is, of course, one of the most important topics of this study.

After reviewing the history, the limitations and the lack of enforcement of state and federal laws banning bias in hiring, Professor Sovern sets out a model fair employment practices law. Its charter would be sweeping and its enforcement powers rigorous. It would borrow techniques and tactics from other administrative agencies—as, for example: the cease-and-desist order of the National Labor Relations Board.

Attorneys involved or interested in the strictly legal aspects of antidiscrimination legislation will find this study helpful. Others may be disappointed that the author has not delved more into the basic economic and educational factors underlying massive bias against the Negro—issues which, the author concedes, have not substantially been resolved anywhere by law. This volume, moreover, seems to assume that, even though statutes forbidding discrimination in employment have never really been very effective, they could and would be effective if their drafting and their enforcement were improved. The author, to be sure, admits that “by themselves anti-discrimination measures will not sat-

isfy” the needs of the Negro; for this, “remedial action on a huge scale by private businesses” will be needed.

This study, however, should not be faulted because it has not treated the complex subject of the law's ability—or lack of it—to diminish prejudice. This volume is designed to be and is a comprehensive analysis of the weaknesses and the potential in existing federal and state laws forbidding discrimination in employment on the basis of race or color.

—ROBERT F. DRINAN, S.J.

1787: THE GRAND CONVENTION. By Clinton Rossiter. New York: The Macmillan Company, 1966. \$7.95. Pages 443. *Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).*

Subtitled “The Year That Made a Nation”, this work tells the story of the Constitutional Convention that met in Philadelphia during the summer of 1787. The major part of the book is devoted to the deliberations of the convention itself and to thumbnail biographies of the delegates who attended it; other chapters, however, describe the United States in 1787, the struggle for ratification of the Constitution and the latter days of the framers. The author combines an agreeable blend of fact and interpretation to make a first-rate contribution to American political history.

The author declares that 1787 is the “year of the supreme event in the life of the American people”, and convincingly defends that claim against those for the rival years 1776, 1861 and 1941. He categorically rejects the twin notions that (a) the framing of the Constitution represented a conservative reaction against the radical spirit of the American Revolution, and (b) the motivations of the proponents and opponents of the convention's work were explainable almost entirely in terms of economic self-interest. He exhibits the convention as a case study of the give-and-take process that characterizes the best of representative assemblies.

1787 devotes ninety-five pages to the deliberations of the convention itself; Madison's *Notes* devotes several hun-

dred pages to the same subject. By such condensation, the author of *1787* is enabled to include encyclopedic amounts of information about the framers themselves and about the aftermath of the convention within the pages of his volume. But the condensation makes his treatment of the deliberations significantly inferior to Madison's *Notes* in the “you are there” sense of immediacy, which is a major factor in creating reader interest.

The author concludes his section on the convention with an engaging ranking of the framers, ranging from “principals” at the top of the scale to “ciphers” and “dropouts and walkouts” at its bottom. Predictably, James Madison, James Wilson and George Washington make the first team, in that order. Less predictably, at least to this reviewer, is the nomination of Gouverneur Morris as the fourth and last “principal”, but the author argues persuasively for his inclusion within the select group.

At the end of a scholarly concluding chapter entitled, “The Last Years of the Framers”, the author succumbs to the temptation to deliver a peroration which, in two pages, evaluates the development of constitutional law from the death of Madison through the 1964 decision of the Supreme Court of the United States in *Wesberry v. Sanders*. In view of the space limitations, this temptation would better have been resisted.

The illustrations included in the book add appreciably to it. No less than twenty-four of the framers are depicted. Most valuable of all is the photograph of the chair in which George Washington sat while presiding over the convention, about which Franklin made this magnificent remark in the waning hours of deliberation:

Dr. Franklin, looking towards the president's chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that painters had found it difficult to distinguish in their art a rising sun from a setting sun. I have, said he, often and often in the course of the session and the vicissitudes of my hopes and fears as to its issue, looked at that behind the president, without being able to tell whether it was rising

or setting: But now at length I have the happiness to know that it is a rising and not a setting sun.

—WILLIAM H. REHNQUIST

JAMES BOSWELL: THE EARLIER YEARS, 1740-1769. By Frederick A. Pottle. New York: McGraw-Hill Book Company, 1966. \$12.50. Pages xviii, 574. Reviewed by Alexander Eulenberg, Loyola University, Chicago.

This reviewer has read no more thorough or interesting Ph.D. dissertation than this biography of the first twenty-nine years of the life of James Boswell (he died in 1795 at the age of fifty-five) by Professor Frederick A. Pottle of Yale University. It is hoped that the author will follow through with an account of the last twenty-seven years.

Prior to the discovery of the so-called Malahide papers in the 1920's, James Boswell was known to the modern generation as the very inferior person who had written a very superior biography of a very superior man, Samuel Johnson. In fact, in the introduction to the Modern Library edition of Boswell's *Life of Johnson*, Herbert Askwith characterizes Boswell as "... an even greater fool and tenacious interloper than we had all along known him to be...". Askwith, at the time he wrote, could not be blamed for echoing Macaulay who had written a hundred years earlier that Boswell "... was a man of the meanest and feeblest intellect... servile and impertinent, shallow and pedantic, a bigot and a sot, bloated with family pride...". Macaulay's venom might have been occasioned by the fact that he, too, had written a *Life of Samuel Johnson*, which never had the impact of Boswell's.

Pottle, without minimizing Boswell's faults, puts them in proper perspective against his many enduring accomplishments. Boswell was a lawyer, and a busy and fairly prosperous one (albeit most of his defenses of clients on criminal charges resulted in their conviction!). He was trained at Utrecht in

Holland, for the Scottish law stemmed, as did the Dutch, from the Roman law and Justinian.

The American lawyer, now concerned with that newly emerging type of real estate ownership known as the condominium, will be surprised to find this description of an equity in real estate in Edinburgh over two hundred years ago:

The houses are enormously tall; one of them . . . (thought by Edinburgh citizens to be the tallest inhabited building in the world) has seven storeys on the side towards the Close and twelve on the side towards the Cowgate. These towering structures, called "lands" are generally multiple tenements, each storey (called a "house") being owned by a different family. The apartments are often elegant in their appointments, but the common stair is likely to be shabby if not filthy. . . .

Lawyers would surely have liked a more lengthy quotation than that which appears on page 375, relating to a question that Boswell had asked in 1763 of Johnson: "Can a lawyer plead a cause he knows to be bad without hurting his principles of honesty?" Johnson's reply, in Pottle's account, is limited to this: "Sir, you do not know it to be good or bad till the judge determines it." The lawyer, especially the neophyte, who is plagued by doubts on this score, as Boswell was throughout his years of practice, should read Johnson's complete reply in the *Life, Aetat.* 59; also, Boswell's same expression of doubt in August, 1773, and the equally reassuring response of Johnson's, quoted in Boswell's *Journal of a Tour to the Hebrides*. (Limitations of space preclude their quotation here.)

A compulsion of Boswell's—looked upon with contempt by Macaulay and Askwith, but with admiration by Pottle—was the urge to meet with the great and influential of his day. And he did develop close and cordial relations not only with Samuel Johnson, but also with Rousseau and Voltaire, with Sir Joshua Reynolds, to whom the *Life* was dedicated, and with the Corsican pa-

triot Pasquale Paoli. Every schoolboy knows who Rousseau was, and Voltaire and Reynolds; but who today knows of Paoli? Pottle rescues him from oblivion with this:

It is useless to berate history for relegating some of her greatest sons to comparative obscurity because it was their misfortune to head unsuccessful revolutions in countries that never established their independence. No one now will ever succeed in convincing the world that Paoli was as great a character as George Washington, and that, given the opportunity that Washington had, his fame would now shine as bright. But it appears really to be so. We are not confined to Boswell's memoirs in forming our judgment; a great many of Paoli's letters have been printed, and they confirm Boswell's portrait at every point. . . . Boswell had at last met a hero: a hero the like of whom, as William Pitt later remarked, was to be found only in the pages of Plutarch.

Boswell wrote two books on Corsica, widely read in his day, but—unfortunately, says Pottle—no longer of current interest. In contrast, his *Life of Samuel Johnson* is today, almost two hundred years after publication, still widely read and even more widely quoted.

This reviewer blushes to confess that the book reminded him somewhat of the celebrated *Life and Loves of Frank Harris*: vivid descriptions of sexual experiences, interspersed with beautiful and moving descriptions of the author's travels, writings and legal practice. There is this difference: Harris's sex was clinical; Boswell's (if I may be pardoned a Freudian pun) was couched in language lay rather than vulgar.

This review must close with a tribute to the author: Just as Boswell's own image was obscured in the effulgence that he created for Johnson, so Pottle's genius could well be overlooked in the reader's admiration for Boswell, an admiration stimulated by Pottle, some of which, at least, should be reserved for this most entertaining and scholarly author. —ALEXANDER EULENBERG

Books for Lawyers

REAPPORTIONMENT: THE LAW AND POLITICS OF EQUAL REPRESENTATION. By Robert B. McKay. New York: The Twentieth Century Fund, 1966. \$7.00. Pages 498. *Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).*

In the textual part of this book, the author treats at length the law and the history of legislative apportionment in the United States. Historically, the reader is shown how the shift of population from the country to the city distorted the effect of many state apportionment statutes originally based largely on population. Legally, the reader is shown how the law on the subject has evolved in recent years. The legislative reapportionment decisions handed down by the Supreme Court of the United States in 1964 are analyzed in detail. The author plainly knows whereof he speaks: the opinion of the Court in *Reynolds v. Sims*, 377 U. S. 533, the principal reapportionment decision dealing with state legislatures, cites three of his articles on the subject.

The book is a work of advocacy from start to finish. The author's thesis is that the result reached in the reapportionment cases is constitutionally sound; that it is politically desirable; and that it should not be overturned, even in part, by a constitutional amendment. The author's argument in support of the result reached in *Reynolds* struck this reviewer as being significantly better than that made in the opinion of the Court. This may be one of the benefits of writing for one's self, rather than for five other justices as well. The author's style is readable and interesting without being at all patronizing.

The final and longest chapter in the book, "Apportionment and the Future of Federalism", should be valuable alike to friend and foe of the one-man, one-vote rule. The author here treats

the limits of permissible departure from mathematical exactness under the Court's holding—an area not yet resolved by authoritative decisions. Every legislature or lower federal court involved in the implementation of the reapportionment cases should find this chapter a useful source of information.

The proponents of the one-man, one-vote rule—the "good guys" in the eyes of the author—win the intellectual war in the book. This result is the prerogative of every author, and presumably in the case of a work of advocacy such as this, is the principal *raison d'être* of the book. But this reviewer was troubled by the fact that the "good guys" not only win the war, but they also win every single skirmish in every single battle of the war. According to the author, not only are all of the arguments raised against the Court's reasoning utterly without merit, but doubt is cast upon the motives of the objectors by the use of a form of feline innuendo that one does not expect to find in a work of this sort. The reader is thus led to question whether the author has adhered to that standard of fairness in dealing with his materials expected even from an advocate.

For example, one of the dissenting opinions in *Reynolds* marshaled an impressive array of evidence that those who framed and adopted the Fourteenth Amendment did not at all intend that its equal protection clause would apply to the apportionment of seats in state legislatures. The opinion of the Court did not address itself to this question. The author, apparently unwilling wholly to ignore the question, as the Court's majority did, proceeds to treat it in a cursory manner. Without reciting the evidence in any detail, he dismisses it in a manner that leaves a good many unanswered questions, to say the least.

Similarly, he analyzes referendum elections held in California and Colo-

rado, in each of which the people of the states approved by large majorities a "malapportioned" legislature in preference to one apportioned on the basis of one man, one vote. Without indicating in any way that he had first-hand familiarity with the campaigns prior to these votes and without reference to any studies of the campaigns, the author makes purportedly factual statements about why a particular proposition carried and about what interest groups were supporting what sides. The statements are invariably favorable to the author's thesis, but the method scarcely does credit to his scholarship.

The author's questionable fairness in dealing with arguments and facts that stand in the way of his conclusions detracts significantly from what is in many other respects a first-rate job. —WILLIAM H. REHNQUIST

STATE ADMINISTRATIVE LAW. By Frank E. Cooper. Indianapolis: Bobbs-Merrill Company, 1965. \$35.00. Two volumes. Pages 796. *Reviewed by Ashley Sellers of the District of Columbia Bar, a member of the Advisory Board of the Journal.*

The initial significance of this book is that it is the first thoroughgoing, comprehensive exposition of state administrative procedure. Partial and valuable penetrations into the field have been made during the past thirty years. [See the citations set forth in footnote 5, pages 5, 6 of the book and, in addition, "Symposium on State Administrative Procedure", 33 *Iowa L. Rev.* 193-375 (January, 1948) and Sellers, "Responsibility of the State Bar Association for the Development of Administrative Procedure, *Rept. Proc. 67th Ann. Sess. Georgia Bar Assn.*, 230-235 (1950)]. For the most part, however, the researcher of a state administrative law problem has been compelled to go directly and blindly to the state statutes and regulations and the law reports. This two-volume treatise not only furnishes guidance for locating the relevant statutory and decisional materials but supplies the elaboration, analysis and comparative materials requisite to informed re-

Stein and Hay in their recent casebook on the Atlantic Community. The materials also include excerpts from Congressional committee reports, appropriate regulations from the Code of Federal Regulations and from a variety of reports and official memoranda. This approach is particularly useful to the practitioner unfamiliar with this field, for he is often unaware of what and how much material is authoritative and the extent to which he must use materials outside the run of the cases.

The book is a fine display of the extraordinary extent to which questions of international law and the law of international business are becoming important to lawyers. It provides a firm foundation to enable them to give counsel and advice in this field.

—HARRY B. ALMOND, JR.

FREEDOMS, COURTS, POLITICS: STUDIES IN CIVIL LIBERTIES. By Lucius J. Barker and Twiley W. Barker. Englewood Cliffs, New Jersey: Prentice-Hall, 1965. \$9.00. Pages 324. *Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).*

Each of this book's six chapters is devoted to a particular branch of what may loosely be called "civil liberties". The topics chosen are in the current limelight: religion and the public school; soap-box orators, obscenity and internal security, as each relates to freedom of speech; segregation of schools and other public facilities; and the rights of criminal defendants. The *pièce de résistance* of each chapter is one or more decisions of the Supreme Court of the United States, but legislative and administrative activity is also treated.

The principal value of the book lies in its recounting of the history of several of the landmark cases decided by the Supreme Court. Nonlawyers studying constitutional law may well not realize that the opinion handed down by the Supreme Court in a particular case is but the final chapter in litigation which involved flesh-and-blood plaintiffs, defendants, lawyers and witnesses, and which was considered and decided by at least one lower court before it ever reached the court

of last resort. The authors have filled in much of this background and include in their work not only the opinion of the Supreme Court in a particular case, but also the opinions rendered by the lower courts in the same case.

The dust jacket of this book proclaims that it "provides a searching examination of all legal and moral aspects of the subject". This simply is not so. One gets a feel for the controversy that these subjects arouse from the part of the book which is in essence an anthology: the opinions of the courts, the briefs of the parties and the public comments on a particular decision. Apart from these materials, however, the authors themselves contribute practically nothing by way of analysis or criticism. The materials selected are generally fairly representative, with the exception of a piece entitled "God's Little Helpers", purporting to describe some of the "pressures on Congress" in connection with the school prayer controversy. This latter piece is extraordinarily one-sided, and there is no selection representing the opposing point of view.

Considered as an anthology of material about civil liberties decisions of the Supreme Court, the book serves a purpose, albeit a limited one. Considered as a critical analysis of any of these decisions or the basic issues which underlie them, the book never gets off the ground.

—WILLIAM H. REHNQUIST

THE GOLDEN AGE OF AMERICAN LAW. By Charles M. Haar. New York: George Braziller, Inc. 1965. \$8.50. Pages vii, 533. *Reviewed by Alexander Holtzoff, United States District Judge for the District of Columbia.*

To Professor Charles M. Haar the years 1820 to 1860 are the golden age of American law. Lest one should casually assume from the title of this unique work that it is a treatise or a history of the period, it should be noted at the outset that it is a compendium or collection of extracts from legal literature emanating from this period. It consists of extracts from legal opinions, speeches, articles and writings of other types. The names of

James Kent, Lemuel Shaw and Joseph Story loom large in the collection, as well they should. Numerous utterances of these great leaders are included in the book.

Turning the pages, one's attention is attracted by an article written by Kent, which contains the most succinct, candid and lucid definition of the judicial process that this reviewer has ever seen. It reads as follows:

I saw where justice lay and the moral sense decided the cause half the time. & I then set down to search the authorities until I had exhausted my books. & I might once & a while be embarrassed by a technical rule, but I most always found principles suited to my views of the case, & my object was to discuss a point as never to be teased with it again, & to anticipate an angry & vexatious appeal to a popular tribune by disappointed counsel. [Emphasis in original.]

Much of the usefulness of the book is found in the fact that it contains a great deal of obscure and not readily available material, which at times may prove valuable. A little-known speech to a jury by Abraham Lincoln is of interest. On the other hand, it is to be regretted that only short extracts are given from the Lincoln-Douglas debates.

Alumni of Harvard Law School, as well as persons interested in legal education generally, will be intrigued by a summary of the curriculum of the Harvard Law School in the days before the advent of the enlightened laboratory system of teaching law, generally known as the case system. The courses given in the law school are listed, together with the textbooks to be studied in each. One wonders whether the law student of those days actually had the time to master all of the texts that are enumerated.

Anyone examining an anthology of any kind almost invariably feels pangs of regret that some of his favorites were not included. This is no criticism of the work, since no two editors would make the same selections. This reviewer cannot help but regret, however, the omission of two of the greatest jury speeches recorded in legal history—Daniel Webster's speech at the trial of John Francis Knapp for the

Books for Lawyers

FELIX FRANKFURTER: THE JUDGE. Edited by Wallace Mendelson. New York: Reynal & Company, 1964. \$7.50. Pages 235. Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).

This is the second of two volumes edited by Professor Mendelson which deal with Justice Frankfurter. The earlier work, reviewed in the January issue of the *Journal* (page 71), was a collection of glimpses of Frankfurter the person; this is a series of appraisals of the Justice's performance on the bench, written by recognized scholars in the fields of separation of powers, statutory construction, constitutional federalism, civil liberties, labor law, and administrative law. The editor has selected fields in which the Justice had a life-long interest, and the over-all result is an able description of Frankfurter's work.

The chapters by Professor Kadish on labor law and by Professor Jaffe on administrative law are excellent. Each describes what he conceives to be the Justice's attitude towards the subject at the time he went on the bench; the major issues in the field during the time he was on the bench are then discussed, with Frankfurter's part in the development and decision of these issues subjected to critical but not unsympathetic scrutiny: any changes in his approach while on the bench are noted; and an over-all evaluation of his contribution is then offered. Each has the merit of treating the subject in enough detail so that the lawyer in general practice, as well as the specialist, may profit from reading.

Professor Sutherland's account of Frankfurter's work in the field of "civil liberties" is a study in languid reasonableness. Perhaps a sophisticated student and teacher of the subject of constitutional law, after he has been at it for awhile, can reach no other conclusion than that there is much to be said on both sides of almost every

constitutional question and that there is no use in getting excited about any particular line of decisions. Certainly that is the impression that Sutherland gives as he follows Frankfurter through the leading cases of this era: the early Jehovah's Witnesses cases involving the flag salute, the cases upholding the conviction of the Communists under the Smith Act and finally cases involving persons convicted of contempt of the Congressional committees.

It is scarcely an accolade to a judge to say that his course of conduct in twenty-five years on the bench has not been demonstrably irrational; yet this is about all that Professor Sutherland actually says about Frankfurter. Reading between the lines, one suspects that the professor is more on the judge's side in the struggle between judicial self-assertion and judicial self-restraint than he lets on. One also wishes that, whatever his estimate of Frankfurter, he had been more outspoken about it.

Professor Nathanson's chapter on separation of powers treats a number of the leading cases in an individualized and engaging way. Unfortunately, for the sake of the lawyer who is not a close student of the field, the presentation is somewhat on the staccato side, with cases and quotations rung in and out without really adequate identification.

Professor Henkin's study of constitutional federalism and Judge Friendly's essay on statutory construction are smooth flowing, well organized and comprehensive. They are also both quite dull. It is no reflection on Judge Friendly that he could not enliven the subject of statutory construction; Professor Henkin's essay on federalism suffers from a tendency to be photographic, rather than impressionistic. Case after case is treated, with the result that nothing stands out; the reader's grasp of the subject matter loosens towards the end of the chapter.

Mr. Kaufman's delightful contribution on the role of Frankfurter's law clerks would have been worthy company for some of the vignettes of the Frankfurter personality contained in the earlier volume. However, its presence here offers a pleasing contrast with the more weighty and substantive chapters.

It is usually no function of a reviewer to suggest that a book should have been written for an audience different from that chosen by the author. But for the slightly less than a quarter of a century during which this genuinely memorable Justice of the United States Supreme Court served, the Court was a storm center—divided within and attacked and defended from without. This Justice was in the thick of the fray. Should not the interested members of the general public and at least the nonspecialist members of the Bar have available to them an understandable account and appraisal of his influence? Professor Mendelson's first volume showed Felix Frankfurter as a person to all the world. His second volume shows him as a judge to only a limited sector within the Bar.

—WILLIAM H. REHNQUIST

~~**THE ADDICT AND THE LAW.** By Alfred R. Lindesmith. Bloomington, Indiana: Indiana University Press, 1965. \$7.50. Pages 337. Reviewed by E. J. Dimock, Senior District Judge of the United States District Court for the Southern District of New York and a member of the Board of Editors of the *Journal*.~~

~~This book deserves to become the force that will turn back the tide of criminality that is engulfing our cities as a result of our treatment of the narcotics user. The need of the addicts to resort to crime to get the money necessary to pay the bootleg prices demanded for their drugs is reducing our populous communities to jungles where the safety of one's possessions depends upon his own ability to protect them.~~

~~The author, bringing to bear the results of deep study and a refusal to depart from the path laid out by common sense, demonstrates the folly of the present punitive treatment of the problem. He admits that there is a lot~~

Books for Lawyers

FELIX FRANKFURTER: A TRIBUTE. Edited by Wallace Mendelson. New York: Reynal & Company, 1964. \$4.00. Pages 242. *Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).*

"I never knew Professor Frankfurter of the Harvard Law School, and Associate Justice Frankfurter of the Supreme Court of the United States was a figure as awesome as his title, but Felix is my friend." So writes Garson Kanin in this book of tributes to Felix Frankfurter. His salute is placed with those of lawyers, professors, a poet, a newspaper columnist, an ambassador and an economist. Not only the legal profession, but all those interested in the American scene during the past half-century, are indebted to Professor Mendelson for collecting these varying glimpses of a truly unusual figure. One feels at the conclusion of the volume that had Felix Frankfurter never written a word, had he never been a member of the Supreme Court, his life would nonetheless have been well worth chronicling.

Isaiah Berlin of Oxford, in a beautifully written vignette which would be first rate literature even if its subject were wholly fictional, describes Frankfurter's appeal in these words: "An unrivalled power of liberation of human beings imprisoned beneath an icy crust of custom or gloom or social terrors—this seems to me to be Felix Frankfurter's rarest single personal gift."

Berlin tells of Frankfurter's capture of Oxford while a visiting professor there in the early New Deal days.

Book reviews have been features of the *Journal* since its early days. A book review appeared in the January, 1919, issue, another in December, 1921, and another in the following January issue. Then in February of 1922 book reviews began to be regular parts of the "Current Legal Literature"

Others write of his years as a student, as Henry Stimson's counsel, as a guiding light of the War Mediation Board, as a Harvard law professor, and as an active and retired Justice of the Supreme Court. As might be imagined, the styles and the approaches of the contributors vary; occasionally there is more of "I said to Felix" than there is of "Felix said to me"; but on the whole the effort comes off very well.

The major portion of the book consists of personal recollections or estimates, and these are beamed at the informed layman. Professor Mendelson's introduction is an excellent example of a broad-brush comment on Frankfurter's place in constitutional law, likewise addressed to the general reader. The weakest part of the book is three chapters which deal with Frankfurter's contributions to legal literature, legal history and the Supreme Court reports. The contributors of these portions have eschewed the broad-brush technique and have to varying degrees become involved in detailed analysis. The result is some rather heavy going for lawyers and nonlawyers alike. Not only do the subjects of the chapters all but defy detailed treatment within the confines of the allotted space, but the pace and style of this part of the book exhibits a sharp departure from that of the remainder.

Felix Frankfurter has played so large a role in our country's jurisprudence that any definitive biography of him must be years away. Yet he who shoulders the task of biographer will find Professor Mendelson's volume a valuable help.

—WILLIAM H. REHNQUIST

THE BRITISH YEAR BOOK OF INTERNATIONAL LAW, 1962. Edited by Sir Humphrey Waldock and R. Y. Jennings. London: Oxford University Press, 1964. \$16.00. Pages 549. *Reviewed by Louis B. Sohn, Bemis Professor of International Law, Harvard Law School.*

The latest volume of the British Year Book of International Law contains several excellent essays on public international law.

In the first of them, Sir Gerald Fitzmaurice, a judge of the International Court of Justice, discusses the contribution to international law made by his predecessor on the court, the late Sir Hersch Lauterpacht. In particular, in this second of three installments of the study of "The Scholar as Judge", Sir Gerald clarifies and systematizes Lauterpacht's opinions on the legal effect of the resolutions of the United Nations General Assembly, on the voting procedures of international organizations and on the jurisdiction of international tribunals.

D. P. O'Connell, professor of international law at the University of Adelaide, South Australia, supplements his prior work on the law of state succession with an essay on "Independence and Succession to Treaties". With the accession to independence of a large number of states, the problem of their obligations under treaties concluded for them by the mother countries has become acute. The author, after a thorough investigation of current practice, concludes that this practice does not follow past theories and tends toward a larger measure of continuity of treaties than might have been expected.

J. E. S. Fawcett and L. C. Green provide two different views of the Eichmann case. Mr. Fawcett would like to limit the value of that case as a precedent in view of the extraordinary

department, which also included notes on law review articles. This continued until October, 1940, when a department called "Book Reviews" made its appearance. The present name, "Books for Lawyers", has been used since the November, 1941, issue.

courts and lawyers' offices they are "hot".

A technical defect is the omission of a table of cases, but this is in large measure remedied by citations in footnotes and an astonishingly full bibliography at the end of each chapter.

An invaluable innovation is the inclusion not merely in passing, but in full chapters, of comparisons between English and American law and practice in various fields, e.g., medical and legal issues, sexual offenses, psychiatry and criminal responsibility.

The net result is that this is a first-class book which cannot be disregarded by men of the law groping for light in the world of medicine.

Dr. Watanabe's *Atlas of Legal Medicine* also is not a law book, but a medical book. It is essentially pathological, and Dr. Milton Halpern in the foreword classifies it as belonging to the discipline of forensic pathology. While not designed for lawyers, the book could be a useful aid to them as a supplement to the standard and comprehensive works on medical jurisprudence.

Dr. Watanabe, professor of legal medicine at Tokyo and former Medical Examiner for the Tokyo Metropolitan Government, having performed more than 5,000 autopsies on victims of murder, accidental death and suicide, has in this volume collected and systematically arranged several hundred photographs to indicate how the various causes of death in such cases will affect the human body. Most of the photographs were taken by the author himself, and many are in color.

The book is not an atlas in the usual sense, with elaborate classifications and subdivisions, but the author has arranged the material under topical headings based primarily on external rather than internal or medical causes of death. Thus there are chapters on automobile injuries, airplane injuries, wounds from blunt force and wounds from sharp instruments. There are chapters also on suicide, asphyxia, sexual problems and infanticide. The author states that since seeing is believing, he regards this work as a "seeing atlas". —EMORY H. NILES

OUTER SPACE: PROSPECTS FOR MAN AND SOCIETY. Edited by Lincoln P. Bloomfield. Frederick A. Praeger, 111 Fourth Avenue, New York, New York 10003. Revised edition 1968. \$6.50. Pages 267. Reviewed by Victor B. Levit of the California Bar (San Francisco).

It now appears likely that man will actually land on the moon in 1969, and this fact is certain to create interest in the subject matter of *Outer Space: Prospects for Man and Society*. The book was first published in 1962 under the auspices of The American Assembly of Columbia University. This revised edition is written in easy-to-understand language for the layman and reports on the most recent developments in the exploration of outer space.

Each chapter is written by an expert in the field covered. Editor Bloomfield writes an introductory chapter and also a section on legal questions relating to outer space, including problems of sovereignty and areas of possible co-operation between nations. Mr. Bloomfield is professor of political science at the Massachusetts Institute of Technology and Director of the Arms Control Project at M.I.T.'s Center for International Studies.

The chapter on technical prospects is one of the best. It analogizes the current space developments with the advances of the airplane and considers what man can expect in space travel. There is discussion of the probable development of space stations and the space environment and prospects for the future.

Other chapters deal with peaceful space applications in the communications and weather fields; data collection and the relationship of space discoveries to specific applications on earth; space travel; the relationship of science to space; the impact of the space age on the American economy; arms control in outer space; Russian space activities; worldwide spread of space technology; and, finally, recommendations for policy for the space age.

The greatest merit of this book is that it places in clear language the dif-

ferent concepts we face in the space age. All lawyers should be familiar with these problems, as they will certainly be expected to shape policy in this field.

—VICTOR B. LEVIT

LIBEL AND ACADEMIC FREEDOM: A LAWSUIT AGAINST POLITICAL EXTREMISTS. By Arnold M. Rose. University of Minnesota Press, 2037 University Avenue, S.E., Minneapolis, Minnesota 55455. 1968. \$7.95. Pages 237. Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).

Three threads run through this book. The primary one is the author's account of a libel suit which he brought against a woman who defamed him. The second, compressed into one chapter, is a discussion and commentary on the doctrine enunciated by the Supreme Court of the United States in *New York Times v. Sullivan*, 376 U.S. 254 (1964). The third is a series of pronouncements on extremism, the political right and the Republican Party. The intertwining of the threads produces a result of markedly uneven quality, some of it quite good and some of it downright bad.

The author, prior to his recent death, was a professor of sociology at the University of Minnesota. He was philosophically identified with the non-Communist left and was sufficiently interested in politics to have successfully run for a seat in the Minnesota state senate. The editor of a small right wing publication accused him of being a "collaborator with Communists" and a "security risk". He sued for libel and recovered a verdict for \$20,000, only to have it reversed by the Supreme Court of Minnesota. The author's detailed description of events which led to the filing of the suit, and of the trial itself, is worth reading. The lawyer will get a first-hand account of what a client goes through in such a trial.

The commentary on the *Sullivan* rule, while not invariably made with an eye to the fine distinctions which abound in this area, represents on the whole a balanced and thoughtful approach to the subject.

The third thread—those comments apparently made by the author in his capacity as a professor of sociology, rather than as a libel plaintiff—would much better have been omitted. Cate-

gorical statements such as that “the right wing extremists captured the Republican National Convention in 1964” are made without the slightest effort to support or document them. They are

really not germane to the principal subject of the book, and the manner of their making gives a distinctly unscholarly overtone to the entire work.

—WILLIAM H. REHNQUIST

Noted in Brief

Two new volumes in its reprint series have been issued by De Capo Press, 227 West 17th Street, New York, New York 10011. Both books are reproductions of the original plates. One is Stephen J. Field's reminiscences published in 1893. The title page is: “Personal Reminiscences / of / Early Days in California, / with / Other Sketches. / By / Stephen J. Field. / to which is added the story of his attempted assassination by a former associate on the supreme bench of the state. / By / Hon. George C. Gorham.” The other is Paul Leicester Ford's collection of the pamphlets issued during the period the infant nation was considering adoption of the Constitution. The title page here is: “Pamphlets / on the / Constitution of the United States, / Published During / Its Discussion by the People / 1787-1788. / Edited / with notes and a bibliography / by / Paul Leicester Ford. / Brooklyn, N. Y. / 1888.” *Reminiscences* (406 pages) is \$14.50, and *Pamphlets* (451 pages) \$15.00.

Legal Order in a Violent World. By Richard A. Falk. Princeton University Press, Princeton, New Jersey 08540. 1968. \$15.00. Pages 610. In this comprehensive volume Professor Falk of Princeton University analyzes the methods by which the existing legal machinery devised to preserve international order can be strengthened. Particular attention is given to the attempts of international law to regulate foreign intervention in civil strife as well as the challenges to international law from the mere existence of nuclear weapons. A thorough review of disarmament prospects concludes a volume whose fifteen chapters (several of which are reprinted from law reviews in a revised form) constitute a work of distinguished scholar-

ship and an essential treatise for specialists. It is a work of importance for every jurist interested in the control by law of international violence.

A Constitutional Faith. By Hugo Lafayette Black. Alfred A. Knopf, Inc., 501 Madison Avenue, New York, New York 10022. 1968. \$3.95. Pages 66, viii. Justice Black's Carpenter lectures at Columbia last year have attracted wide attention, and they have now been published in book form. They were reviewed at length in our department “Random Reactions to Current Legal Literature” in the June, 1968, issue (page 616).

The U. S. Master Producers & British Music Scene Book. By Walter E. Hurst and William Storm Hale. Seven Arts Press, 6365 Selma Avenue, Hollywood, California 90028. 1968. \$25.00. This book is truly a treasure house of contracts, forms, checklists, advice and wisdom about the many legal relationships that are involved in the artistic conception, production, distribution, promotion and sale of phonograph records.

Civil Rights and the American Negro: A Documentary History. Edited by Albert P. Blaustein and Robert L. Zangrando. Simon & Schuster, 630 Fifth Avenue, New York, New York 10020. 1968. \$1.45 (paperback); \$7.95 (hardcover). Pages 671. This is a collection of excerpts from ninety-eight documents, from the earliest slave laws to the 1968 report of the National Advisory Commission on Civil Disorders, dealing with what the editors term the “issue of civil rights for black Americans . . . a major national challenge in our time”. The excerpts come

from a wide variety of official, quasi-official and literary sources.

Agenda 1970: Proposals for a Creative Politics. Edited by Trevor Lloyd and Jack McLeod. University of Toronto Press, 1061 Kensington Avenue, Buffalo, New York 14215. 1968. \$3.50 (paperback). Pages 292. The University League for Social Reform, an association of young Canadian professors from many academic disciplines, has produced its fourth collection of essays dealing with Canadian public policy and Canada's future.

The Crime Laboratory: Case Studies of Scientific Criminal Investigation. By James W. Osterburg. Indiana University Press, 10th and Morton Streets, Bloomington, Indiana 47401. 1968. Clothbound \$12.00, paperbound \$5.95. Pages xx, 330. While this book is intended to be used as a text for crime laboratory instruction, it is instructive for the lawyer as an introduction to the methodology and capabilities of laboratory work. The author is professor of police administration at Indiana University.

Church Valuation. By Thomas L. Ball. Church Valuation Consultants, Box 44, Hales Corners, Wisconsin 53130. 1968. \$25.00. Pages 260. This is a new and unique technical manual giving valuation data pertaining to church properties. It is useful to anyone concerned with establishing values for any church property, regardless of denomination, size or geographical location.

Selected Articles on Federal Securities Law. Edited by Herbert S. Wauder and Warren F. Grien-

approach. It identifies many often overlooked forces at work in the legal process. Jacob's discussion of juries is a firm summary of this institution, based largely on the findings of the Chicago jury project; his chapter on "The Organization of American Courts" is a good condensation of the unsolved problems of reorganization and reform; and the one on "Restrictions on Judicial Activism" is a lively and realistic discussion of factors that play important roles in shaping the activity of the judiciary. The reader is, however, required to achieve an almost monumental objectivity to sift this wheat from the chaff.

If it is true (and it is), as Jacob says, that "legal scholars rarely engage in empirical research", it is equally true that empirical researchers in law just as rarely engage in legal scholarship. It goes without saying that a combination of both is the *desideratum*. For the legal system both is and is not what Jacob says it is and isn't. It has both structure and content—form and substance. But the distinctions are not clear; they blend one into the other in subtle shades. The author's failure to perceive them reveals him as an uncertain artist with too broad a brush. —CHARLES W. TENNEY, JR.

RACE AND PROPERTY. Edited by John Denton, Berkeley, California: The Diablo Press, 1964. \$1.95 (paperback). Pages 159. Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).

This volume is a collection of writings occasioned by California's 1964 initiative on "Proposition 13"—the so-called Rumford Act, which compelled the prospective seller or lessor of real property to deal with any buyer or lessee without regard to race. If the book is viewed as a slice of forensic history of the referendum campaign, it doubtless fulfills this limited purpose well. If, on the other hand, it is viewed as an effort to treat this involved subject in any sort of depth, it falls far short of the goal.

As might be expected from the occasion which begot them, the pieces are heavy on advocacy, not to say polem-

ics. By virtue of this fact, doubtless they were more effective during the election campaign than carefully reasoned and documented analyses would have been. But the contribution of these articles to a long-term understanding of or decision on the basic issue involved is not great.

Even the article by Professor Richard R. Powell of Hastings College of the Law, disappoints; after exhibiting his acknowledged scholarship in the field of real property law to show that fee simple ownership of property has been subject to numerous legislative restrictions in the past, he summarily concludes that if this be so, the property right must necessarily bow to the newly created "civil right". Whether the "civil right" may not likewise be a qualified one and why the property right should be subject to an additional qualification in this particular situation are questions Professor Powell not only leaves unanswered, but unasked.

The book is a useful compendium of arguments used during the initiative campaign in California. It is an introduction, but no more than that, to a lively current issue.

—WILLIAM H. REHNQUIST

OUR UNALIENABLE RIGHTS. By Robert Gerald Storey. Springfield, Illinois: Charles C Thomas, 1965. \$4.75. Pages 152. Reviewed by Maurice H. Merrill, research professor of law at the University of Oklahoma.

The term "unalienable rights", as used by the author, is related by him in the introduction to the like phraseology in the Declaration of Independence. By this light, we know that he is not envisioning a code of natural law, embodying specific provisions discoverable by right reason, to which human codes must conform as a prerequisite to their validity. Contrariwise, he means that the spirit of man is not to be shut off from seeking new expressions for its highest aspirations. There is no esoppel against the assertion of claims to freedom, to growth, to dignity. This is the burden of his message.

Obviously, in the less than 150 pages of text (including some twenty-five pages of appendices reproducing

extracts from proceedings of the Commission on Civil Rights) it was possible for the author to develop any sort of thoroughness either a ten or a philosophy for making create "unalienable rights" within present society. All that he could do was to outline certain problems and furnish some examples from actual life. In this way he has provided reference material on which those concerned with improving general understanding of the responsibilities, as well as the privileges, of men may draw. Particularly useful are the patterns of incidents embodying the strains produced by the impact, in the light of modern conditions, of our basic laws upon established folkways.

—MAURICE H. MERRILL

OLD HILARITY. By A. J. G. P... Charlottesville, Virginia: The M... Company, 1965. \$3.95. Pages... Reviewed by E. Barrett Prettyman, judge of the United States Court Appeals for the District of Columbia Circuit.

Here we have a book of stories gathered over a period of some years by a past master of the art of living. Surely humor is an element that art, and these stories, designed for laughter, are a realist's contribution. The author practiced law for a while in Idaho and for a longer while in Street. Thereafter, for health's sake, he forsook the maelstrom of court life and went to live in Charlottesville, teaching law at the University of Virginia. Hence the stories reflect a variety of background and flavor.

They derive from and cover varied fields—law, politics, religion, medicine, learning of the academic sort, and so on. Some are included—like the one about to tell when a Texan is lying, a condensed version of *Claude Lorraine*, a priceless story about the blues—all the stories have a quality of freshness, which permits that they be read over and over again.

Some spots are a bit earthy, bordering on the vulgar in relation to commonplaces of life. But they contain no snuff, no sex, no inde-

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Contracts, frustrations of contracts, charter parties, agency, banking, partnership, companies, employment, sale of goods, insurance, leases, wills, marriage and torts are among the areas examined with reference to the legal effects of wars and other armed conflicts. The qualified, ambitious American legal scholar who wants to cope with this fertile field from the American point of view will have the satisfaction of knowing that Lord McNair and Mr. Watts have not pre-empted his field of inquiry. —NICHOLAS R. DOMAN

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Professor Griffith advances at least two major conclusions with respect to the role of Congress: first, that Congress is "the only major legislative assembly of which it can unmistakably be said that its independent, creative functioning has grown steadily more effective in the last twenty-five years or so"; second, that it is *not* desirable to strengthen party discipline and allegiance to the national party organizations on the part of Senators and Representatives.

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Without unduly disclosing the plot, it may suffice to say that Mr. Narver, bearing in mind the legal principle that the probable effect on competition is the criterion, reaches the conclusion that conglomerate mergers are neither inherently procompetitive nor anti-competitive; that under some conditions they probably can promote competition and under others probably decrease it; and that the effect of conglomerate mergers on competition can be determined only by considering the probable changes in the characteristics of the pertinent market.

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Mr. Babcock has successfully aimed this literary shaft between the two poles towards which the work of many lawyer-authors tends to gravitate. He avoids the seed catalogue monotony of the legal text, on the one hand, and the sweeping generalizations on jurisprudence which make up the last chapter

of more than one book of personal reminiscences. On the other, Mr. Babcock has spent twenty years as a practicing attorney in the "zoning game". He takes this limited area of the law, which he knows well, and describes it in terms that are both intelligible to an informed layman and worthy of the attention of a knowledgeable lawyer. This body of law is then analyzed in terms of the purposes it is expected to serve, its ills are diagnosed, and other radical surgery is prescribed.

The author brings to his subject both literacy and humor. He quotes not only what George Sutherland had to say about planning in *Village of Euclid v. Ambler Realty Company*, but what Lewis Mumford had to say about planning in *The City in History*. Sandwiched between some very acute comments on the trial of a zoning appeal in court is the following observation about expert witnesses: "Bona fide experts are expensive and even the phony ones cost something"—which may prove no more than that there are remarkable similarities between zoning litigation and other kinds of litigation.

The author concludes that the courts and legislatures have held too loose a rein on local planning and zoning commissions. This in turn has resulted, he says, in too frequent disregard for minimum standards of fair play in the procedures of the commissions and in an unduly parochial cast to their substantive decisions.

The author says that the procedural shortcomings can be remedied by the imposition of stricter and more specific controls: requiring personal attendance at the hearing of any witness whose testimony is to be considered, granting the right of cross-examination to counsel and making available to all parties in advance any staff report upon which the commission intends to rely. While there may be disagreement as to the desirability of any of these particular suggestions, there will be virtually none with the general idea of establishing minimum standards of fair play.

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The amended Section 7 of the Clayton Act, concerned with preventing incipient and substantial lessening of competition through acquisitions, necessarily involves economic issues and market consequences. Such consequences must be proved by legal evidence, yet the facts to be considered are economic and statistical. An analysis of those facts is therefore economic and statistical, but must meet legal standards of relevance, materiality and probative value.

Mr. Narver's book is an excellent attempt to define and analyze, in general application, both the economic and legal consequences of conglomerate mergers—defined as mergers in which the products of the acquiring and acquired firms are not competitive (as they would be in the case of a so-called horizontal merger), and in which one is not a supplier of the other (as would be the case in a so-called vertical merger). The ultimate purpose is to determine whether mergers of this type are inherently procompetitive, which relatively few have urged, or anti-competitive and not justified in the politico-economic sense, as many have asserted.

Without unduly disclosing the plot, it may suffice to say that Mr. Narver, bearing in mind the legal principle that the probable effect on competition is the criterion, reaches the conclusion that conglomerate mergers are neither inherently procompetitive nor anti-competitive; that under some conditions they probably can promote competition and under others probably decrease it; and that the effect of conglomerate mergers on competition can be determined only by considering the probable changes in the characteristics of the pertinent market.

After a definitional introduction, the author presents statistics (necessarily somewhat dated) showing the growth of conglomerate mergers in the economy of the United States over the last several years, and carefully reviews the legislative steps, with wise quotation

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A technical defect is the omission of a table of cases, but this is in large measure remedied by citations in footnotes and an astonishingly full bibliography at the end of each chapter.

An invaluable innovation is the inclusion not merely in passing, but in full chapters of comparisons between English and American law and practice in various fields, e.g., medical and legal issues, sexual offenses, psychiatry and criminal responsibility.

The net result is that this is a first-class book which cannot be disregarded by men of the law groping for light in the world of medicine.

Dr. Watanabe's *Atlas of Legal Medicine* also is not a law book, but a medical book. It is essentially pathological, and Dr. Milton Halpern in the foreword classifies it as belonging to the discipline of forensic pathology. While not designed for lawyers, the book could be a useful aid to them as a supplement to the standard and comprehensive works on medical jurisprudence.

Dr. Watanabe, professor of legal medicine at Tokyo and former Medical Examiner for the Tokyo Metropolitan Government, having performed more than 5,000 autopsies on victims of murder, accidental death and suicide, has in this volume collected and systematically arranged several hundred photographs to indicate how the various causes of death in such cases will affect the human body. Most of the photographs were taken by the author himself, and many are in color.

The book is not an atlas in the usual sense, with elaborate classifications and subdivisions, but the author has arranged the material under topical headings based primarily on external rather than internal or medical causes of death. Thus there are chapters on automobile injuries, airplane injuries, wounds from blunt force and wounds from sharp instruments. There are chapters also on suicide, asphyxia, sexual problems and infanticide. The author states that since seeing is believing, he regards this work as a "seeing atlas". —EMORY H. NILES

OUTER SPACE: PROSPECTS FOR MAN AND SOCIETY. Edited by Lincoln P. Bloomfield, Frederick A. Praeger, 111 Fourth Avenue, New York, New York 10003. Revised edition 1963. \$6.50. Pages 267. Reviewed by Victor B. Levit of the *California Bar* (San Francisco).

It now appears likely that man will actually land on the moon in 1969, and this fact is certain to create interest in the subject matter of *Outer Space: Prospects for Man and Society*. The book was first published in 1962 under the auspices of The American Assembly of Columbia University. This revised edition is written in easy-to-understand language for the layman and reports on the most recent developments in the exploration of outer space.

Each chapter is written by an expert in the field covered. Editor Bloomfield writes an introductory chapter and also a section on legal questions relating to outer space, including problems of sovereignty and areas of possible co-operation between nations. Mr. Bloomfield is professor of political science at the Massachusetts Institute of Technology and Director of the Arms Control Project at M.I.T.'s Center for International Studies.

The chapter on technical prospects is one of the best. It analogizes the current space developments with the advances of the airplane and considers what man can expect in space travel. There is discussion of the probable development of space stations and the space environment and prospects for the future.

Other chapters deal with peaceful space applications in the communications and weather fields; data collection and the relationship of space discoveries to specific applications on earth; space travel; the relationship of science to space; the impact of the space age on the American economy; arms control in outer space; Russian space activities; worldwide spread of space technology; and, finally, recommendations for policy for the space age.

The greatest merit of this book is that it places in clear language the dif-

ferent concepts we face in the space age. All lawyers should be familiar with these problems, as they will certainly be expected to shape policy in this field.

—VICTOR B. LEVIT

LIBEL AND ACADEMIC FREEDOM: A LAWSUIT AGAINST POLITICAL EXTREMISTS. By Arnold M. Rose, University of Minnesota Press, 2037 University Avenue, S.E., Minneapolis, Minnesota 55455, 1963. \$7.95. Pages 237. Reviewed by William H. Rehnquist of the *Arizona Bar* (Phoenix).

Three threads run through this book. The primary one is the author's account of a libel suit which he brought against a woman who defamed him. The second, compressed into one chapter, is a discussion and commentary on the doctrine enunciated by the Supreme Court of the United States in *New York Times v. Sullivan*, 376 U.S. 254 (1964). The third is a series of pronouncements on extremism, the political right and the Republican Party. The intertwining of the threads produces a result of markedly uneven quality, some of it quite good and some of it downright bad.

The author, prior to his recent death, was a professor of sociology at the University of Minnesota. He was philosophically identified with the non-Communist left and was sufficiently interested in politics to have successfully run for a seat in the Minnesota state senate. The editor of a small right wing publication accused him of being a "collaborator with Communists" and a "security risk". He sued for libel and recovered a verdict for \$20,000, only to have it reversed by the Supreme Court of Minnesota. The author's detailed description of events which led to the filing of the suit, and of the trial itself, is worth reading. The lawyer will get a first-hand account of what a client goes through in such a trial.

The commentary on the *Sullivan* rule, while not invariably made with an eye to the fine distinctions which abound in this area, represents on the whole a balanced and thoughtful approach to the subject.

The third thread—those comments apparently made by the author in his capacity as a professor of sociology, rather than as a libel plaintiff—would much better have been omitted. Cate-

gorical statements such as that “the right wing extremists captured the Republican National Convention in 1951” are made without the slightest effort to support or document them. They are

really not germane to the principal subject of the book, and the manner of their making gives a distinctly unseparably overtone to the entire work.

—WILLIAM H. REHQQUEST

Noted in Brief

Two new volumes in its reprint series have been issued by De Capo Press, 227 West 17th Street, New York, New York 10011. Both books are reproductions of the original plates. One is Stephen J. Field's reminiscences published in 1893. The title page is: "Personal Reminiscences / of / Early Days in California. / with / Other Sketches. / By / Stephen J. Field. / to which is added the story of his attempted assassination by a former associate on the supreme bench of the state. / By / Hon. George C. Gorham." The other is Paul Leicester Ford's collection of the pamphlets issued during the period the infant nation was considering adoption of the Constitution. The title page here is: "Pamphlets / on the / Constitution of the United States, / Published During / Its Discussion by the People / 1787-1788. / Edited / with notes and a bibliography / by / Paul Leicester Ford. / Brooklyn, N. Y. / 1893." *Reminiscences* (406 pages) is \$14.50, and *Pamphlets* (451 pages) \$15.00.

Legal Order in a Violent World. By Richard A. Falk. Princeton University Press, Princeton, New Jersey 08540, 1968. \$15.00. Pages 610. In this comprehensive volume Professor Falk of Princeton University analyzes the methods by which the existing legal machinery devised to preserve international order can be strengthened. Particular attention is given to the attempts of international law to regulate foreign intervention in civil strife as well as the challenges to international law from the mere existence of nuclear weapons. A thorough review of disarmament prospects concludes a volume whose fifteen chapters (several of which are reprinted from law reviews in a revised form) constitute a work of distinguished scholar-

ship and an essential treatise for specialists. It is a work of importance for every jurist interested in the control by law of international violence.

A Constitutional Faith. By Yugo Lafayette Black. Alfred A. Knopf, Inc., 501 Madison Avenue, New York, New York 10022, 1968. \$3.95. Pages 66. viii. Justice Black's *Carpentier lectures at Columbia* last year have attracted wide attention, and they have now been published in book form. They were reviewed at length in our department "Random Reactions to Current Legal Literature" in the June, 1968, issue (page 616).

The U. S. Master Producers & British Music Scene Book. By Walter E. Hurst and William Storm Hale. Seven Arts Press, 6365 Selma Avenue, Hollywood, California 90028, 1968. \$25.00. This book is truly a treasure house of contracts, forms, checklists, advice and wisdom about the many legal relationships that are involved in the artistic conception, production, distribution, promotion and sale of phonograph records.

Civil Rights and the American Negro: A Documentary History. Edited by Albert P. Blaustein and Robert L. Zangrando. Simon & Schuster, 630 Fifth Avenue, New York, New York 10020, 1968. \$1.45 (paperback); \$7.95 (hardcover). Pages 671. This is a collection of excerpts from ninety-eight documents, from the earliest slave laws to the 1968 report of the National Advisory Commission on Civil Disorders, dealing with what the editors term the "issue of civil rights for black Americans . . . a major national challenge in our time".—The excerpts come

from a wide variety of official, quasi-official and literary sources.

Agenda 1970: Proposals for a Creative Politics. Edited by Trevor Lloyd and Jack McLagan. University of Toronto Press, 1061 Kensington Avenue, Buffalo, New York 14215, 1970. \$3.50 (paperback). Pages 292. The University League for Social Reform, an association of young Canadian professors from many academic disciplines, has produced its fourth collection of essays dealing with Canadian public policy and Canada's future.

The Crime Laboratory: Case Studies of Scientific Criminal Investigation. By James W. Osterburg. Indiana University Press, 10th and Morton Streets, Bloomington, Indiana 47401, 1968. Clothbound \$12.00, paperbound \$5.95. Pages xx, 330. While this book is intended to be used as a text for crime laboratory instruction, it is instructive for the lawyer as an introduction to the methodology and capabilities of laboratory work. The author is professor of police administration at Indiana University.

Church Valuation. By Thomas L. Ball. Church Valuation Consultants, Box 44, Hales Corners, Wisconsin 53130, 1968. \$25.00. Pages 260. This is a new and unique technical manual giving valuation data pertaining to church properties. It is useful to anyone concerned with establishing values for any church property, regardless of denomination, size or geographical location.

Selected Articles on Federal Securities Law. Edited by Herbert S. Wauder and Warren F. Grien-

approach. It identifies many often overlooked forces at work in the legal process. Jacob's discussion of juries is a firm summary of this institution, based largely on the findings of the Chicago jury project; his chapter on "The Organization of American Courts" is a good condensation of the unsolved problems of reorganization and reform; and the one on "Constraints on Judicial Activism" is a lively and realistic discussion of factors that play important roles in shaping the activity of the judiciary. The reader is, however, required to achieve an almost monumental objectivity to sift this wheat from the chaff.

If it is true (and it is), as Jacob says, that "legal scholars rarely engage in empirical research", it is equally true that empirical researchers in law just as rarely engage in legal scholarship. It goes without saying that a combination of both is the *desideratum*. For the legal system both is and is not what Jacob says it is and isn't. It has both structure and content—form and substance. But the distinctions are not clear: they blend one into the other in subtle shades. The author's failure to perceive them reveals him as an uncertain artist with too broad a brush. —CHARLES W. TENNEY, JR.

RACE AND PROPERTY. Edited by John Denton, Berkeley, California: The Diablo Press, 1961. \$1.95 (paperback). Pages 159. Reviewed by William H. Rehnquist of the Arizona Bar (*Phoenix*).

This volume is a collection of writings occasioned by California's 1961 initiative on "Proposition 13"—the so-called Rumford Act, which compelled the prospective seller or lessor of real property to deal with any buyer or lessee without regard to race. If the book is viewed as a slice of forensic history of the referendum campaign, it doubtless fulfills this limited purpose well. If, on the other hand, it is viewed as an effort to treat this involved subject in any sort of depth, it falls far short of the goal.

As might be expected from the occasion which begot them, the pieces are heavy on advocacy, not to say polem-

ics. By virtue of this fact, doubtless they were more effective during the election campaign than carefully reasoned and documented analyses would have been. But the contribution of these articles to a long-term understanding of or decision on the basic issue involved is not great.

Even the article by Professor Richard R. Powell of Hastings College of the Law disappoints: after exhibiting his acknowledged scholarship in the field of real property law to show that fee simple ownership of property has been subject to numerous legislative restrictions in the past, he summarily concludes that if this be so, the property right must necessarily bow to the newly created "civil right". Whether the "civil right" may not likewise be a qualified one and why the property right should be subject to an additional qualification in this particular situation are questions Professor Powell not only leaves unanswered, but unasked.

The book is a useful compendium of arguments used during the initiative campaign in California. It is an introduction, but no more than that, to a lively current issue.

—WILLIAM H. REHNQUIST

OUR UNALIENABLE RIGHTS. By Robert Gerald Storey. Springfield, Illinois: Charles C. Thomas, 1965. \$4.75. Pages 152. Reviewed by Maurice H. Merrill, research professor of law at the University of Oklahoma.

The term "unalienable rights", as used by the author, is related by him in the introduction to the like phraseology in the Declaration of Independence. By this light, we know that he is not envisioning a code of natural law, embodying specific provisions discoverable by right reason, to which human codes must conform as a prerequisite to their validity. Contrariwise, he means that the spirit of man is not to be shut off from seeking new expressions for his highest aspirations. There is no stopping against the assertion of claims to freedom, to growth, to dignity. This is the burden of his message.

Obviously, in the less than 150 pages of text (including some twenty-five pages of appendices reproducing

extracts from proceedings of the Commission on Civil Rights) it was possible for the author to develop any sort of thoroughness either as to a philosophy for making or to "unalienable rights" within present society. All that he was to outline certain problems, furnish some examples from life. In this way he has provided reference material on which those concerned with improving general understanding of the responsibilities, as well as the privileges, of men may be particularly useful are the patterns of incidents embodying the stress produced by the impact, in the modern conditions, of our basic law upon established folkways.

—MAURICE H. MERRILL

OLD HILARITY. By A. J. G. P. Charlottesville, Virginia: The M. Company, 1965. \$3.95. Pages 112. Reviewed by E. Barrett Prentiss, judge of the United States Court Appeals for the District of Columbia Circuit.

Here we have a book of stories gathered over a period of some 40 years by a past master of the art of living. Surely humor is an element of that art, and these stories, designed for laughter, are a realist's contribution. The author practiced law for a while in Idaho and for a longer while in Street. Thereafter, for health's sake, he forsook the maelstrom of court and went to live in Charlottesville, teaching law at the University of Virginia. Hence the stories reflect a variety of background and flavor.

They derive from and concern a wide field—law, politics, justice, religion, medicine, learning, academic sort, and so on. Some are included—like the one about to tell when a Texan is lying—as condensed versions of Clay's priceless story about the blind man. All the stories have a quality of freshness, which permits that they be over and over again.

Some spots are a bit earthy, bordering on the vulgar in relation to commonplaces of life. But they contain no smut, no sex, no in-

of justice, the manuscript of an unfinished work he left among his papers and the democratic resolution.

The volume is a welcome repository of the best of Edmund Cahn. It enriches our understanding of his pragmatic approach and serves as an excellent addendum to the three works he published during his lifetime.

—LESTER E. DEXORN

LEGAL RESTRAINTS ON RACIAL DISCRIMINATION IN EMPLOYMENT. By Michael I. Sovorn. New York: Twentieth Century Fund, 1966. \$6.00. Pages 270. *Reviewed by Robert F. Drinan, S.J., Dean of the Boston College Law School.*

This volume by Professor Sovorn of Columbia University Law School is probably the most up-to-date survey of federal and state laws prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, which created the Equal Employment Opportunity Commission, is, of course, one of the most important topics of this study.

After reviewing the history, the limitations and the lack of enforcement of state and federal laws banning bias in hiring, Professor Sovorn sets out a model fair employment practices law. Its charter would be sweeping and its enforcement powers rigorous. It would borrow techniques and tactics from other administrative agencies—as, for example, the case-and-vest order of the National Labor Relations Board.

Attorneys involved or interested in the strictly legal aspects of antidiscrimination legislation will find this study helpful. Others may be disappointed that the author has not delved more into the basic economic and educational factors underlying massive bias against the Negro—issues which, the author concedes, have not substantially been resolved anywhere by law. This volume, moreover, seems to assume that, even though statutes forbidding discrimination in employment have never really been very effective, they could and would be effective if their drafting and their enforcement were improved. The author, to be sure, admits that “by themselves anti-discrimination measures will not sat-

isfy” the needs of the Negro; for this, “remedial action on a huge scale by private businesses” will be needed.

This study, however, should not be faulted because it has not treated the complex subject of the law's ability—or lack of it—to diminish prejudice. This volume is designed to be and is a comprehensive analysis of the weaknesses and the potential in existing federal and state laws forbidding discrimination in employment on the basis of race or color.

—ROBERT F. DRINAN, S.J.

1787: THE GRAND CONVENTION. By Clinton Rossiter. New York: The Macmillan Company, 1966. \$7.95. Pages 413. *Reviewed by William H. Rehnquist of the Arizona Bar (Phoenix).*

Subtitled “The Year That Made a Nation”, this work tells the story of the Constitutional Convention that met in Philadelphia during the summer of 1787. The major part of the book is devoted to the deliberations of the convention itself and to thumbnail biographies of the delegates who attended it; other chapters, however, describe the United States in 1787, the struggle for ratification of the Constitution and the latter days of the framers. The author combines an agreeable blend of fact and interpretation to make a first-rate contribution to American political history.

The author declares that 1787 is the “year of the supreme event in the life of the American people”, and convincingly defends that claim against those for the rival years 1776, 1861 and 1911. He categorically rejects the twin notions that (a) the framing of the Constitution represented a conservative reaction against the radical spirit of the American Revolution, and (b) the motivations of the proponents and opponents of the convention's work were explainable almost entirely in terms of economic self-interest. He exhibits the convention as a case study of the give-and-take process that characterizes the best of representative assemblies.

1787 devotes ninety-five pages to the deliberations of the convention itself; Madison's *Notes* devotes several hun-

dred pages to the same subject. By such condensation, the author of *1787* is enabled to include encyclopedic amounts of information about the framers themselves and about the aftermath of the convention within the pages of his volume. But the condensation makes his treatment of the deliberations significantly inferior to Madison's *Notes* in the “you are there” sense of immediacy, which is a major factor in creating reader interest.

The author concludes his section on the convention with an engaging ranking of the framers, ranging from “principals” at the top of the scale to “ciphers” and “dropouts and walkouts” at its bottom. Predictably, James Madison, James Wilson and George Washington make the first team, in that order. Less predictably, at least to this reviewer, is the nomination of Gouverneur Morris as the fourth and last “principal”, but the author argues persuasively for his inclusion within the select group.

At the end of a scholarly concluding chapter entitled, “The Last Years of the Framers”, the author succumbs to the temptation to deliver a peroration which, in two pages, evaluates the development of constitutional law from the death of Madison through the 1964 decision of the Supreme Court of the United States in *Wesberry v. Sanders*. In view of the space limitations, this temptation would better have been resisted.

The illustrations included in the book add appreciably to it. No less than twenty-four of the framers are depicted. Most valuable of all is the photograph of the chair in which George Washington sat while presiding over the convention, about which Franklin made this magnificent remark in the waning hours of deliberation:

Dr. Franklin, looking towards the president's chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that painters had found it difficult to distinguish in their art a rising sun from a setting sun. I have, said he, often and often in the course of the session and the vicissitudes of my hopes and fears as to its issue, looked at that behind the president, without being able to tell whether it was rising

or setting: But now at length I have the happiness to know that it is a rising and not a setting sun.

—WILLIAM H. REINQUIST

JAMES BOSWELL: THE EARLIER YEARS, 1710-1769. By Frederick A. Pottle. New York: McGraw-Hill Book Company, 1966. \$12.50. Pages xviii, 571. Reviewed by Alexander Eulenberg, *Loyola University, Chicago.*

This reviewer has read no more thorough or interesting Ph.D. dissertation than this biography of the first twenty-nine years of the life of James Boswell (he died in 1795 at the age of fifty-five) by Professor Frederick A. Pottle of Yale University. It is hoped that the author will follow through with an account of the last twenty-seven years.

Prior to the discovery of the so-called Malahide papers in the 1920's, James Boswell was known to the modern generation as the very inferior person who had written a very superior biography of a very superior man, Samuel Johnson. In fact, in the introduction to the Modern Library edition of Boswell's *Life of Johnson*, Herbert Ashwith characterizes Boswell as "... an even greater fool and tenacious interloper than we had all along known him to be ...". Ashwith, at the time he wrote, could not be blamed for echoing Macaulay who had written a hundred years earlier that Boswell "... was a man of the meanest and feeblest intellect ... servile and impudent, shallow and pedantic, a bigot and a sot, bloated with family pride ...". Macaulay's venom might have been occasioned by the fact that he, too, had written a *Life of Samuel Johnson*, which never had the impact of Boswell's.

Pottle, without minimizing Boswell's faults, puts them in proper perspective against his many enduring accomplishments. Boswell was a lawyer, and a busy and fairly prosperous one (albeit most of his defenses of clients on criminal charges resulted in their conviction!). He was trained at Utrecht in

Holland, for the Scottish law stemmed, as did the Dutch, from the Roman law and Justinian.

The American lawyer, now concerned with that newly emerging type of real estate ownership known as the condominium, will be surprised to find this description of an equity in real estate in Edinburgh over two hundred years ago:

The houses are enormously tall; one of them ... (thought by Edinburgh citizens to be the tallest inhabited building in the world) has seven storeys on the side towards the Close and twelve on the side towards the Cowgate. These towering structures, called "lands" are generally multiple tenements, each storey (called a "hou-e") being owned by a different family. The apartments are often elegant in their appointments, but the common stair is likely to be shabby if not filthy. . . .

Lawyers would surely have liked a more lengthy quotation than that which appears on page 375, relating to a question that Boswell had asked in 1768 of Johnson: "Can a lawyer plead a cause he knows to be bad without hurting his principles of honesty?" Johnson's reply, in Pottle's account, is limited to this: "Sir, you do not know it to be good or bad till the judge determines it." The lawyer, especially the neophyte, who is plagued by doubts on this score, as Boswell was throughout his years of practice, should read Johnson's complete reply in the *Life, Aetat.* 59; also, Boswell's same expression of doubt in August, 1773, and the equally reassuring response of Johnson's, quoted in Boswell's *Journal of a Tour to the Hebrides*. (Limitations of space preclude their quotation here.)

A compulsion of Boswell's—looked upon with contempt by Macaulay and Ashwith, but with admiration by Pottle—was the urge to meet with the great and influential of his day. And he did develop close and cordial relations not only with Samuel Johnson, but also with Rousseau and Voltaire, with Sir Joshua Reynolds, to whom the *Life* was dedicated, and with the Corsican pa-

triot Pasquale Paoli. Every schoolboy knows who Rousseau was, and Voltaire and Reynolds; but who today knows of Paoli? Pottle rescues him from oblivion with this:

It is useless to berate history for relegating some of her greatest sons to comparative obscurity because it was their misfortune to head unsuccessful revolutions in countries that never established their independence. No one now will ever succeed in convincing the world that Paoli was as great a character as George Washington, and that, given the opportunity that Washington had, his fame would now shine as bright. But it appears really to be so. We are not confined to Boswell's memoirs in forming our judgment: a great many of Paoli's letters have been printed, and they confirm Boswell's portrait at every point. . . . Boswell had at last met a hero: a hero the like of whom, as William Pitt later remarked, was to be found only in the pages of Plutarch.

Boswell wrote two books on Corsica, widely read in his day, but—unfortunately, says Pottle—no longer of current interest. In contrast, his *Life of Samuel Johnson* is today, almost two hundred years after publication, still widely read and even more widely quoted.

This reviewer blushes to confess that the book reminded him somewhat of the celebrated *Life and Loves of Frank Harris*: vivid descriptions of sexual experiences, interspersed with beautiful and moving descriptions of the author's travels, writings and legal practice. There is this difference: Harris's sex was clinical; Boswell's (if I may be pardoned a Freudian pun) was couched in language lay rather than vulgar.

This review must close with a tribute to the author: Just as Boswell's own image was obscured in the effulgence that he created for Johnson, so Pottle's genius could well be overlooked in the reader's admiration for Boswell, an admiration stimulated by Pottle, some of which, at least, should be reserved for this most entertaining and scholarly author. —ALEXANDER EULENBERG

REPORTING OFFICE NEW ORLEANS	OFFICE OF ORIGIN BUREAU	DATE 10/27/71	INVESTIGATIVE PERIOD 10/26/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka.		REPORT MADE BY SA 	TYPED BY b6 /cp b7C
CHARACTER OF CASE DEPARTMENTAL APPLICANT - UNITED STATES DEPARTMENT OF JUSTICE, SUPREME COURT OF THE UNITED STATES			

REFERENCES:

Telephone call from Phoenix, 10/26/71.
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UNITED STATES DEPARTMENT OF JUSTICE
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Copy to:

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OCTOBER 27, 1971

Office: NEW ORLEANS

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Title:

WILLIAM HUBBS REHNQUIST

Character:

DEPARTMENTAL APPLICANT - UNITED STATES DEPARTMENT OF JUSTICE, SUPREME COURT OF THE UNITED STATES

Synopsis:

[redacted]
[redacted] of Maricopa County Branch, National Association for the Advancement of Colored People advised that he signed press release 10/23/71, opposing appointment of WILLIAM REHNQUIST to the Supreme Court of the United States. [redacted] does not know appointee and has no personal knowledge of his background and past activities.

- RUC -

ENCLOSURES:

Enclosed for the Department of Justice are five copies of the press release of the Southwest Area Conference, NAACP.

DETAILS:

AT NEW ORLEANS, LOUISIANA:

FEDERAL BUREAU OF INVESTIGATION

10/27/71

Date _____

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[Redacted] of the Maricopa County Branch of the National Association For the Advancement of Colored People (NAACP).

He does not know the Appointee. Under date of October 23, 1971, as an official of the NAACP, he signed a press release containing a resolution opposing the appointment of WILLIAM RHENQUIST to the United States Supreme Court. He made available a copy of this resolution.

X
X
X

He stated that the information set forth in the release is not based on facts known personally to him, but rather is a consensus of opinion expressed by various supporters, officials, and former officials of the NAACP in Arizona. He attributed the material in the release specifically to [Redacted]

[Redacted] of the Maricopa County Branch; [Redacted] of the Southwest Area Conference of Branches of the NAACP; Senator CLOVIS CAMPBELL, Arizona State Legislature; and [Redacted] Phoenix.

He reiterated that he knows nothing of the background and past activities of appointee except what he has heard from the sources named. He stated that he was willing to appear at any public hearing to give testimony concerning the qualifications of appointee.

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On 10/26/71 at New Orleans, Louisiana File # NO 77-4975

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by SA [Redacted] /cp Date dictated 10/26/71

ENCLOSURE

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77-106904-105

National Association for the Advancement of Colored People

816 N. 6th AVE., PHOENIX, ARIZONA 85004
PHONE 271-9700



SOUTHWEST AREA CONFERENCE, N A A C P

For Immediate Release

Oct. 23, 1971

OFFICERS

Pres. Billie C. Mills
1st Vice Pres. Jack Madison
2nd Vice Pres. Justice Smith
Secretary, Calvin Goode

Robert Horn, Tucson, Arizona, President of the Southwest Area Conference of branches of the National Association for the Advancement of Colored People, and Mr. Billie Mills, Phoenix Arizona, President of the Maricopa County Branch, NAACP, announced their group's opposition to the President's nomination of Mr. William Rhenquist to the United States Supreme Court.

The basis of the opposition is set forth in a resolution adopted unanimously the date set above by the group at its Fall Conference held in Phoenix, Arizona.

Mr. Rhenquist abusive action against the immediate past president of the Maricopa County Chapter of the NAACP, the Rev. George Brooks, were described to the group by a participant and member of the NAACP. A confrontation on the steps of the Arizona State Capitol during the NAACP march in behalf of civil rights legislation was the occasion for several negative expressions by Mr. Rhenquist.

Mr. Horn said, Mr. Rhenquist has shown himself to be a rational reactionary, sophisticated racist and champion of ultra right wing causes. "His voice has been among those ultra right wing Birch her-type groups who castigate the United States Supreme Court and call for the impeachment of liberal judges, clerks, etc."

Horn and Mills concluded, "The nomination of Rhenquist

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77-106909-105

National Association for the Advancement of Colored People

816 N. 6th AVE., PHOENIX, ARIZONA 850
PHONE 271-97



OCTOBER 23, 1971

NAACP

OFFICERS

Pres. Billie C. Mills
1st Vice Pres. Nellie Mason
2nd Vice Pres. Joshua Burch
Secretary. Callie A. Goode

RESOLUTION OF THE SOUTHWEST AREA-CONFERENCE OF THE
N A A C P BRANCHES TO THE PRESIDENT OF THE UNITED
STATES, AND THE UNITED STATES SENATE.

WHEREAS, Richard Milhaus Nixon, the President of the United States has nominated his personal legal advisor, William H. Rhenquist in a sudden manner without consulting members of the Congress, or the American Bar Association, AND

WHEREAS, Mr. Rhenquist has consistently fought the NAACP and others in the State of Arizona who champion the causes of civil rights and the poor, AND

WHEREAS, Mr. Rhenquist in 1964, while serving in a high official capacity in the Arizona State Government openly harassed and intimidated the immediate past president of the NAACP, the Rev. George Brooks and members of the NAACP on the steps of the Arizona State Capitol during a peaceful attempt to reach the legislative bodies to present grievances from the minority community, AND

WHEREAS, Mr. Rhenquist does not fully accept the rights of all citizens to exercise the franchise of voters rights, and our fears are based upon his harassment and intimidation of voters in 1968 during the Presidential election in precincts heavily populated by the poor, AND

WHEREAS, the Maricopa County Branch of the NAACP opposed the naming of Mr. Rhenquist to the position of personal legal advisor to the President, and

WHEREAS, in 1957 Mr. Rhenquist espoused a strong belief with the John Birch Society's position and publicly castigated the U. S. Supreme court and individual members of the court, AND

WHEREAS, Mr. Rhenquist has labelled the youth of Arizona and the nation who peacefully protest the status quo as "barbarians." AND

National Association for the Advancement of Colored People

816 N. 6th AVE., PHOENIX, ARIZONA 85003
PHONE 271-9735



OFFICERS:

Pres. Billie C. Mills
1st Vice Pres. Nell Madlen
2nd Vice Pres. Joshua Bush
Secretary Calvin Goode

WHEREAS, as President Nixon's personal legal advisor, Mr. Rhenquist acted as a primary moving force in the nominations of G. Harrold Carswell and Clement Haynesworth, AND

WHEREAS, by his public statements and actions Mr. Rhenquist has shown himself to be a right wing extremist, a rational reactionary, and a sophisticated racist, NOW THEREFORE

BE IT RESOLVED, that the Southwest Area Conference of the NAACP calls upon the President of the United States to withdraw the name of William Rhenquist forthwith, FURTHER,

BE IT RESOLVED, that the U.S. Senate refuse to give its advice and consent to the nomination, and FURTHER,

That the President of the United States by his nomination of Mr. Rhenquist will have nominated one who has proven himself to be inimical to the causes of Blacks, Poor, Civil Rights and Civil Liberties.

SIGNED

Robert L. Horn
Robert Horn, State President

Billie C. Mills
Billie C. Mills, President
Maricopa County Branch

Cleo Thompson
Cleo Thompson, President
Mesa-Chandler Branch

Lorenzo Whatley
Lorenzo Whatley, President
Coolidge - Eloy Branch

Woodrow Crain
Woodrow Crain, President
Flagstaff Branch

Raymond Robinson
Raymond Robinson, President
Yuma Branch

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Rehnquist a Warren critic, called first-rate law scholar

William H. Rehnquist, 47, the former Phoenix lawyer who was nominated yesterday by President Nixon to become an associate justice of the U.S. Supreme Court, was a severe critic of the Warren Court.

He was also active in Republican Party politics and was described by his closest associate here, attorney James Powers, as being "a first-rate legal scholar."

"I'm sure he'll make an excellent justice," Powers said. He was in partnership with Rehnquist from late 1959 until the latter went to Washington in January 1969 to become an assistant attorney general.

Rehnquist has one announced opponent here, the Rev. George B. Brooks, former president of the Maricopa County Chapter of the National Association for the Advancement of Colored People.

Mr. Brooks said yesterday that Rehn-

quist was "the only major person of stature in the state who opposed the Arizona civil rights bill in 1968."

He said he intends to oppose the nomination and plans "to file a statement with the Judiciary Committee of the U.S. Senate outlining Mr. Rehnquist's attitude toward the civil rights of black people in Arizona."

Mr. Brooks said he would urge the president of the county NAACP to seek national opposition to the nomination by the NAACP.

"What they will do, I don't know," Mr. Brooks said. "They may know he has reformed since then, but I doubt it."

When the U.S. Senate confirmed Rehnquist as an assistant attorney general in 1969, the county NAACP filed a protest with U.S. Atty. Gen. John Mitchell, charging Rehnquist's appointment "was

Continued on Page 23

First 2 paragraphs

William H. Rehnquist, 47, the former Phoenix lawyer who was nominated yesterday by President Nixon to become an associate justice of the U.S. Supreme Court, was a severe critic of the Warren Court.

He was also active in Republican Party politics and was described by his closest associate here, attorney James Powers, as being "a first-rate legal scholar."

More
about

Rehnquist a Warren-court critic

Continued from Page 1

inimical to the best interest of black people in America."

Asked about Brooks' statement, Powers recalled that Rehnquist had "a very definite opinion" against the civil rights bill. But he added:

"To say that Bill has some animus or bias toward minorities is wholly false."

In Washington, Rehnquist has been in charge of the Office of Legal Counsel, which requires that he and his assistants pass on the legality and constitutionality of presidential executive orders, opinions issued by the attorney general and other constitutional law questions in the executive branch.

Powers said that in his Phoenix law practice Rehnquist did not specialize in any particular legal area.

"Bill did pretty much everything," Powers said. "He stood out more than anything as a legal scholar."

This means, Powers said, that Rehnquist "has read a lot of history and legal theory, economics, philosophy and law."

High qualifications

Rehnquist, the first Arizona nominated for the U.S. Supreme Court, was born in Milwaukee and earned his degree in law from Stanford University, where he was first in his class.

He earned a master's degree in history from Harvard University after receiving a bachelor's degree at Stanford. Following his graduation from law school, Rehnquist went to Washington as a law clerk to the late Associate Justice Robert H. Jackson.

It was while a clerk for Jackson that Rehnquist was introduced to Powers by a mutual friend, Ted Stevens, now U.S. senator from Alaska.

Powers recalled that Rehnquist "was interested in locating in the Southwest somewhere and Stevens told him he had a friend who was from Phoenix. So I went over and had lunch with him (Rehnquist) in the U.S. Supreme Court cafeteria."

That was in 1952 or 1953. By 1954, Rehnquist and Powers were working in Phoenix for the law firm of Evans, Kitchel and Jenckes.

In the mid-'50s, Rehnquist left to join

the firm of Cunningham, Carson and Messinger. In late 1959, he and Powers went into practice together. That association continued until Rehnquist went to Washington at the behest of Richard Kleindienst, deputy attorney general.

In the 1950s, Rehnquist became active in Republican politics and served as a precinct committeeman. He also spoke out against the Supreme Court under Chief Justice Earl Warren.

In one speech, Rehnquist accused the court majority of "making the Constitution say what they wanted it to say" in a series of civil liberties cases resulting in victories for suspected Communists and Communist sympathizers.

Rehnquist also labeled Warren and Justices Hugo Black and William Douglas as "left wing." Black died Sept. 25, Warren retired and Douglas is still on the court.

In a telephone interview last night with The Washington Post, Rehnquist said that since arriving in Washington his outlook has broadened.

"It's one thing to deal with a client or a group of clients on a single issue, and it's quite another to discuss law that affects the whole country," Rehnquist said. "I don't see how a person could fail to broaden his horizons in my job."

He said he didn't plan further public comments until after Senate confirmation.

"You can't be shot for what you didn't say," he said.

Rehnquist was recruited for the Washington job by Kleindienst, who formerly was the Republican Party chairman in Arizona and once ran unsuccessfully for governor. Kleindienst was active in 1964 in getting the presidential nomination for Sen. Barry Goldwater, R-Ariz., and in 1968 for Richard Nixon.

Powers said he spoke with Rehnquist "a couple of weeks ago, but he never gave me the slightest idea he was under consideration."

Powers said he had lunch at Rehnquist's home. Rehnquist is married and he and his wife, Natalie, have three children, Jim, 16, Janet, 14 and Nancy, 12.

Rehnquist formerly served as president of the Maricopa County Bar Association and in 1962 he was appointed to

the Commission on Uniform State Law by then-Gov. Paul Fannin. The following year, Rehnquist was named an associate member of the American Bar Association's Special Committee on Defense of Indigent Persons Accused of Crime.

He served as president of the Phoenix Visiting Nurses Service Volunteer Board in 1958.

Rehnquist formerly was legal counsel for the Arizona Republican Party and served as the prosecutor in the unsuccessful attempt to impeach former Arizona Corporation Commissioners Jack Buzzard and Eddie Williams in 1954.

In 1965, he was legal counsel for the John Hough-for-Governor Committee. He served as Phoenix chairman of the Stanford University Annual Fund in 1954.

Love of outdoors

Rehnquist, described by Powers as "a big man" who stands more than 6 feet and has "brown hair and a kind of a ruddy face," is a lover of the outdoors and has traveled throughout Arizona, Utah and Nevada on hiking and camping trips.

He has argued for greater federal law enforcement agencies and he has composed complex theories on the bar business who founded the Arizona Bar Association.

"I'm skeptical of other legislative ideas on what can be done to give judicial controls on investigation" by law enforcement agencies, he said in a speech in March 1967.

Rehnquist said the complex rioters "care nothing for our system of government and law. They believe that the relatively civilized society in which they live is so totally rotten that no remedy short of the destruction of that society will suffice."

In a Phoenix appearance last December, Rehnquist said speedy trials will not necessarily make crime disappear.

"With all the rights defendants have been granted by the U.S. Supreme Court, the criminal defendant can and does do a great deal more than just present evidence at his trial," he said.

"He (the defendant) attacks by motion and writ every phase of the proceeding against him and that lengthens the time between his indictment and trial," Rehnquist said.

"TREAT AS ORIGINAL"

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE NEW YORK	OFFICE OF ORIGIN BUREAU	DATE 10/27/71	INVESTIGATIVE PERIOD 10/27/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY <div style="border: 1px solid black; width: 150px; height: 15px;"></div>	TYPED BY jas
		CHARACTER OF CASE DAPLI JUSTICE SUPREME COURT OF THE UNITED STATES	b6 b7C

REFERENCES:

New York report of SA 10/26/71.
Phoenix teletype to Bureau, 10/26/71.
Chicago teletype to Bureau and New York, 10/26/71.

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ACCOMPLISHMENTS CLAIMED					<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		

APPROVED <i>[Signature]</i>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
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Dissemination Record of Attached Report				Notations <i>[Handwritten]</i>
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By	60 JAN 25 1972			

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:
Date:

[REDACTED]
10/27/71

Office: New York, New York

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Field Office File #:

77-34526

Bureau File #:

Title:

WILLIAM HUBBS REHNQUIST

Character:

DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES

Synopsis:

Associate advised he has no knowledge concerning applicant's alleged opposition to City of Phoenix Public Accomodations Ordinance and recommends. Congressman CHARLES C. DIGGS not acquainted with applicant. Applicant unknown to [REDACTED] NAACP, NYC. Applicant's membership in Council, Section on Administrative Law, American Bar Association, verified.

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

DETAILED:

Associate

On October 27, 1971, [redacted]

[redacted] was interviewed at the Essex House Hotel, Central Park South, New York City. He stated he has known the applicant for approximately fifteen years as a very able attorney and concerned citizen. He stated he had the highest regard for the applicant and backed his nomination "100%".

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[redacted]
of the Phoenix Human Rights Commission, which was holding public hearings on and urging the passage of a Public Accommodations Ordinance for the City of Phoenix. He stated the import of the proposed ordinance was to the effect that all individuals would have access to all public accommodations in the city. He stated he had absolutely no recollection of the applicant's alleged opposition to the proposed ordinance and had no recollection of his presence at any of the hearings.

[redacted] further stated that he had absolutely no knowledge concerning the applicant's alleged association with the John Birch Society or any other right-wing extremist organization. With respect to Arizona State Senator CLOVIS CAMPBELL, whom he heard had made allegations on the floor of the Arizona Legislature to the effect the applicant attended meetings of the John Birch Society, [redacted] stated Senator CAMPBELL is of an entirely different political persuasion than the applicant and is interested only in his own "constituency".

[redacted] concluded by stating he felt the applicant's nomination was an excellent choice of an extremely able and competent individual.

NY 77-34526

Racial Leaders

On October 27, 1971, [redacted] Secretary to [redacted] National Association for the Advancement of Colored People (NAACP), 1790 Broadway, New York City, advised ROY WILKINS, Executive Director, is presently vacationing and unavailable for contact.

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On October 27, 1971, [redacted] Secretary to [redacted] NAACP, Legal Defense and Educational Fund, Incorporated, 10 Columbus Circle, New York City, advised that she had left a message with [redacted] on October 26, 1971, to contact the New York Office of the Federal Bureau of Investigation, but he did not have the time to return the call. She does not know when [redacted] will be in his office or when he will be available for interview.

On October 27, 1971, [redacted] NAACP, 1790 Broadway, New York, New York, advised SA [redacted] he was not personally acquainted with the applicant. His only knowledge of the applicant is from news media. He added that his organization is still in the process of studying the applicant's record, but this study will not be completed for about a week.

Government Official

On October 27, 1971, CHARLES C. DIGGS, JR., Congressman, State of Michigan, advised SA [redacted] that he is not acquainted with the applicant and can make no comment concerning him. DIGGS was contacted at his office at the United States Mission to the United Nations, 799 United Nations Plaza, New York, New York.

Organization

American Bar Association (ABA)
Council on Administrative Law
Chicago, Illinois

On October 27, 1971, [redacted]

[redacted] advised that he was [redacted] Section on Administrative Law of the ABA, which is engaged in advisory-lobbying activities regarding administrative law matters. He advised that Mr. REHNQUIST had been a member in this section for the past two years. He described Mr. REHNQUIST's activities in the Council as able and constructive. He stated that he had an attractive personality and the respect of all of the other members of the Council.

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In a meeting of the Council during the week of October 18 through 22, 1971, which followed the announcement of the appointment of Mr. REHNQUIST, no derogatory information regarding Mr. REHNQUIST or his activities was noted during the process of the meeting of the Council.

[redacted] stated that it was his belief that Mr. REHNQUIST has the potential and the intellectual capabilities for the appointment, but [redacted] stated that he was not aware of Mr. REHNQUIST's political views nor REHNQUIST's position on civil rights matters as neither of these matters had been the subject of discussions of meetings concerning the Council. [redacted] advised that he had never associated with Mr. REHNQUIST on a social basis.

[redacted] advised that he believes the appointment to be a good one, and could furnish no derogatory or negative information regarding Mr. REHNQUIST and the announced appointment.

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE PHOENIX	OFFICE OF ORIGIN BUREAU	DATE 10/27/71	INVESTIGATIVE PERIOD 10/26/27/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka.		REPORT MADE BY <div style="border: 1px solid black; width: 150px; height: 15px;"></div>	TYPED BY lss
		CHARACTER OF CASE JUSTICE, SUPREME COURT OF THE UNITED STATES	

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REFERENCE: Report SA dated 10/26/71, at Phoenix.

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ENCLOSURE: TO BUREAU: (3)

- Three pages of mounted newspaper clippings from the "Arizona Republic" and "Phoenix Gazette" containing current articles re REHNQUIST.

LEADS

PHOENIX DIVISION

AT PHOENIX, ARIZONA

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ACCOMPLISHMENTS CLAIMED					<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN: PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		

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5 JAN 19 1972

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Notations

[Signature]

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60 JAN 25 1972

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1. Will continue efforts to identify, locate
and interview [redacted] mentioned in the
contact with [redacted]

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2. Will interview [redacted]
[redacted] upon his return to Phoenix.

Above investigation will be conducted and reported
expeditiously.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

[REDACTED]

Office:

PHOENIX

Date:

October 27, 1971

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Field Office File #:

PX 77-3510

Bureau File #:

77-106904

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Title:

WILLIAM HUBBS REHNQUIST

Character:

JUSTICE, SUPREME COURT OF THE UNITED STATES

Synopsis:

Three former associates of appointee recommend. [REDACTED] would not recommend appointee based on lack of experience. Five justices of Supreme Court and Maricopa County Superior Court consider appointee qualified for position under consideration. Investigation concerning voter challenge at Bethune School in 1964 set forth; persons interviewed unable to identify whites who were involved. [REDACTED] member, Phoenix Chapter, NAACP, describes appointee as "super patriot"; he is not personally acquainted with appointee. [REDACTED] of Phoenix recommends appointee. Appointee no longer involved in Bureau of Indian Affairs land dispute. Restrictive covenant located for appointee's property in Palmcroft Subdivision, Maricopa County. Four individuals who signed petition opposing nomination of appointee are officials in NAACP chapters in Arizona. Membership records of Arizonans for America no longer exists but three former officers do not recall appointee as being a member of the organization. [REDACTED] of TACT advised appointee unknown to them and not associated in any way with TACT to their knowledge. [REDACTED] advised he had no information of interest to the FBI.

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DETAILS:

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BUSINESS AND PROFESSIONAL ASSOCIATES

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[redacted] advised SA [redacted] on October 27, 1971, that he highly recommends the selection of WILLIAM REHNQUIST for the U. S. Supreme Court and considers it an outstanding choice. He stated that he had been of the opinion that REHNQUIST had been with his firm longer than 1953 - 1955 as mentioned by [redacted] with whom he had been talking, but in any event he had kept in close touch with REHNQUIST after REHNQUIST left to practice law on his own. He pointed out that he and REHNQUIST had a common intellectual interest in constitutional questions and they frequently discussed such matters. [redacted] stated that even during the four or five years he spent in Washington, D.C., he would visit with REHNQUIST on his returns to Phoenix. He stated that through these contacts and discussions with REHNQUIST he himself had decided long ago that REHNQUIST "had to go on the bench," and "that was what he was made for." He said REHNQUIST is an outstanding legal scholar and has the judicial approach. [redacted] pointed out that REHNQUIST had made a great study of the Constitution and the Constitutional Convention and can quote portions of speeches at the latter.

[redacted] recalled that prior to coming to the firm, REHNQUIST had compiled a unique scholastic record in both law school and under-graduate school and had served as a clerk for Supreme Court Justice JACKSON. He said that when REHNQUIST decided to enter practice he was in great demand by New York law firms but for some reason, unknown to [redacted] REHNQUIST wanted to practice in Phoenix. He said that REHNQUIST was interested in their firm and contacted him and "sort of fell in our laps". Later, when REHNQUIST left, it was because of his desire to practice law on his own, and he joined with another attorney, [redacted]

Regarding REHNQUIST's attitude toward civil rights, [redacted] stated that he was not in Phoenix at the time of the matters about which REHNQUIST is now being subjected to some criticism. He said, however, that over the years in his discussions with REHNQUIST, REHNQUIST never gave any evidence of racism. He said that REHNQUIST is concerned over constitutional powers and limitations but is no racist.

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EJVL/sp

He stated that REHNQUIST is very strong for the application of constitutional principles. [redacted] referred to the 1964 Federal Civil Rights Act and stated that both he and REHNQUIST were of the opinion that Titles 2 and 7 (Fair Employment Practices and Public Accommodations sections) were unconstitutional but would be held constitutional by the court. [redacted] reiterated that REHNQUIST is not a racist and said that REHNQUIST is a very strong moral man who is most understanding of human values.

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[redacted] stated that the character, reputation and loyalty of REHNQUIST are beyond reproach. He stated that he knows nothing of a derogatory nature about REHNQUIST which should be revealed for the consideration of those having the responsibility of passing on the nomination of REHNQUIST.

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WCR:mbd

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[redacted]
[redacted] Phoenix, advised on October 27, 1971, that he has known WILLIAM H. REHNQUIST as a neighbor and fellow attorney since REHNQUIST's arrival in Phoenix for the practice of law. [redacted] reported that he had one legal case in which REHNQUIST was the opposing attorney. This case went to the Arizona Supreme Court, giving [redacted] additional opportunities to observe REHNQUIST in action.

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[redacted] said that he has never been a personal friend of REHNQUIST, and has not been in the same social circle, but knew that REHNQUIST has very high moral standards, excellent character traits, has a fine family, is honest in his dealings with both friend and opponent, and is of unquestioned integrity. There could be no doubt as to his loyalty to the United States and its democratic principles and institutions. [redacted] knows of nothing unfavorable that could be discovered concerning REHNQUIST, his character, conduct or reputation.

[redacted] reported that REHNQUIST has a good legal education, is a scholar of the law, is hardworking, and is highly qualified for the high judicial position to which he has been nominated. He said that REHNQUIST is highly regarded in the legal profession in Arizona. He would recommend REHNQUIST for this high position of confidence and trust.

[redacted] said that REHNQUIST treats all individuals fairly and has never known him to show or express any prejudice towards individuals or minority groups. He said that REHNQUIST is not egotistical nor forward, but deals with individuals and groups on a personal level without prejudice or preconceived ideas. He is certain that REHNQUIST does not belong to any racially prejudiced organization. He has never heard REHNQUIST make any statement concerning racial matters, but feels that he would deal with any question in a fair, judicious manner, deciding all questions according to the law and the Constitution.

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RLN:cjn

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The following investigation was conducted by SA [redacted] at Phoenix, Arizona:

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[redacted]
[redacted] Phoenix, Arizona, was contacted on October 27, 1971, and furnished the following information:

[redacted] stated that he has known WILLIAM REHNQUIST ever since REHNQUIST graduated from law school and set up practice in Phoenix, Arizona. He stated that he is not a close friend of REHNQUIST's and even though they are not affiliated with the same political parties or dedicated to the same ideals, he wholeheartedly recommends him for the U. S. Supreme Court. [redacted] stated that the charges he has been reading in the newspaper concerning REHNQUIST's leanings on Civil Rights are totally ridiculous. [redacted] was very adamant in his views on this subject. He stated that REHNQUIST is an honest, competent, dedicated and intelligent man. Over the years he said that they were opposite in many of their views, but Mr. REHNQUIST was very professional and fair in his dealings with minorities.

[redacted] highly recommended WILLIAM REHNQUIST for the position of Associate Justice to the Supreme Court.

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PX 77-3510

RWD:lss

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The following investigation was conducted by
SA [redacted] on October 27, 1971, at Phoenix, Arizona:

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[redacted]
Phoenix, advised that he has known WILLIAM REHNQUIST for the past ten years.

[redacted] advised that he felt that REHNQUIST was not sympathetic towards civil rights matters in general.

As to judicial ability and temperament, he stated he felt REHNQUIST did not have the classical judicial temperament which he felt was necessary for the position of Supreme Court Justice. He stated REHNQUIST was quite vocal in his beliefs, that he considered him an arch conservative and a very able attorney.

He advised that he had had no social acquaintance with REHNQUIST or members of his family.

[redacted] stated that he has had only a very limited association and consultation in business with REHNQUIST.

[redacted] advised that he would not recommend REHNQUIST for the position of Associate Justice based on his lack of experience in general.

PX 77-3510
PKB:lss

COURT OFFICIALS

PX 77-3510
ELF/sp

On October 26, 1971, [REDACTED]

[REDACTED] advised

SA [REDACTED] that he has had a professional acquaintance with appointee for approximately ten years. [REDACTED] stated that while he is a Democrat and appointee is a Republican, he cannot say that appointee would not be qualified for a high position with the U. S. Government, particularly anything within the judicial area. He described the appointee as a conservative individual, in his opinion, stating that he feels he would be fair and honest as regards to any civil rights matters, adding that actually appointee would be considered a brilliant lawyer who would have outstanding judicial ability. He feels that he could recommend him concerning his character, reputation and loyalty based on his professional contacts with him and accordingly, he could recommend him for a high position with the U. S. Government.

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PX 77-3510

JDW:mbd

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The following investigation was conducted by
SA [redacted] at Phoenix, Arizona, on October 27, 1971:

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[redacted]
[redacted] furnished the following information relative to the
appointee:

He has known the appointee for several years, professionally, and he is regarded as a person with outstanding ability in the field of law. He stated the appointee has appeared in his court on occasion and that he has exhibited dignity in his presentations and a high respect for the Court.

[redacted] stated he did not know the appointee well enough personally to express a view or observation about his personal life, or his professional or personal philosophies on political matters or his feelings about civil rights, the John Birch Society, or other matters of public interest.

[redacted] stated he had never heard of any information that would reflect adversely upon the appointee's character, associates or loyalty to the country and that in his opinion the appointee is a man of the highest integrity, honesty and trustworthiness.

[redacted]
[redacted] furnished the following information relative to the
appointee:

He has known the appointee since 1959 on a professional and personal basis and he has always had the highest regard for him. He considers the appointee as a highly intelligent individual, a person of considerable ability in the field of law and a man of integrity. He observed the appointee is pre-eminent in standing of the Arizona Bar Association and that he has always exhibited diligence in representing the interests of his clients,

PX 77-3510

JDW:mbd

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being unwavering and positive in his position.

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[redacted] described the appointee was a student of history and a person unselfish in his devotion of time and energy to community affairs and well being. He stated he had never personally known of any information that would reflect upon the character, loyalty and associates of the appointee and that in his professional position as a lawyer and judge, he had never heard any statement of a material nature thrust against the character and ability of the appointee.

[redacted] stated he had noted in the newspapers in recent days references of "racist," "Bircher," and possibly other statements associated with the appointee, however, he knew of no statement from a professional standpoint or any personal remarks of anyone with whom he has come in contact in the State of Arizona that would earmark or infer that the appointee was in fact a "racist," "Bircher" (John Birch Society), a radical or a person being necessarily "anti-civil rights." He described the appointee as a patient, tolerant individual who had depth of thinking and who is interested in hearing out facts in a matter before passing an opinion or judgment.

[redacted]
[redacted] furnished the following information relative to the appointee:

He first knew the appointee when he was a young attorney representing the State of Arizona, as a Special Attorney, in a matter involving the recovery of funds from state legislators. He pointed out the matter in question concerned the interpretation of travel regulations in matters pertaining to expenses of legislators during legislative sessions in Phoenix, Arizona. He stated he was representing several legislators in this matter and that he had the opportunity to observe the appointee in action. He stated he did a magnificent job preparing the wealth of information necessary in this case and that he was indeed well prepared in his presentation. He stated that he recalled

PX 77-3510

JDW:mbd

3

the appointee's last trial in Arizona was in his court and that he considered the appointee to be a highly intelligent individual, well grounded in the field of law and a person with dignity and respect in his court.

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[redacted] stated he was not personally socially acquainted with the appointee and that his knowledge of the appointee was based upon professional contacts with him. He stated he had never had any occasion to doubt the appointee's loyalty, character and associates and that to his knowledge, no one in the field of law, in his presence, had ever made any statement that would taint the character or ability of the appointee.

[redacted]
[redacted] furnished the following information regarding the appointee:

He stated he has known the appointee in a professional way for several years and that he has appeared in his court on several occasions. He described the appointee as an outstanding lawyer, a person highly regarded who was always extremely well prepared in the presentation of his cases. He always exhibited dignity in the court and was indeed forthright in presentation of facts before him. He is a highly intelligent individual and a person outstanding in his profession whose character, loyalty and associates are unquestioned, to his knowledge. He stated he had never heard of any adverse material criticism of the appointee and that he is a positive, firm individual in his thinking. He stated that in his opinion the appointee has a deep respect for the laws of this country and that it was his observation the appointee would not permit pressure or influence from any group, organization or political faction to sway his opinion in regard to application of the law in any matter.

[redacted] stated he had noted references in recent news articles indicating the appointee may be a "racist" or a "Bircher," however he knew of no information from a professional or personal standpoint that would tend to indicate the appointee is a "racist" or "Bircher" or that he has any prejudicial views, pro or con, regarding the matter of civil rights.

PX 77-3510

JDW:mbd

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[redacted] also described the appointee as a scholar in the field of law and a person mature in his application of the law, based upon his experience and contact with the appointee.

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PX 77-3510
PKB:lss

RELIGIOUS AND CIVIC LEADERS

PX 77-3510

KRD:lss

1

The following investigation was conducted by
SA [redacted] at Phoenix, Arizona:

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On October 27, 1971, [redacted]
[redacted] advised that he remembered
an incident which occurred at the Bethune School, Bethune
Voting Precinct, during one of the peak periods on a voting
day during the presidential campaign in 1964. [redacted] advised
that he was at a precinct headquarters when he received the
information by telephone that there was an incident at Bethune
Precinct. The message was that "they are throwing the people
out." Upon arrival at Bethune School, [redacted] advised that
he determined that two white women were challenging voters
of the precinct which he learned later to be method of presenting
a card with the constitution written on it and asking the
voters to read it. If a person couldn't read it, one of the
white men would rudely tell him to get out of line and take the
card away. One woman, [redacted] was pushed out of
line and [redacted] started arguing with the challengers and
threatened to fight them. [redacted] advised that a free-for-all
developed. According to [redacted] stopped a black
man from jumping on one of the white men. [redacted] advised that
he did not know the white challengers but was later told that
one of them was WILLIAM REHNQUIST.

On October 27, 1971, [redacted] ad-
vised that she was [redacted] at Bethune School,
Bethune Polling District, on November 3, 1964. [redacted] advised
that she did remember an incident which occurred on that day
and stated that two white men who were Republicans, challenged
the voter qualifications of the people at the polling station.
She did not remember that these men caused trouble with the
voters, however, they did fight with another white man who was a
Democrat. [redacted] advised that he could not remember all of the
particulars of the incident; that she does not know the
identity of the men involved and advised that to her knowledge,
she had not known the men before the incident nor has she seen
them since. [redacted] advised further that she walked to the front
door of the school and the police arrived.

On October 27, 1971, [redacted]
[redacted] advised that she was present on November 3, 1964,
at Bethune School serving as a [redacted] advised
that to her knowledge and recollection, there were no incidents
at the poll.

PX 77-3510

KRD:Iss

2

On October 27, 1971, [redacted] County Recorder's Office, advised that a challenge list was maintained during the 1964 presidential election which was a log of challenges presented at that time. [redacted] advised, however, that this challenge list was destroyed six months after the election and that there are no logs, minutes or records in his office of any occurrences or incidents at Bethune School.

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On October 27, 1971, [redacted] Identification Bureau, Phoenix Police Department, advised that his files do not reveal a report of an incident at Bethune School on November 3, 1964.

On October 27, 1971, [redacted] advised that [redacted] who was at the Bethune School and who stopped a black man from jumping on one of the white challengers, resided at [redacted] [redacted] advised that she is not married to [redacted] that her former husband's name was [redacted] who currently resides in [redacted] She does not know [redacted] and could not advise of his whereabouts.

On October 27, 1971, [redacted] [redacted] advised that he is acquainted with WILLIAM H. REHNQUIST and that he could furnish no unfavorable information regarding REHNQUIST's character, reputation or associates. [redacted] advised that he had no reason to doubt REHNQUIST's loyalty to the United States. [redacted] advised that REHNQUIST was not a racist and that he felt that REHNQUIST's opposition to civil rights legislation was ideological. [redacted] advised that he heard a rumor that REHNQUIST headed a volunteer group of lawyers who tried to disenfranchise black voters for GOLDWATER during the presidential campaign. [redacted] advised that he has been unable to verify or disprove the rumor and has received no information that positively identifies REHNQUIST with such a group. [redacted] advised that based on his knowledge of REHNQUIST to date, he would recommend him for a position as Associate Justice of the United States Supreme Court.

PX 77-3510
RS:lss

The following investigation was conducted by
SA [REDACTED]

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On October 27, 1971, [REDACTED]
[REDACTED] advised that she was a clerk at the
polls at Bethum School for the general election November 3,
1966. She stated she did not now recall what hours she
worked at that time. She stated during the time she was
working at the polls she recalled no incident of a white
man challenging any of the voters qualifications to vote.
She advised the time is so long ago she cannot recall anything
concerning her working at the polls.

On October 27, 1971, [REDACTED]
[REDACTED] advised she recalled working at
the polls at Bethum School for the General Election in
November, 1966. She stated she arrived at the polls late in
the day and was told there had been an incident of some man
trying to interrupt the voting, but it happened before she got
there and she saw nothing. She stated she did not now recall
who was at the polls before she got there. She stated she could
furnish no information regarding the incident.

She stated she recalled one of the others at the
poll, who arrived after she did and worked a late shift, was
[REDACTED] who has since moved out of town and whose
whereabouts are unknown.

FEDERAL BUREAU OF INVESTIGATION

Date October 27, 19711

[redacted] advised he is a member of the Phoenix Chapter of the National Association for the Advancement of Colored People (NAACP). He stated he is not personally acquainted with WILLIAM REHNQUIST and has only seen him on a few occasions.

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He stated he first saw REHNQUIST on July of 1964 when there was a march by the NAACP on the capitol building in Phoenix, Arizona, in which he, [redacted] participated. He stated the march was for better jobs and to improve conditions for the poor. He stated when the marchers reached the capitol building they were confronted by REHNQUIST on the steps of the capitol. He stated the march leader, [redacted] and REHNQUIST started hollering at each other for a few seconds. He stated he recalled that REHNQUIST asked [redacted] if the march was Communist inspired. He stated after about 30 seconds the incident ended.

He stated he does not recall any direct contact with REHNQUIST. He stated as far as he knows REHNQUIST is an outstanding attorney of the highest moral character, integrity and ability.

He stated however that in his opinion REHNQUIST is a "super patriot" and is over zealous in his attitude against any form of protest against the government. He stated he believes REHNQUIST does not object to protest, but only so long as the protest is kept in its proper perspective according to REHNQUIST's own definition, which is no marching, no demonstrations, and definitely no form of violence of any kind. He stated he believed REHNQUIST would oppose even non-violent protests.

He stated he believed that this attitude on the part of REHNQUIST would affect his decisions as a member of the Supreme Court if called upon to rule regarding questions concerning Civil Rights and the Civil Rights movement. He stated for the reasons stated, he opposes the appointment of REHNQUIST to the Supreme Court of the United States.

On 10/27/71 at Phoenix, Arizona File # PX 77-3510by SA [redacted] /sp Date dictated 10/27/71

PX 77-3510

WCR:mbd

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[redacted] informed on October 26, 1971, that he has known WILLIAM H. REHNQUIST for almost fifteen years. [redacted]

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[redacted] REHNQUIST was an active member of the club, so [redacted] was in social contact with him because of this club and other groups. [redacted] and Mrs. REHNQUIST became personal friends and also worked together in several women's organizations in Phoenix.

[redacted] was interested in learning the effects of the "Uniform Commercial Code" on business organizations such as building and loan companies. He was informed that WILLIAM REHNQUIST was the best possible person to consult concerning this code. [redacted] did consult with REHNQUIST relative to the code, and was very much impressed by his understanding of the code and his ability to interpret and explain its provisions to [redacted]. This was [redacted] only personal contact with REHNQUIST as a lawyer.

Based upon extensive social and civic contact, and the limited professional association, [redacted] said he could recommend REHNQUIST as a person of high moral standards, excellent character traits, with an excellent reputation in the community. There was no question as to his loyalty to the United States and its democratic principles.

[redacted] believed that REHNQUIST is pre-eminently qualified from education, judicial temperament, and experience for a judicial position.

[redacted] occupied no position in the government of the City of Phoenix at the time consideration was being given to the enactment of an ordinance concerning equal accommodations and housing by Phoenix. He had no information concerning any statements made or actions taken by REHNQUIST

PX 77-3510

WCR:mbd

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concerning this proposed ordinance. [] has never known REHNQUIST to be a member of, or sympathizer with, organizations which could be considered racially prejudiced. He had never heard any comment or statement by REHNQUIST relative to racial matters.

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[] said that he could recommend REHNQUIST for a position requiring the highest judicial ability, character and moral standards, and unquestioned loyalty to the Constitution of the United States.

PX 77-3510
PKB:lss

MISCELLANEOUS

PX 77-3510
PKB:lss

On October 27, 1971, [redacted] Area Director, Bureau of Indian Affairs, 124 West Thomas Road, advised the matter involving a title dispute where REHNQUIST was an Attorney of Record was a case entitled [redacted] a matter involving a dispute over Colorado River land. Several parties were claiming ownership including Indians. The case originated in 1967 or 1968, and REHNQUIST represented one of the parties, which party he was not certain. He indicated he was not knowledgeable concerning the matter and suggested another party to contact.

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[redacted] Co-ordinator, Special Projects, Land Title and Boundry Matters, Bureau of Indian Affairs, advised all files in the [redacted] matter have been sent to the Clerk of the U. S. District Court, Los Angeles, California, where the matter is being heard in the 9th District. It was his recollection that appointee had at one time been the Attorney of Record for one of the parties, but was no longer connected with the case.

[redacted] advised this same date [redacted] WILLIAM REHNQUIST, was initially the Attorney of Record in the [redacted] litigation but had disassociated himself with the case when he accepted employment with the Department of Justice in 1970. Another law firm, Fennemore, Craig, Von Ammon and Udall, is now handling the matter.

FEDERAL BUREAU OF INVESTIGATION

1Date October 27, 1971

Customer Service Department, Arizona Title Company, advised that further research of the records of the title company revealed a warranty deed, Number 328623, dated July 30, 1928, relating to Lot 111 of the Palmcroft Subdivision, Maricopa County, Arizona. Article eleven of this warranty deed is as follows:

"No lot nor any part thereof within a period of 99 years from the date of filing of record on the plat of Palmcroft, shall ever be sold, transfer or leased to nor shall any lot or part thereof within said period be inhabited or occupied by any person not of the White or Caucasian race."

On 10-27-71 at Phoenix, Arizona File # Phoenix 77-3510

by SA /sp Date dictated 10/27/71

PX 77-3510
JGB:sp

The following investigation was conducted by
SA [redacted] at Yuma, Arizona, October 27, 1971:

[redacted] advised he was [redacted] of the NAACP of Yuma, Arizona. He advised that on October 23, 1971, he signed a petition regarding WILLIAM REHNQUIST at Phoenix, Arizona. He further advised that he has never been in the State of New Jersey and that he could only say that his name appeared in a petition in New Jersey if the one he signed in Phoenix was mailed there.

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He said he had no personal acquaintance with the appointee but his feelings were that the appointee should be disapproved for appointment to the Supreme Court. He advised that his feelings originated during a confrontation which occurred between the appointee and NAACP members at the State Capitol building in Phoenix, Arizona, several years ago. He advised this confrontation indicated to him that the appointee would be incapable of handling his position.

[redacted] said his disapproval of the appointee related to the incident which occurred in Phoenix at the State Capitol Building. He advised he did not remember what occurred during this incident and said he did not attend the demonstration which occurred several years ago at the Phoenix State Capitol building. He advised that he was told this incident was related to civil rights matter. He could not specify the exact nature of the civil rights allegation. He advised that he has never personally met the applicant, nor has he ever seen him in person.

[redacted] advised he signed the petition which related to having REHNQUIST's appointment withdrawn. He advised that he did not remember the specific contents of this petition but that he could obtain a copy of it if need be.

PX 77-3510

BDM:gjk

[redacted]
of the NAACP, Flagstaff, Arizona was contacted at his residence, [redacted] on October 27, 1971 by SA [redacted] and advised as follows:

He advised that he did in fact sign a petition before [redacted] relating to his [redacted] opposition to the nomination of Mr. WILLIAM HUBBS REHNQUIST as a Supreme Court Justice. [redacted] stated that during the middle of the 1950s he, [redacted] had been active in attempting to pass a Civil Rights Bill in Arizona and had also been active in a peaceful protest march upon the State Capitol at the same time. [redacted] stated that it was his understanding at the time that Mr. REHNQUIST had been opposed to both the passage of the Arizona State Civil Rights Bill and the march. [redacted] advised that although he did not know Mr. REHNQUIST personally, he was therefore opposed to his nomination. [redacted] further stated that he has not had any contact with or known of Mr. REHNQUIST for over the past ten years.

[redacted] advised that he had no other direct or personal knowledge of Mr. REHNQUIST.

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PX 77-3510

LWB:gjk

[REDACTED]
was contacted on October 27, 1971 by SA [REDACTED] and
advised as follows:

The Arizona chapter of the NAACP held a meeting
on Saturday, October 23, 1971 at Phoenix, Arizona. [REDACTED]
stated that he is [REDACTED] of the NAACP. He did
not sign any petition asking for the cancellation of the
nomination of WILLIAM HUBBS REHNQUIST for Justice of the
Supreme Court. He authorized no one to sign his name. He
did not know if anyone signed his name. He does not know
REHNQUIST. He has no information or comments as to his
qualifications, whether good or bad.

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PX 77-3510

WEP:lss

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The following investigation was conducted by
SA [redacted] at Coolidge, Arizona, on October 27, 1971:

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[redacted] advised that he is employed at [redacted] and is [redacted] for the Pinal County, Arizona, Branch of the National Association for the Advancement of Colored People (NAACP). In the past week, he advised that he signed a petition which asked for the cancellation of WILLIAM HUBBS REHNQUIST for the Supreme Court of the United States. He advised that he does not personally know REHNQUIST and to his knowledge, REHNQUIST has never had any activity officially, socially or otherwise, in Pinal County. He stated that he is unable to comment on REHNQUIST's qualifications for the position of Associate Justice of the Supreme Court. He stated that he filed the petition, which was circulated by a [redacted] of the Maricopa County Branch of the NAACP, after reading a newspaper article which reflected that REHNQUIST was against civil rights. He stated that he does not know from what paper this article was taken and that he based his objection to REHNQUIST on the fact that the people who belong to the NAACP in Phoenix and Maricopa County were against REHNQUIST. He stated that he does not know anyone in Pinal County who knows REHNQUIST or signed the above-mentioned petition.

PX 77-3510

PKB:sg

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[redacted] advised October 27, 1971, she had no membership records for Arizonans for America and felt they had been thrown away after the group folded. She said the driving force in the organization was Judge MARLIN T. PHELPS, the Honorary Chairman and when Judge PHELPS, who was an Arizona Supreme Court Justice died, the group just faded out. Judge PHELPS died in 1965 or 1966 to the best of her recollection.

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She did not think that WILLIAM REHNQUIST was a member of the organization and stated she had no idea who might be able to recall specifically whether he had ever paid dues to the organization. She did know he spoke to the group on one occasion, possibly twice, and she felt he was an excellent speaker.

[redacted] advised he was [redacted] of Arizonans for America and he was never aware that WILLIAM REHNQUIST was a member of that group and in fact was certain that he was not a member. He said the sole function of Arizonans for America was to bring to Arizona speakers of stature to inform the public on vital issues. They met only for the public lectures or speeches and the board met only to select speakers. There was no effort to get involved in local or national elections. He noted that over a period of time they had as speakers, in addition to an appearance of REHNQUIST, [redacted] and the president of Eastern Airlines, EDDIE RICKENBACKER.

He said if any membership lists existed at this date, [redacted] would have them.

[redacted] advised she just happened to be [redacted] of Arizonans for America when the group ceased to meet. She has various records of the group but does not have any membership records and did not know where any might be. She explained the group was a very loosely knit organization in that when they first started they had about 30 members and at the last meeting there were probably

PX 77-3510

PKB:sg

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twelve to thirteen hundred in attendance. Of course, not all were members.

She had no recollection of WILLIAM REHNQUIST speaking to the group and had no recollection of his being a member of the group. She said if he was a member, he did not attend any meetings or participate in the planning and obtaining of speakers as she was well aware of those who served in these capacities.

She noted some of the very finest people in Phoenix were interested in the speakers brought to the city and added there was absolutely nothing subversive or secretive in the purposes of the organization.

Efforts to contact [redacted] ascertained he was out of the city at [redacted] It was also ascertained DAN MC KINNEY of Tucson, Arizona, was deceased.

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PX 77-3510

TPC:lss

The following investigation was conducted by SA [redacted] on October 27, 1971, at Phoenix, Arizona:

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[redacted]
[redacted] were interviewed concerning the organization known as "TACT" (Truth About Civil Turmoil).

In separate interviews, these men identified TACT as an affiliate of the John Birch Society. Each of them indicated that he is a member of the John Birch Society.

[redacted] advised that TACT is one of the ad hoc committees of the John Birch Society and its purpose is to stimulate interest in the speeches being given by persons on the John Birch Society Speakers Panel.

Both [redacted] advised that there are persons who are in fact members of TACT; however, each advised that he is not in a position to say whether WILLIAM H. REHNQUIST was or was not a member of TACT.

Both [redacted] advised that they were not acquainted with REHNQUIST and [redacted] advised that he does not associate him in any way with TACT or the John Birch Society.

[redacted] advised that it is not necessary to be a member of the John Birch Society; to be a member of or work with TACT.

Neither [redacted] could advise who in the Phoenix area could definitely resolve whether REHNQUIST was a member of TACT.

[redacted]

PX 77-3150

TPC:lss

[redacted] representative of Research Project Action Council, Washington, D.C., who is a temporary resident at [redacted] advised SA [redacted] in a telephone conversation, that he was in Phoenix in connection with his Council's interest in the appointment of WILLIAM H. REHNQUIST to the Supreme Court.

[redacted] advised that he did not possess any information that he felt would be of interest to the FBI with respect to that matter at this time and further advised that if he did possess information of interest, he could not divulge it on his own initiative. He advised that his superiors had been contacted by the FBI and that he understood that further discussions between his superiors and the FBI were to take place in a few days.

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on envelope

ALL INFORMATION CONTAINED
~~HEREIN~~ IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

TO Bureau File # _____
FROM PK File # 77-3510
RE Wm. H. Rehnquist
(3) enc. to PHOENIX

Report Letter, Airtel

dated 10/27/71 described

as Newspaper Clippings
Re Rehnquist

ENCLOSURE

77-106904-107

(Mount Clipping in Space Below)

State Bar backs Rehnquist

The nomination of former Phoenix attorney William H. Rehnquist as an associate justice of the U.S. Supreme Court this week by President Nixon has been unanimously endorsed by the board of governors of the State Bar of Arizona.

Rehnquist, president of the Maricopa Bar Association in 1963, was praised in the resolution for having "continually demonstrated the very highest degree of professional competence, integrity and devotion to the ends of justice" in Arizona and the United States.

The board's resolution also instructs State Bar President Howard H. Karman to notify the Senate Judiciary Com-

mittee "a representative of the State Bar would be honored to appear on behalf of Mr. Rehnquist's appointment."

Rehnquist practiced law in Phoenix from 1953 to 1963 when he was appointed assistant attorney general in the U.S. Department of Justice by Nixon.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

(Indicate page, name of newspaper, city and state.)

4 ARIZONA REPUBLIC
PHOENIX, ARIZONA

Date: 10-27-71

Edition: Morning

Author:

Editor: Harold K. Milks

Title: WILLIAM H.
REHNQUIST

Character:

or

Classification: 77-3510

Submitting Office Phoenix

Being Investigated

(Mount Clipping in Space Below)

No racism for Rehnquist

The Southwest chapter of the NAACP is exposing itself to embarrassment by branding former Phoenix attorney William Rehnquist, one of President Nixon's two nominees to the Supreme Court, as a "sophisticated racist." It cannot make the charge stand.

The Rev. George Brooks, former leader of the Maricopa County NAACP chapter, declared soon after the President's announcement that Rehnquist had shown his opposition to civil rights by opposing a "1968" civil rights bill in the State Legislature. He soon modified that and began to speak more vaguely about Rehnquist's behavior in the "mid-60s."

The State Legislature did pass a Civil Rights Act in 1965. But leading Arizona Democrat Harold Giss of Yuma, then Senate Majority Leader as well as chairman of the Senate Judiciary Committee, said Rehnquist could not be cited as having taken a racist position.

Senator Giss added that he considered Rehnquist an outstanding nominee. Such is also the opinion of former State Supreme Court

Chief Justice Charles Bernstein, also a Democrat, who described Rehnquist as a lawyer of exceptional ability.

In addition, yesterday morning the moderate-liberal Christian Science Monitor editorialized: "This newspaper reacts positively to the two newest Supreme Court nominations of President Nixon . . . the President is to be commended for seeking men of quality . . ."

And Herb Ely, liberal chairman of the Arizona Democratic Party, has said that he has "immense respect" for Rehnquist, even though the two of them may disagree on most political issues. Ely said he believes the Nixon nominee would be a first-rate justice.

We believe that neither slyness nor racism has any part in Rehnquist's personality. The NAACP has gone far astray by equating the Supreme Court nominee's conservative views with racial bigotry.

Prominent Arizonans of many diverse views utterly fail to agree with the group. The NAACP had better climb down from its shaky limb.

(Indicate page, name of newspaper, city and state.)

6 ARIZONA REPUBLIC
PHOENIX, ARIZONA

Date: 10-27-71
Edition: Morning
Author: Fritz Marquardt
Editor: Harold K. Milks
Title: WILLIAM H.
REHNQUIST

Character:
or

Classification: 77-3510
Submitting Office: Phoenix

Being Investigated

(Mount Clipping in Space Below)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

Arizona NAACP Opposes Nominee

The state organization of the National Association for the Advancement of Colored People will oppose the nomination of former Phoenix attorney William Rehnquist to the Supreme Court, The Phoenix Gazette learned today.

In a special morning-long meeting at the Caravan Inn, the state's NAACP leaders charted their path of opposition to the Nixon appointment. State President Robert

Horn of Tucson and local NAACP leader Billie Mills joined Sen. Cloves Campbell, D-Phoenix, in attacking Rehnquist's civil rights background.

"THE OPPOSITION is growing because of his (Rehnquist's) strong leanings towards the John Birch Society and other right-wing groups and his stand on the Arizona civil rights legislation," Mills said.

Horn told The Gazette the group would draft a resolution challenging the appointment because of Rehnquist's "track record in civil rights, his description of young demonstrators as barbarians, and questioning the sudden appearance of his name as an appointee."

Campbell charged if the appointment is approved "all the good work that has been accomplished by the Supreme Court would be thrown out the window."

HORN SAID the local group was debating the possibility of sending a delegation to Washington to personally oppose the nomination in the Senate. "However the final decision will be made after we discuss the entire situation with the national headquarters."

Mills said lobbying activities and contact with many of the key senators was planned in opposing the nomination.

(Indicate page, name of newspaper, city and state.)

2 PHOENIX GAZETTE
 PHOENIX, ARIZONA

Date: 10-23-71
 Edition: Evening
 Author:
 Editor: Lowell Parker
 Title: WILLIAM H. REHNQUIST

Character:
 or
 Classification: 77-3510
 Submitting Office: Phoenix
 Being Investigated

FBI

Date: 10/27 '71

Transmit the following in PLAINTEXT
(Type in plaintext or code)

Via TELETYPE URGENT
(Priority)

TO: DIRECTOR (MAIL) AND SACS, CHARLOTTE, DALLAS,
HONOLULU, HOUSTON, MOBILE, NEW YORK, NEWARK, NORFOLK,
PHOENIX

FROM: SAC, WFO (77-86748)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

COVES, WILLIAM HUBBS REHNQUIST, AKA, WILLIAM H. REHNQUIST,
WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED
STATES, BUDED NOON, OCTOBER TWENTY SEVEN INSTANT.

RE BUREAU TELETYPE TO WOF OCTOBER TWENTY TWO LAST.

IT SHOULD BE NOTED APPLICANT MADE SPEECHES AT AIR WAR
COLLEGE, MAXWELL FIELD, ALABAMA, AUGUST TWENTY THREE LAST;
BEFORE THE NATIONAL CONFERENCE OF LAW REVIEWS, WILLIAMSBURG,
VIRGINIA, MARCH NINETEEN LAST; AT APPALACHIAN STATE UNIVERSITY,
BOONE, NORTH CAROLINA, MAY FIVE LAST; BEFORE AMERICAN BAR
ASSOCIATION AT DALLAS, TEXAS, AUGUST TWELVE NINETEEN SIXTY
NINE; AT THE UNIVERSITY OF HAWAII, HONOLULU, DECEMBER TWO
LAST; BEFORE THE KIWANIS CLUB OF HOUSTON, TEXAS, DECEMBER TWO

77-106904-108
NOT RECORDED

JAN 19 1972

① Bureau
1- WFO
JER:ss

60 JAN 25 1972
Approved: *[Signature]* Special Agent in Charge

Sent _____ M Per _____

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)Via _____
(Priority) -WFO 77-86748
PAGE TWO

NINETEEN SEVENTY; BEFORE THE NEWARK KIWANIS CLUB, NEWARK,
NEW JERSEY, MAY ONE NINETEEN SIXTY NINE; AT THE UNIVERSITY
OF ARIZONA, COLLEGE OF LAW, APRIL TWENTY TWO NINETEEN SEVENTY;
BEFORE THE ARIZONA JUDICIAL CONFERENCE, TEMPE, ARIZONA,
DECEMBER FOUR NINETEEN SEVENTY; AND BEFORE THE ASSOCIATION
OF THE BAR OF THE CITY OF NEW YORK MAY TWENTY EIGHT NINETEEN
SEVENTY.

COPY OF THE ABOVE SPEECHES HAVE BEEN OBTAINED BY WFO.

FOR THOSE OFFICES NOT PREVIOUSLY RECEIVING A COMMUNICATION
IN THIS CASE, NEWSPAPER MORGUES SHOULD BE CHECKED EVERYWHERE
APPLICANT MADE PUBLIC SPEECHES, LIVED, WORKED, OR ATTENDED
SCHOOL.

APPROPRIATE OFFICES HANDLE. P.

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

NA
57
10/27

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 27 1971 *Don*

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Casper	_____
Mr. Callahan	_____
Mr. Conrad	_____
Mr. DeLoach	_____
Mr. Evans	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Walters	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR007 MI PLAIN

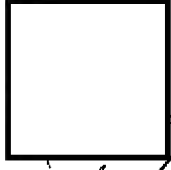
554PM URGENT 10/27/71 LSK

TO DIRECTOR (77-106904)

FROM MILWAUKEE (77-3821)

COVES, WILLIAM HUBBS REHNQUIST, AKA WILLIAM H.
REHNQUIST, WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME
COURT OF THE UNITED STATES.

MR. MARTIN
ROOM 1246



b6
b7C

P

RE MILWAUKEE REPORT OF SA [REDACTED]

OCTOBER TWENTYSIX, SEVENTYONE; AND BUREAU TELEPHONE CALL,
THIS DATE.

[REDACTED]

[REDACTED] THIS DATE

ADVISED THAT [REDACTED] WAS PRESENTLY UNAVAILABLE
FOR CONTACT AND WOULD BE RETURNING HOME A.M., OCTOBER
TWENTYEIGHT, NEXT. [REDACTED] ADVISED SHE WILL
IMMEDIATELY HAVE [REDACTED] CONTACT THIS OFFICE AND
MILWAUKEE WILL THEN INTERVIEW AND SUBMIT REPORT.

END.....

LRS FBI WASHDC CLR

77-106904-110

NOT RECORDED

JAN 19 1972

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

Handwritten signature

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 27 1971
mku
TELETYPE

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. S. _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

MR. MARTIN
ROOM 1246

NR006 MI PLAIN

508PM URGENT 10/28/71 LSK

TO DIRECTOR (77-106904)

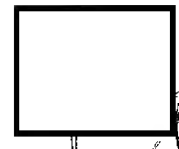
DENVER

PHOENIX (77-3510)

SAN FRANCISCO (77-11804)

FROM MILWAUKEE (77-3821)

COVES, WILLIAM HUBBS REHNQUIST, AKA, WILLIAM H. REHNQUIST, WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED STATES. BUDED: NOON WEDNESDAY, NEXT, WITHOUT FAIL.



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b7C

RE MILWAUKEE REPORT OF SA [REDACTED] DATED TEN TWENTY-SIX SEVENTY-ONE; PHOENIX TELETYPE TO DIRECTOR DATED TEN TWENTY-SEVEN SEVENTY-ONE.

INVESTIGATION BY THE MILWAUKEE OFFICE REVEALED NO RECORD RE APPOINTEE AT THE WHITEFISH BAY POLICE DEPARTMENT, SHOREWOOD POLICE DEPARTMENT, MILWAUKEE POLICE DEPARTMENT, OR THE MILWAUKEE COUNTY SHERIFF'S OFFICE, MILWAUKEE, WISCONSIN.

FURTHER INVESTIGATION REVEALED THAT APPOINTEE LEFT

77-106904-111

END PAGE ONE

NOT RECORDED

5 JAN 19 1972

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

[Handwritten signature]

PAGE TWO

THE MILWAUKEE AREA UPON GRADUATION FROM HIGH SCHOOL TO ATTEND COLLEGE AND THAT THERE WAS NO REPORTED SCANDAL FORCING APPOINTEE TO LEAVE THE MILWAUKEE AREA.

BECAUSE OF THE ETREME UNTRA-LIBERAL POLICIES OF THE "MILWAUKEE JOURNAL" AND "MILWAUKEE SENTINEL" WHICH ARE OWNED BY ONE OWNER, NO INQUIRY BEING CONDUCTED AT THESE TWO NEWSPAPERS UACB. REFERENCED REPORT SET FORTH ALL INFORMATION WHICH WAS AVAILABLE AT "THE MILWAUKEE JOURNAL-SENTENEL" MORGUE, WHICH REFLECTED NO DEROGATORY INFORMATION.
END.....

TELETYPE UNIT

TELETYPE

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. Soyars _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

NR001 MM PLAIN
 10/44AM URGENT 10-27-71 CLS
 TO DIRECTOR 77-106904
 FROM MIAMI 77-8141 1P

MR. MARTIN
 ROOM 1246

WILLIAM HUBBS REHNQUIST, AKA; DAPLI. JUSTICE, SUPREME
 COURT OF THE UNITED STATES.



RE CHICAGO TELETYPE TO BUREAU, OCT. TWENTYSIX SEVENTYONE.

b6
 b7c

[REDACTED] AMERICAN BAR

ASSOCIATION, PRESENTLY AT [REDACTED] ADVISED

SA [REDACTED] OCT. TWENTYSIX SEVENTYONE, THAT
 REHNQUIST NOT PERSONALLY KNOWN TO HIM.

END

82888888K

V

GXC FBI WASHDC

77-106904-112

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

JAN 19 1972

60 JAN 25 1972

[Handwritten signature]

F B I

Date: 10/27/71

Transmit the following in PLAINTEXT
(Type in plaintext or code)

Via TELETYPE URGENT
(Priority)

TO: DIRECTOR, FBI (MAIL) AND SAC, PHOENIX

FROM: SAC, WFO

COVES. WILLIAM HUBBS REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED STATES, SEVENTYSEVEN DASH EIGHT SIX SEVEN FOUR EIGHT.

COVES. LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT OF THE UNITED STATES.

RE BUTELS OCTOBER TWENTYTWO SEVENTYONE.

THIS CONFIRMS WFO TELEPHONE CALL TO PHOENIX.

NEWSPAPER ARTICLES INDICATE THAT [REDACTED]

RESEARCH PROJECT ACTION COUNCIL, SUPPOSEDLY DOING INVESTIGATION REGARDING TWO ABOVE CAPTIONED APPLICANTS REGARDING QUALIFICATIONS FOR APPOINTMENT TO U.S. SUPREME COURT. [REDACTED] CURRENTLY IN ARIZONA TO LOOK INTO CHARGES BY LOCAL NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP) REGARDING REHNQUIST. IT IS DETERMINED [REDACTED] CURRENTLY STAYING

b6
b7c

77-106904-113
JAN 5 1972

- 2 - Bureau
- 2 - WFO

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

LWS:d18

Approved: *Robert G. Kennedy*
Special Agent in Charge

Sent _____ M Per _____

60 JAN 25 1972

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

WFO 77-86748
PAGE TWO

RAMADA SAHARA INN, PHOENIX, ARIZONA, TELEPHONE NUMBER

PHOENIX CONTACT FOR COMMENTS CONCERNING
REHNQUIST AND POWELL. P.

b6
b7C

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

F B I

Date: 10/27/71

Transmit the following in PLAINTEXT
(Type in plaintext or code)

Via TELETYPE ~~SECRET~~ NITEL
(Priority)

TO: DIRECTOR, FBI (MAIL), AND SAC, NEW YORK

FROM: SAC, WFO

COVES, WILLIAM HUBBS REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED STATES (WFO FILE 77-86748).

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME COURT OF THE UNITED STATES (WFO FILE 77-94916).

RE BUREAU TELETYPES OCTOBER TWENTYTWO NINETEEN SEVENTYONE.

THIS CONFIRMS WFO TELEPHONE CALL TO NEW YORK.

U.S. REPRESENTATIVE CHARLES C. DIGGS, JR., MICHIGAN, ACTIVE MEMBER OF THE BLACK CAUCUS, U.S. HOUSE OF REPRESENTATIVES, CAN BE CONTACTED AT HIS OFFICE SEVEN NINE NINE UNITED NATIONS PLAZA, NEW YORK CITY, TELEPHONE NUMBER [REDACTED]

b6
b7C

NEW YORK INTERVIEW DIGGS RE REHNQUIST AND POWELL.

P. ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

77-106904-114
NOT RECORDED
JAN 19 1972

2-Bureau
2-WFO

LWS:blz *blz*

Juw

Robert G. Kunkel

Approved: _____ Sent _____ M Per _____

60 JAN 25 1972 Special Agent in Charge

COMMUNICATIONS SECTION

TELETYPE

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. Soyars _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

NR 007 PX PLAIN

6:54AM NITEL 10-27-71 DLN

TO: DIRECTOR

SAN FRANCISCO (77-11804)

MILWAUKEE (77-3821)

DENVER

FROM: PHOENIX (77-3510)

MR. MARTIN
ROOM 1246

COVES, WILLIAM HUBBS REHNQUIST, AKA WILLIAM H. REHNQUIST, WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED STATES.

BUDED: NOON WEDNESDAY, NEXT, WITHOUT FAIL.

RE PX TELCALL TO ABOVE OFFICES THIS DATE.

77-106904-115

[REDACTED]

b6
b7c

[REDACTED] APPOINTEE DURING CONVERSATION,

PROPOSED HYPOTHETICAL QUESTION IN WHICH HE ASKED [REDACTED] IF HE WAS A JUDGE, WHETHER OR NOT HE WOULD FAVOR A RICH MAN OR A POOR MAN DURING A TRIAL [REDACTED] INFORMED APPOINTEE THAT FACT THAT MAN WAS RICH OR POOR WOULD HAVE NO BEARING ON HIS DECISION BUT HE WOULD REVIEW ALL EVIDENCE BEFORE MAKING A DECISION. IN CASE EVIDENCE

END PAGE ONE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

J. C. ...
W. H. ...

PAGE TWO

PX 77-3510

b6
b7c

WAS EQUALLY DIVIDED AND NO CIRCUMSTANCIAL EVIDENCE EXISTED, HE WOULD PROBABLY RENDER A DECISION IN FAVOR OF THE POOR MAN OVER THE RICH MAN. APPOINTEE ALLEGEDLY GAVE MISLEADING INFORMATION TO AMERICAN BAR ASSOCIATION INASMUCH AS APPOINTEE DID NOT FULLY EXPLAIN [REDACTED] POSITION BUT SIMPLY STATED [REDACTED] PREFERRED POOR PEOPLE TO RICH PEOPLE.

[REDACTED] UNABLE TO SUBSTANTIATE ALLEGATION BECAUSE HE DID NOT KNOW THE EXACT INFORMATION RELAYED TO ABA AND TO JUSTICE DEPARTMENT BY REHNQUIST.

[REDACTED]

[REDACTED] ALSO ADVISED HE WAS CONTACTED BY REPORTER FROM NEW YORK TIMES, NAME NOT KNOWN, WHO ADVISED THAT A LOT OF DEROGATORY INFORMATION CONCERNING APPOINTEE APPARENTLY DEVELOPED BY NEWSPAPER IN MILWAUKEE. ACCORDING TO REPORTER, APPOINTEE WAS FORCED BY SOME SORT OF SCANDAL TO LEAVE MILWAUKEE AND COME TO PHOENIX. REPORTER DID NOT ADVISE DETAILS OF ANY UNFAVORABLE

END PAGE TWO

PAGE THREE

PX 77-3510

INFO AND DID NOT SUBSTANTIATE ALLEGATION WITH ANY DEFINITE STATEMENTS.

[REDACTED] PRESENT WHEREABOUTS NOT KNOWN. [REDACTED]
ENROUTE FROM [REDACTED] SCHEDULED TO
ARRIVE IN PHOENIX OCT. TWENTYNINE NEXT. PHOENIX WILL INTERVIEW
[REDACTED] UPON ARRIVAL IN PHOENIX.

b6
b7c

DENVER WILL LOCATE AND INTERVIEW [REDACTED] CONCERNING INFO
GIVEN HIM BY APPOINTEE.

SAN FRANCISCO LOCATE AND INTERVIEW [REDACTED] CONCERNING
INFO PERTAINING TO [REDACTED] GIVEN TO HIM BY APPOINTEE.

END

24
1/27/71

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 27 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

[Handwritten signature]

NR03 SL PLAIN

11:47 PM URGENT 10-26-71 WMB

TO DIRECTOR (NITEL)

KANSAS CITY

FROM ST. LOUIS

MR. MARTIN
ROOM 1246

COVES, WILLIAM HUBBS REHNQUIST, AKA WILLIAM H. REHNQUIST, WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED STATES, BUDED: NOON WEDNESDAY, NEXT, WITHOUT FAIL.

P

RE WASHINGTON FIELD TEL TO ST. LOUIS, OCT. TWENTYFOUR, LAST, AND ST. LOUIS TELCALL TO KANSAS CITY, OCT. TWENTYSIX, INSTANT.

[Redacted]

covered
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b7c

ADVISED [Redacted] CURRENTLY IN KANSA CITY,

MO.

KANSAS CITY INTERVIEW [Redacted] RE APPLICANT.

V

P

END

RECD 010 003

DCW FBI WASN DC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

77-106904-116

NOT RECORDED

JAN 19 1972

60 JAN 25 1972

[Handwritten signature]

FEDERAL BUREAU OF INVESTIGATION

REC-39

REPORTING OFFICE NEWARK	OFFICE OF ORIGIN BUREAU	DATE 10/26/71	INVESTIGATIVE PERIOD 10/24-26/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka		REPORT MADE BY [Redacted]	TYPED BY jmg
		CHARACTER OF CASE DAPLI JUSTICE, SUPREME COURT OF THE US	

b6
b7C

REFERENCES: Bureau teletype to Newark dated 10/24/71.
Phoenix telcall to Newark, 10/26/71.

*Supplied
P.S.*

-RUC-

ADMINISTRATIVE:

On 10/26/71, [Redacted] was telephonically contacted c/o [Redacted] advised that he was leaving the Camden, NJ area 6 p.m. this date and would prefer to be contacted at his office on 10/27/71. His office is located at [Redacted]

*1 - Duffin
3 - Reitzel
[Signature]*

ACCOMPLISHMENTS CLAIMED					<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED: [Signature] SPECIAL AGENT IN CHARGE

COPIES MADE:
5-Bureau (SD)
1-Newark (77-12035)

DO NOT WRITE IN SPACES BELOW

77-106904-117 REC-39

NOT RECORDED

5 JAN 19 1972

Dissemination Record of Attached Report				
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By	60 JAN 25 1972			

Notations
*www
9/1/72*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMU

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

Date:

Field Office File #:

Title:

[REDACTED]

October 26, 1971

77-12035

WILLIAM HUBBS REHNQUIST

Office: Newark, New Jersey

Bureau File #:

b6
b7C

Character:

DEPARTMENTAL APPLICANT
JUSTICE, SUPREME COURT OF THE UNITED STATES

Synopsis:

[REDACTED] of the
Phoenix Chapter of the NAACP, advised applicant opposed to
Public Accommodation Bill before the Arizona State Legislature
around 1966-1967. He also stated he was informed applicant was
one of the Republican officials who unfairly challenged black
voters in an election around 1964 or 1966. He also stated he
is opposed to applicant receiving a Supreme Court appointment.

-RUC-

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

NK 77-12035

DETAILS:

OPPOSING ATTORNEY

X
ARIZ

[redacted]

On October 26, 1971, [redacted] was telephonically contacted at [redacted] at which time he advised that he was leaving the Camden, New Jersey area and would prefer to be contacted at his [redacted] office the morning of October 27, 1971. [redacted] volunteered that the applicant was one of the finest men he has known and would be a top-notch candidate for the United States Supreme Court. He added that he had opposed the applicant in the United States District Court in Phoenix 15 years ago and that applicant had done an excellent job. He advised that he would furnish additional information on the 27th.

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PHOENIX CIVIL RIGHTS LEADERS

X
NK
DC

[redacted]

[redacted] was interviewed on October 26, 1971 by SAs [redacted] and [redacted] at [redacted].

[redacted] He stated that he has had only one contact with Mr. REHNQUIST and this occurred in 1966 or 1967. He advised at that time [redacted] of the Phoenix Chapter of the National Association for the Advancement of Colored People (NAACP), and they were lobbying at the Arizona Capitol trying to obtain passage of legislation which was the Public Accommodation Bill. He stated at that time Mr. REHNQUIST was a special prosecutor with the Arizona Attorney General's Office and he was well known publicly inasmuch as he was the prosecuting attorney in a well publicized case which had no bearing on civil rights matters. He stated while he, [redacted] was lobbying for the Public Accommodation Bill, the applicant came up to him and they had a conversation on the Capitol grounds. He said he did not know whether the applicant sought him out specifically or whether this was just a chance meeting. He stated they discussed the Public Accommodation Bill and Mr. REHNQUIST indicated he was opposed to this bill. He said REHNQUIST based his opposition to the bill on constitutional grounds that the bill would require property owners to serve all people. REHNQUIST took the position that this would take a legal right from one individual and give it to another.

NK 77-12035

[redacted] advised that he believed the applicant testified before the Arizona State Legislature and opposed this bill. He said he did not believe Mr. REHNQUIST did this as a representative of the Arizona Attorney General's Office but did this on the basis of his own personal beliefs and philosophy.

[redacted] stated that during a general election in 1964 or 1966, officials of the Republican Party in Phoenix, challenged many black people attempting to vote in one of the general elections. He said they "came in droves" and made "wholesale challenges" against black individuals attempting to vote. He said they would make this challenge on literacy grounds and would require a voter to read part of the constitution. He noted that these black voters were legally registered and had to pass the required literacy test upon registering to vote. He said these challenges by the Republican officials were "too wholesale", a "harassment of black people and were not fair." He said these challenges were not in the nature of routine challenges, but were of a type used by officials when they are afraid black people will sway an election. He advised that he has been informed within the past week by an individual he considers reliable that Mr. REHNQUIST was one of the Republican officials who participated in the unfair challenging of black voters in the Dunbar Precinct. He advised that the person who furnished this information is presently [redacted] and does not want his identity revealed. b6 b7C

[redacted] advised the above information indicates to him that the applicant would not be fair as a Supreme Court Justice and may place a large segment of the American population in jeopardy if he receives an appointment to the Supreme Court. He stated he is, therefore, very strongly opposed to this public appointment. b6 b7C

[redacted] advised that he also had been opposed to the applicant's receiving an appointment to the United States Attorney General's Office.

X [redacted] advised he believed the applicant has belonged to "John Birch front organizations". He stated these would be organizations that deal with supporting local police, and organizations "opposed to black peoples advances." He was unable to specifically identify any of these groups. He emphasized that he was not alleging the applicant was a member of the John Birch Society. He stated he believed he obtained

NK 77-12035

POB [redacted]

DOB [redacted] this information from newspaper articles, but could not specifically identify the articles.

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[redacted] stated that [redacted]

XX [redacted] could be contacted as they may be able to furnish further information concerning the applicant's activities. He stated he knew of no one else except the individual referred to above who requested his identity remain confidential that could be contacted for information concerning the above activities of the applicant.

[redacted] advised that due to the fact that he has been in contact with the applicant on only one occasion he was unable to comment further on his character, legal ability or his fitness for a Supreme Court appointment.

[redacted] advised he has no reason to question the personal honesty, integrity or loyalty of the applicant, and his opposition to the applicant is based on Mr. REHNQUIST's actions set out above. He also noted that there have been newspaper articles such as an article appearing in "The Arizona Republic" of September 10, 1957 wherein Mr. REHNQUIST labelled three Justices of the Supreme Court as "left wing" which further indicated the applicant would be opposed to the extension of the civil rights that minority groups are entitled to in the United States.

[redacted] made available newspaper articles wherein the applicant was mentioned, which he felt would further indicate the applicant's attitude in civil rights matters. These are set out on the following pages of this report.

MISCELLANEOUS

On October 26, 1971, [redacted]

X SA [redacted] advised he does not know the applicant personally. He stated that he has never met him nor has he ever corresponded with him in the past.

b6
b7C

Rec p 4 A.

b6
b7C

X
[redacted]
[redacted]

was interviewed late in the evening of 10/27/71 by SA [redacted] advised that he has done some research on both nominees. By definition he stated that he had read material written by both individuals, specifically entries made into the Congressional Record, memorandum by Rehnquist, articles and legal journals by Powell and articles in legal journals concerning both individuals. He is opposed to the nomination of Rehnquist because of his legal views derived from reading Rehnquist papers, however, he has no derogatory information re Rehnquist as such. With regard to Powell he has an open mind. He does not know either nominee personally.

Former Law Clerk Says:

Dec 10-57

High Court Aides May Influence Leftist Slant Of Deliberations

A FORMER supreme court law clerk now an attorney in Phoenix said yesterday that "unconscious slanting" of material that clerks provide to the justices may influence which cases the court decides to consider.

William H. Rehnquist, 1935, E. Rovey Lane, a clerk to the late Justice Robert H. Jackson in 1951-52, said unconscious bias crept into his work and "I greatly doubt if many of my fellow clerks were much less guilty than I."

The political cast of the group with which he served, Rehnquist said, was "left" of either the nation or the court. He added:

"SOME of the tenets of the 'liberal' point of view which commanded the sympathy of a majority of the clerks I knew were: Extreme solicitude for the claims of Communists and other criminal defendants, expansion of federal power at the expense of state power, great sympathy toward any government regulation of business—in short, the political philosophy now espoused by the court under Chief Justice Earl Warren."

The 33-year-old Rehnquist, a

Republican precinct committee man who declined to be described as "politically active," made his observations in a copyrighted article in the weekly magazine, "U.S. News & World Report."

Asked if he included himself in the majority of clerks during his tenure who espoused the "liberal" point of view, his answer was an emphatic "No." The article itself leaves the question open, he said, "but you would have to assume that anyone who would write such a piece did not sympathize with those political philosophies."

IN HIS article, the Milwaukee native who has practiced here since 1954 said it was possible for the law clerks to influence which cases the supreme court will hear because the volume—over 1,000 petitions for a hearing

each year—is beyond each justice's capacity to digest alone.

"It is not surprising, therefore," Rehnquist said, "that during my time as justices' delegated substantial responsibilities to their clerks in the digesting of these petitions."

Rehnquist said the other justices probably followed the same procedure as Jackson did, listing his two law clerks to do the necessary research, prepare memoranda on this for the justice, and recommend either that a petition be granted or denied a hearing. He said Jackson, aided by this data, would make his own study of the petitions to determine his vote.

BY CUSTOM, when four of the nine justices vote to hear a case it is scheduled for argument, Rehnquist said, adding that less than 10 per cent of the petitions were granted hearings.

He said the influence of the law clerks on opinions of the court after cases were accepted and argued was less because the justice assigned to write an opinion "generally is able to take sufficient time to examine as

(Continued on Page 1, Oct. 1)

44 The Arizona Republic
Thurs., April 23, 1970

Mitchell defended

Southern Arizona Bureau

TUCSON — The main difference between Asst. Gen. John Mitchell and his predecessor, Ramsey Clark, is that Mitchell is "out" and Clark is "in," a Mitchell aide said here yesterday.

William H. Rehnquist, assistant U.S. attorney general, talked about his boss at the lawyers convocation of the University of Arizona college of law.

The former Phoenix lawyer said the charge that Mitchell has "politicized" the Department of Justice is nothing but what every new attorney general has done—hired politically active lawyers who reflect the prevailing views of the party in power.

Another charge, that the Justice Department has failed to move in the civil rights and school desegregation issues, fails to take note that the department "has taken truly giant steps" toward elimination of dual school systems in the south.

The basic difference between Clark and Mitchell, said Rehnquist, is that Mitchell feels that the Justice Department should be one of several "instrumentalities engaged in the process of administering criminal justice" and that the department should be primarily concerned with prosecution.

"Ramsey Clark was an outspoken advocate of the civil liberties of the individual and the rights of the criminal defendant. Many agreed with him," many disagreed with him," said Rehnquist.

John Mitchell, from his position as attorney general, chooses to place more emphasis on the right of society to apprehend and punish those guilty of crime.

the Little Rock Crisis

Rehnquist Labels 3 Justices 'Left Wing'

A youthful Phoenix attorney and former supreme court law clerk yesterday labeled Justices Warren, Black, and Douglas the "left wing" of the U.S. Supreme Court.

Attorney William Rehnquist, former clerk to the late Justice Robert H. Jackson, addressed a meeting of the Maricopa County Republican Party in the YWCA. He said he was not accusing the justices of communism or Communist sympathies.

BUT HE charged that Justice Brennan sympathized with the high court's "left wing" philosophy "to make a loose case which permits the majority whenever one of the four's five other justices goes along."

Rehnquist accused the majority of "violating the constitution" by what they wanted it to say in a recent series of civil liberties cases resulting in legal victories for suspected Communists or Communist sympathizers.

HE SINGLED out Chief Justice Warren for special criticism as a

High Court

(Continued from Page 1)

carefully as he believes necessary the materials which are to go into the opinion."

Rehnquist said the Arizona Republic is correct in assuming that justices are not their law clerks and that the chain of command goes to the chief justice.

"I met Justice Jackson when he lectured at Southern University when I was a student there," he explained. "I simply took the bill of materials and asked him if I could work as his law clerk. He later wrote and hired me. In the introduction he did not assume a strict question about my political views. I was surprised because I thought he would be interested."

THIS IS not the first attack by Rehnquist upon the supreme court. Last September he told the Arizona Republic that Justices Warren, Black, and Douglas were the "left wing" of the court.

At that time he accused the court's majority of "violating the constitution" by what they wanted it to say in a series of civil liberties cases resulting in legal victories for suspected Communists or Communist sympathizers.

The young attorney is a member of the law firm of Cunningham, Carson, and Mosinger. He is married and the father of two children.

Labor Lawyers Played Key Role In Rejection Of Haynsworth By Senate

By LOU HINER

The Washington Bureau of the Phoenix administrative law firm of F. Haynsworth Jr. to Supreme Court began two weeks ago. The law of only a blocks in the House.

Labor lawyers Elliot Wolf and Paul H. Gotesman, an on 16 a book of "Modern Federal Practice Usage," a lawyer's which lists cases decided by federal judges.

Earlier that morning, a document had been made available as a public record to the Senate Judiciary Subcommittee listing the stocks Haynsworth owned.

Edhoff and Gotesman were comparing the stocks in the cases Haynsworth ruled on. They found a Brunswick Corp., that ruled an entry on the Haynsworth stock list.

The next morning, Sept. 17, Senate subcommittee resumed its hearing into the Haynsworth nomination and Edhoff and Gotesman were in the third row.

Bayh may had a ball he could carry, and the Brunswick matter became the main issue until the 55 to 45 vote last Friday.

The judge himself quickly called the Brunswick stock purchase a mistake. He promised to arrange his affairs so that it would never be repeated.

BAYH RAISES other questions about Haynsworth's stock holdings, Keeffe and two young staffers, Tom Connaughton, 26, and Joseph Rees, 21, assembled stacks of documents, deeds and contracts — so many, in fact, they obtained a portable cabinet to take the material to the committee room and later to

the Senate floor.

Sen. Robert Griffin, the Republican whip from Michigan, said Bayh presented such a solid case on the Brunswick matter that he switched from pro-Haynsworth to the opposition. Two other influential Republicans, Sens. John Williams of Delaware and John Sherman Cooper of Kentucky,

were equally impressed and they announced their opposition to the appointment.

BAYH HIMSELF used kid gloves in the controversy, despite the heavy pressure from many sources, including hundreds of letters from his home state urging him to drop the fight. He called Haynsworth "an honest man

with a fine reputation," but he questioned his ethical judgment.

The Indiana Democrat did not get into the controversy accidentally.

He was hounded by officials of the AFL-CIO and the NAACP to lead the fight in committee and on the floor. Word reached Bayh when he

and Mrs. Bayh and son Evan were on a trip to Russia during the congressional "vacation" recess in late August.

SOME POINT was made by Haynsworth's supporters about the labor unions contributing approximately \$40,000 to Bayh's 1963 successful campaign for reelection. The

amount represented about per cent of what Bayh is to be reelected.

It seemed ironic to an observer that the state produced by Haynsworth in 1963 also produced the man who gave him his defeat so far in his term office.

DURING THE committee break for lunch, the two attorneys cornered Robert Keeffe, administrative assistant to Sen. Birch Bayh, D-Ind., and handed him a note about the Brunswick matter.

In the afternoon session, Sen. Bayh casually referred to the Brunswick case when he was questioning a Phoenix lawyer, John P. Frank. Frank was appearing as an expert on when a judge should disqualify himself from deciding certain cases.

"I have not checked out whether he did in fact own it (Brunswick stock) when this came before him, but if he did is that a sufficient interest that he should have disqualified himself instead of sitting in that case?" Bayh asked Frank.

The witness answered: "IT CERTAINLY is my view that a judge should not sit in a case in which he owns stock in a party to the case."

Bayh and his staff tried unsuccessfully for several days to get the name of Haynsworth's Brunswick stock

Then, on Sept. 20, Chairman James O. Eastland of the judiciary committee made public a long letter from Assistant Attorney General William H. Rehnquist of Phoenix. It admitted that the Greenville, S.C., judge indeed had owned the stock while the Brunswick case was in his court. Rehnquist contended that Judge Haynsworth and two colleagues on the federal bench had actually made up their minds before stock had been bought.

However, the three judges had not written their opinion.

Low Firm To Weekly Gazette Open Jan. 4 12-24-59

(Continued from Page 1)

ted to practice before the 9th Circuit Court of Appeals.

Rehnquist is a member of the Section on Antitrust Law, American Bar Association, and this past week was elected to serve during 1960 as a director for the Maricopa County Bar Association. Other bar activities include chairmanship of the County Bar's Committee on Continuing Legal Education.

HE IS A member of the Phoenix Chamber of Commerce Committee on Legislation and a member of the Phoenix Quarterback Club.

His wife is the former Natalia Cornell of San Diego. She is a 1951 graduate of Stanford University and former employee of the Central Intelligence Agency in Washington, D.C.

The Rehnquists, their son and two daughters, live at 1635 East Rovey Lane.

Closedmouthed Policy Advised

WASHINGTON (AP)—A top aide to Atty. Gen. John N. Mitchell warned today that government employees who differ publicly with Nixon administration policies may lose their jobs.

In a speech apparently designed to head off future policy rebellions, the top aide, Assistant Atty. Gen. William H. Rehnquist, asserted that:

"The government as an employer has a legitimate and constitutionally recognized interest in limiting public criticism on the part of its employees even though that same government as a sovereign has no similar constitutionally valid claim to limit dissent on the part of its citizens."

SEP 18 1970

Official quits, charges HUD abets bias

SEP 18 1970

Associated Press

WASHINGTON — A top government open-housing official resigned yesterday, accusing the Nixon administration of encouraging and perpetuating racial discrimination in housing.

Robert J. Affeldt said he had become "very very frustrated" in his one year as director of construction in the housing opportunity division of the Housing and Urban Development Department.

He is leaving the \$24,000-a-year government post to return to the University of Toledo as a law professor.

"The Nixon administration is not only indifferent to fair housing but is actively opposing it by acts of commission and



Affeldt

omission," Affeldt said at a news conference. "As a result of this policy, the federal government is encouraging and perpetuating racial discrimination in housing, employment and education."

He accused administration officials of sabotaging the department's limited conciliation of discrimination complaints and of refusing to withhold federal aid, which he contended was permitted by law, from communities that balk at enforcement of open housing.

Affeldt's comments appear to reinforce similar complaints recently from private civil rights organizations, some members of Congress, and from the chairman of the U.S. Civil Rights Commission, the Rev. Theodore M. Hesburgh, president of Notre Dame University.

Housing Secretary George Romney, while publicly committed to an "open communities" policy, has said the language of the landmark 1968 Open Housing Law is too gentle to sanction large-

scale cutoffs of federal aid to cities and towns that resist open housing.

"Despite sweet rhetoric to the contrary, it is my firm conclusion that Secretary Romney is a (housing) production man not a civil rights man," Affeldt said, describing himself as a political independent recruited to a civil service job by the Nixon administration.

By coincidence, Affeldt announced his resignation about the same time Assistant Atty. Gen. William H. Rehnquist was telling the Federal Reserve Bank that federal employees who differ publicly with the administration may lose their jobs.

"The government as an employer has a legitimate and constitutionally recognized interest in limiting public criticism on the part of its employees even though that same government as a sovereign has no similar constitutionally valid claim to limit dissent on the part of its citizens," Rehnquist said.

Affeldt's departure follows the forced

Continued on Page 4

More about

Official quits, accuses HUD of abetting bias

Continued from Page 1

resignation last winter of Leon E. Panetta, civil rights chief at the Health, Education and Welfare Department and a vigorous proponent of tough school desegregation enforcement.

Affeldt was described by a department spokesman as a strong, effective and popular administrator. Affeldt said Romney had asked him three times to stay.

Affeldt said he was not aware of any White House interference in open housing enforcement. He blamed instead former general counsel Sherman Unger and other department officials he said were more interested in producing housing than insuring equal access for all races.

Unger resisted assessing damages from persons and companies guilty of housing discrimination and opposed requiring large-scale corrective action. Af-

feldt said, Unger has resigned and is awaiting confirmation as a member of the Federal Communications Commission.

Affeldt said he had taken the government job believing the administration would apply the law and not precept to enforcement of the fair housing law.

"It seems, however, that when it disagrees with the law it takes a different view of 'law and order' under its present policy of funding without any form of social or legal accountability for adverse racial effects," he said. "It is perpetuating de facto segregation."

George Creel, director of HUD's office for public affairs and spokesman for Romney, issued this statement 4 hours after Affeldt's resignation:

"Robert J. Affeldt did not hold a top position in HUD. He ... occupied a

middle management position. He originally came to HUD for a period of one year, which expired today.

There are four divisions within the department's office of housing opportunity. Affeldt headed one.

Creel would not say whether he disagreed with the description of Affeldt as a "top government open housing official."

"I'll just stand by what I said," he said.

Creel conceded the one-year term had been set by Affeldt. Creel would not confirm Affeldt's contention that Romney had asked him to stay.

The description of Affeldt as a strong, effective and popular administrator came from a public information officer familiar with the open housing program.

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NY 77-12035
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NEWSPAPER MORGUES

On October 28, 1971, [redacted] Librarian, Newark Star Ledger, Newark, New Jersey, daily newspaper, advised that a review of his newspaper clipping library failed to show any clipping concerning the applicant.

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On October 28, 1971, [redacted] Metropolitan Editor, Newark News, Newark, New Jersey, daily newspaper, furnished the following editorial dated March 11, 1971, which pertained to the applicant:

"Trusting Big Brother"

"WILLIAM H. REHQQUIST, assistant to U.S. Attorney General MITCHELL, could hardly have produced a feeblcr argument against enacting restrictions on governmental snooping than that which he offered the Senate Judiciary Subcommittee on Constitutional Rights. "Self-discipline on the part of the executive branch," said REHQQUIST, is sufficient to prevent all but the most "isolated" abuses.

"Small wonder that Subcommittee Chairman SAM J. ERVIN, D-N.C., and other senators found this unconvincing. After all, evident lax discipline in the conduct of governmental investigations and compilation of personal data was a prime reason for calling the hearings.

"The Army's spying on Sen. ADLAI STEVENSON III, U.S. Circuit Judge OTTO KERNER and Rep. ABNER MIKVA is a notorious instance of the dependability of "self-discipline." Military snooping on civilians went on for three years but remained undetected, or unadmitted, until Sen. ERVIN reported, in December, a claim by a former intelligence agent that the officials were only three of the 800 civilians in Illinois on whom he and other agents had kept their eyes. Defense Secretary LAIRD thereupon ordered an end to this indiscretion. Yet, two months later, the subcommittee was told that the secretary's order either did not reach lower levels, or was ignored. There was even a report that some officers took it on themselves still to slip raw, unchecked information into legitimate records.

"And excuses for the checkups were equally poor evidence of the reliability of "self-discipline." Dossiers were begun, the former agent testified, on any antiwar, militant, radical, violent or non-violent group or individual of the far right or left, and on anybody who showed sympathy or friendship with such a person or group.

"The file on STEVENSON, for instance, was said to have been started simply because he was seen talking with Rev. JESSE JACKSON of the Southern Christian Leadership Conference.

"Mr. REINQUIST didn't strengthen his case by insisting, in the face of repeated senatorial challenges, that he didn't even see any "constitutional problem." This amounts to an amazing insensitivity to the repressive effect of feeling that one had better conform to an acceptable line if he doesn't want Big Brother constantly looking over his shoulder.

"The potential, if not actual, violence to the basic rights of privacy, speech, assembly, association and petition of government should be apparent.

"With that kind of reasoning, one can only recoil from leaving discretion entirely to the "bureaucracy" under presently limited statutory rules."

October 28, 1971

WILLIAM HUBBS REHNQUIST
DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES

The investigation of Mr. Rehnquist covered inquiries as to his character, loyalty, ability, and general standing, but no inquiries were made as to the sources of his income.

The accompanying reports and memoranda set forth the results of an extensive investigation conducted by thirty-one FBI Field Offices from late Friday, October 22, 1971, when the request for the investigation was received, until Thursday, October 28, 1971.

77-106904-118

NOT RECORDED

5 JAN 19 1972

original
one cc Deputy A.G.

OCT 28 1971

- _____ Tolson
- _____ Holt
- _____ Rosen
- _____ Mohr
- _____ Bishop
- _____ Miller, E.S.
- _____ Callahan
- _____ Casper
- _____ Conrad
- _____ Dalbey
- _____ Cleveland
- _____ Funder
- _____ Gales
- _____ Rosen
- _____ Sullivan
- _____ Tavel
- _____ Trotter
- _____ Tele. Room
- _____ Holmes
- _____ Gandy

OFL:me (4)

Return to
Room 1252.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

MAIL ROOM TELETYPE UNIT

UNITED STATES GOVERNMENT

Memorandum

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Felt	_____
Rosen	✓
Mohr	_____
Bishop	_____
Miller, E.S.	_____
Callahan	_____
Casper	_____
Conrad	_____
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Tavel	_____
Walters	_____
Soyars	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

TO : MR. TOLSON

DATE: 10/28/71

FROM : A. Rosen

cc Mr. Rosen
Mr. Cleveland

SUBJECT: Assistant Attorney General
William H. Rehnquist -

Nominee for Supreme Court Justice

Deputy Attorney General Kleindienst called, indicating that, with reference to the nomination of Rehnquist, he expects two persons living in Phoenix, Arizona may come to Washington to testify. He wanted to have a criminal record check made, if possible, concerning these individuals, and indicated that Associate Deputy AG Harlington Wood would furnish me their names.

Mr. Wood subsequently called to advise that the individuals in question (both of whom reside in Arizona) were



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Both of these individuals, if they do testify, would be expected to furnish critical comment. Wood also stated they would be interested if we could discreetly determine whether they had any criminal records or criminal background.

RECOMMENDED ACTION:

If approved, the Phoenix Office will be instructed to immediately make a discreet check with reference to these individuals and furnish the Bureau whatever information may be developed. A check, of course, will be made of our criminal records here. Both [redacted] were interviewed during the course of our investigation of Rehnquist.

AR:CSH (3)

*memo Martin
to Georgetown
10/29/71
10/28/71*

OK

ENCLOSURE

REC-13 77-106904-119

JAN 19 1972

MA
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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 28 1971
mkw
TELETYPE

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. Soyars _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

NR006 NK PLAIN
6:45PM URGENT 10-28-71 DJP
TO DIRECTOR
FROM NEWARK (77-12035) (1P)

WILLIAM HUBBS REHNQUIST; DEPARTMENTAL APPLICANT, JUSTICE,
UNITED STATES SUPREME COURT.

MR. MARTIN
ROOM 1246



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RE NEWARK TELEPHONE CALL TO BUREAU OCTOBER TWENTY SEVEN,
LAST.

SPECIAL AGENT [REDACTED] ADVISED THIS DATE THAT
DURING INTERVIEW WITH [REDACTED] HE DEFINITELY
DID NOT ASK HIM WHETHER HE INTENDED TO TESTIFY BEFORE THE
U.S. SENATE CONCERNING APPLICANT. [REDACTED] COMMENTED THAT
HE DID NOT BELIEVE HE WOULD TESTIFY, CAME AS A VOLUNTARY
COMMENT DURING THE INTERVIEW.

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END

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JAN 19 1972

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

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UNITED STATES GOVERNMENT

Memorandum

- Tolson _____
- Felt _____
- Rosen _____
- Mohr _____
- Bishop _____
- Wilder, E.S. _____
- Callahan _____
- Casper _____
- Courad _____
- Dalbey _____
- Cleveland _____
- Ponder _____
- Bates _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

TO : Mr. Cleveland *[initials]*

DATE: 10-28-71

FROM : L. H. Martin *[initials]*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

SUBJECT: WILLIAM HUBBS REHNQUIST
DEPARTMENTAL APPLICANT
JUSTICE, SUPREME COURT OF
THE UNITED STATES

[Large handwritten 'E' and signature]

SYNOPSIS:

Rehnquist, Assistant Attorney General, Office of Legal Counsel, was nominated by President Nixon 10-21-71 for Supreme Court. Rehnquist, a Republican and prominent Phoenix, Arizona, attorney, received appointment as Assistant Attorney General in 1969. He was practicing attorney in Phoenix 1953-69. During 1969 investigation in connection with appointment as Assistant Attorney General he was described as brilliant, conscientious, conservative, an outstanding attorney and morals, associates and loyalty not questioned. Current investigation has included favorable interviews with U. S. Senators Barry Goldwater (R. Arizona) and Paul Fannin (R. Arizona), U. S. Senators Marlow Cook (R. Kentucky), Henry Bellmon (R. Oklahoma) and Ted Stevens (R. Alaska), and several congressmen, including Morris Udall (D. Arizona). Members of so called "Black Caucus" reserved opinions on Rehnquist pending investigation. Overwhelming majority of persons interviewed consider Rehnquist extremely well qualified for appointment to the Supreme Court; however, U. S. Senators Bayh and Kennedy have publicly expressed opposition as have members of NAACP, who have circulated petition opposing Rehnquist because of his alleged opposition to civil rights legislation in Phoenix, and challenging voters in 1964 election on literacy grounds, criticism of Supreme Court Justices Warren, Black, and Douglas. Several individuals suspect possible bias in areas of civil rights and there have been unsupported allegations that he might have been affiliated with John Birch Society.

ACTION:

Results of investigation have been furnished to the Department and our transmittal notes, "The accompanying reports and memoranda set forth the results of an extensive investigation conducted by 31 FBI Field Offices from late Friday, 10-22-71, when the request for investigation was received, until Thursday, 10-28-71."

- 1 - Mr. Felt
- 1 - Mr. Rosen
- 1 - Mr. Mohr
- 1 - Mr. Bishop
- 1 - Mr. Dalbey

- 1 - Administrative Review Unit, Crime Records Division
- 1 - Mr. Cleveland
- 1 - Mr. Martin
- 1 - [Redacted]
- 1 - [Redacted]

77-106904-121

JAN 19 1972

60 JAN 25 1972

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(11)

COPY MADE FOR MR. TOLSON

CONTINUED - OVER

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Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

DETAILS:

Rehnquist has been nominated for position of Associate Justice on Supreme Court of the United States. Expedite investigation was requested on the afternoon of Friday, 10/22/71. Results of investigation were forwarded Department 10/28/71.

BACKGROUND:

Rehnquist, a Republican, was born 10/1/24 in Milwaukee, Wisconsin. He holds B.A., M.A., and LL.B. degrees from Stanford University and M.A. degree from Harvard University. In 1952-1953 he was law clerk to Associate Justice Robert H. Jackson, Supreme Court of the United States, and from 1953 to 1969 was practicing attorney in Phoenix, Arizona, engaging in civil and criminal practice. Since 2/69 he has served as Assistant Attorney General, Office of Legal Counsel, Department of Justice. He is a member of the President's Commission on Personnel Interchange, purpose of which is to foster cooperation between Federal Government and business/interchange of high-potential executives. In 10/70 President Nixon appointed him to serve on Council of the Administrative Conference of the United States. Rehnquist has been described as outstanding member of the American Bar Association and is a member of Federal Bar Association. He has served on numerous committees of the American Bar Association and has contributed articles to the American Bar Journal. He has served on a number of committees of the state bar in Arizona and served on Uniform Law Commission of the American Bar Association. The Board of Governors of Arizona State Bar passed unanimous resolution 10/26/71 supporting Rehnquist's nomination to Supreme Court.

Previous Investigation: Bureau's 1969 investigation of Rehnquist in connection with position as Assistant Attorney General, Office of Legal Counsel, was entirely favorable. Numerous persons, including professional associates, judges, bar officials, and other recommended him as conscientious, capable, brilliant attorney. Senators Barry M. Goldwater (Republican-Arizona) and Paul J. Fannin (Republican-Arizona) described him as outstanding legal scholar and favorably endorsed him. The 1969 investigation disclosed that

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Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

Current Investigation: During extensive investigation under pressing deadline, 31 field offices have conducted investigation resulting in a minimum of 225 interviews, in addition to usual record checks of Government agencies, police departments, bar associations, credit bureaus, and newspaper morgues.

As part of our investigation we interviewed Rehnquist for background data. At request of the Deputy Attorney General's Office Rehnquist was asked whether there was anything in his background or that of his family which, if raised, could be embarrassing to the President. Rehnquist said he had been involved in boyhood pranks with friends and associates in grade and high school, but was never arrested except for one possible instance when he was found sleeping on courthouse lawn in Ravenna, Ohio, in 1942. He was told at that time, he said, by a policeman that he could sleep at the local jail where he would be more comfortable. Rehnquist said he was charged with no offense and police records at Ravenna disclosed no record of his arrest. Rehnquist said he has never been a member of the John Birch Society and has never associated with any persons known to be members. He said he had never attended any meetings of the John Birch Society or any similar organizations.

Numerous interviews conducted during the current investigation have included U. S. Senators Ted Stevens (Republican-Alaska), Sam J. Ervin, Jr. (Democrat-North Carolina), Barry M. Goldwater (Republican-Arizona), Paul J. Fannin (Republican-Arizona), Marlow W. Cook (Republican-Kentucky) and Henry Bellmon (Republican-Oklahoma) and Congressmen William Scott (Republican-Virginia), Sam Steiger (Republican-Arizona), Richard L. Poff (Republican-Virginia) and Morris Udall (Democrat-Arizona), as well as members of the so-called Black Caucus in the Congress, Representatives of the National Association for the Advancement of Colored People (NAACP), Anti-Defamation League, B'nai B'rith, National Urban League, Research Action Project Council, have been interviewed. Investigation also included interviews with numerous attorneys, numerous judges in the Federal judicial system and Arizona courts, members of bar associations, labor leaders, civic, religious, and civil rights leaders, and law professors.

Overwhelming number of persons acquainted with Rehnquist stated he is highly qualified, has outstanding academic background, judicial temperament, impartial in areas of civil rights and racial matters, strong moral character, and of outstanding

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

ability in field of law. Associates from the Department of Justice, President's Committee on Personnel Interchange, and Council of Administrative Conference of the United States have commented favorably and endorse Rehnquist for Supreme Court.

QUALIFIED ENDORSEMENTS OF REHNQUIST:

Numerous individuals, including judges, lawyers, and other associates state that they do not fully share Rehnquist's conservative views, but nevertheless they feel he has an outstanding legal mind, judicious temperament, and would make an excellent Justice on the Supreme Court.

[redacted] Office of Management and Budget, generally praised Rehnquist and recommended, but stated he did not always agree with Rehnquist's views such as his reported statements that the arrests during the May Day protests in 1971 were properly handled.

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[redacted] stated Rehnquist has an excellent reputation as an attorney and if he were in the U. S. Senate, he would vote for Rehnquist's confirmation; however, he said he would not have appointed Rehnquist because he feels there are more qualified individuals available. [redacted] said he was of the opinion Rehnquist had made unfavorable and possibly misleading reports about him to the Bar Association in 1964 [redacted]

[redacted] stated he had been contacted by a "New York Times" reporter, who said a lot of unfavorable information on Rehnquist had been obtained in Milwaukee and that a scandal of some sort forced Rehnquist to leave Milwaukee and go to Arizona. The reporter did not supply any specific information and [redacted] did not know his name. In this connection our investigation in Milwaukee in both 1969, and 1971, included numerous interviews with judges, attorneys, former associates, and neighbors, as well as checks of arrest and credit records and newspaper morgues, and no unfavorable information was developed.

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Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

OPPOSITION TO REHNQUIST ON CIVIL RIGHTS GROUNDS:

A number of leaders of NAACP in Arizona have been interviewed and almost all of them question Rehnquist's qualifications, principally in area of civil rights. In a petition opposing Rehnquist's nomination prepared and circulated by NAACP in Arizona, it was charged:

(1) Rehnquist consistently fought NAACP and others who championed civil rights causes and the poor.

(2) In 1964 he openly harassed [redacted] and members of NAACP during peaceful attempt to present grievances from minority community to legislative bodies.

(3) He does not accept voting rights of all citizens, demonstrated by his harassment and intimidation of voters in 1968 presidential election in precincts populated by poor.

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(4) He espoused strong belief with John Birch Society's position and publicly castigated U. S. Supreme Court.

(5) He labelled youth of Arizona and the nation who peacefully protest the status quo as "barbarians."

(6) He was Nixon's personal legal advisor and primary moving force in nominations of G. Harrold Carswell and Clement Haynesworth.

(7) He has made public statements and actions which show him to be a right wing extremist, reactionary and sophisticated racist.

A copy of this petition was made available by [redacted] [redacted] of the Maricopa County Branch of the NAACP in Arizona. He said he did not know Rehnquist personally but had signed the above resolution which was based on a consensus expressed by various officials of the NAACP in Arizona. [redacted] also furnished copy of a news item from an unidentified publication showing that [redacted] of Maricopa County Chapter of NAACP had announced opposition to Rehnquist. Copy of news item and NAACP resolution have been furnished to the Department. It is noted that item 5, above, apparently refers to Rehnquist's speech on 5/1/69 before Newark, New Jersey, Kiwanis Club that government of law is under attack by "group of new barbarians."

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

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[redacted] said he opposes Rehnquist's appointment because he thinks applicant would not be fair as Supreme Court Justice, particularly in areas involving civil rights. During general election in 1964 or 1966 Republican Party officials in Phoenix had challenged many black people attempting to vote. The challenge he said was made on literacy grounds and amounted to harassment. He said he had been informed within the last week that Rehnquist was one of the Republican officials who participated in the challenge of black voters. [redacted] believes Rehnquist has belonged to John Birch front organizations but was unable to identify any such groups. He believes he had seen this information in newspaper articles but could not identify the articles. He said there had been an article in "The Arizona Republic" of 9/10/57 wherein Rehnquist had labelled three judges of the Supreme Court as "left wing" which indicated to [redacted] that Rehnquist would be opposed to the extension of civil rights to minority groups. ("The Arizona Republic" of 9/10/57 contained news item concerning Rehnquist's statement that Justice Warren, Black, and Douglas were "left wings" of the Supreme Court. Rehnquist was reported to have added that he was not accusing these justices of being communist sympathizers.) [redacted] said his only contact with Rehnquist occurred in 1966 or 1967 when [redacted] of Phoenix Chapter of NAACP was lobbying at Arizona State Capitol trying to obtain passage of legislation which was a public accommodation bill. While lobbying for the bill Rehnquist went to him and they had a conversation on the Capitol grounds. He said he did not know whether Rehnquist sought him out specifically or whether this was just a chance meet. They discussed the public accommodation bill and Rehnquist indicated he opposed it, basing his opposition on constitutional grounds that the bill would require property owners to serve all people.

[redacted] is a member of the Phoenix Chapter of the NAACP. He is not personally acquainted with Rehnquist and has only seen him on a few occasions. He recalls seeing Rehnquist in 7/64 when the NAACP made a march to the capitol building in Phoenix, the purpose being to obtain jobs and improve conditions for the poor. When the marchers (including [redacted] reached the capitol building they were confronted by Rehnquist on the steps of the capitol and [redacted] and Rehnquist began hollering at each other for a few seconds. [redacted] considers Rehnquist to be an outstanding attorney of highest loyalty, character, integrity and ability; however, he feels Rehnquist is a super patriot, over-zealous in attitude against any form of protest against the Government. [redacted] opposed Rehnquist's appointment to the Supreme Court of the United States because he believed Rehnquist's attitude would adversely affect decisions in civil rights matters.

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

[redacted] stated the only information he could furnish on Rehnquist concerned an incident in 1964 during national elections when Goldwater was running for President. He recalled that an individual (whom he later identified as Rehnquist) challenged a number of Blacks in the voting line at the Bethune School asking them to read something on a card which he held in his hand. If the voters were unable to read the card, Rehnquist attempted to remove them from the voting line by challenging their eligibility as voters. This activity became very irritating to Blacks and at one point it was felt there might be physical violence; however, another Black intervened and prevented a group of Blacks from physically attacking Rehnquist. He said he had not known it was Rehnquist at the time and later identified him through a picture.

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[redacted] said he objects to Rehnquist's appointment to Supreme Court because of Rehnquist's philosophy, particularly in field of civil rights. He first became acquainted with Rehnquist in 1965 when they had a disagreement over questioning of witnesses before Arizona State Committee which was investigating members of the Arizona Corporation Commission. [redacted] was a member of the committee and felt that committee members should be allowed to question witnesses; however, the Republican majority on the committee upheld Rehnquist's position that only the committee's attorney should be allowed to question witnesses. [redacted] recalled that Rehnquist had opposed passage of a city ordinance on human rights around 1967 and that Rehnquist, when opposing the ordinance stated to [redacted] "I am just not for civil rights legislation." [redacted] said he has furnished this information to Congressman Morris Udall of Arizona. [redacted] said he has heard from sources which he would not furnish that Rehnquist attended two meetings of the John Birch Society in Phoenix during the 1950's and also attended meetings of Truth About Civil Turmoil (TACT)* which [redacted] said is a subsidiary of the John Birch Society.

*Information on TACT is set forth on page 10.

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

[redacted] has known Rehnquist for 17 years and feels latter's appointment would be an extreme step backward in civil rights. As to judicial ability and temperament, [redacted] felt Rehnquist would be a very fine judge, scholastically and objectively. He also felt Rehnquist would be quite restrictive on matters of free speech. [redacted] said he considers Rehnquist to be superbly capable, thoroughly honest, an excellent scholar, and person whose character and ability cannot be faulted; however, he considers Rehnquist to be a total political adversary, completely opposed in political and social views.

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[redacted] said he believes Rehnquist to be a racial zealot who would be biased in legal opinions. [redacted] believes Rehnquist to be completely negative on civil rights and has heard that Rehnquist went into the Negro community and challenged Black voters. [redacted] said he has heard Rehnquist was member of Arizonans for America which [redacted] said may be further right than the John Birch Society. [redacted] recalled reading an article in U. S. News and World Report by Rehnquist concerning Rehnquist's work as a clerk for Justice Jackson on Supreme Court. The article discloses information about the innerworkings of the Supreme Court which [redacted] believed should have been confidential and not disclosed to the public. Article indicated law clerks influence the Justices.

[redacted] of the local chapter of the Yuma NAACP, said he signed a petition opposing Rehnquist's appointment to the Supreme Court. He is not personally acquainted with Rehnquist and his feelings about him were based on an alleged confrontation between Rehnquist and NAACP leaders at the state capitol in Phoenix several years ago. He did not attend the so-called confrontation but was told about the incident and heard that it related to a civil rights matter.

[redacted] of the NAACP, Flagstaff, Arizona, stated he signed a petition opposing Rehnquist's appointment to the Supreme Court. [redacted] recalled that during the 1950s [redacted] was active in attempting to pass a civil rights bill in Arizona and was active in a

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

peaceful protest march to the state capitol at the time. [redacted] said it was his understanding that Rehnquist had opposed the passage of the Arizona State Civil Rights Bill and the march. [redacted] did not know Rehnquist personally but opposed his nomination.

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[redacted] expressed strong opposition to Rehnquist's confirmation. He said he has no direct knowledge of Rehnquist's philosophy in civil rights areas and his opposition to Rehnquist is based solely on newspaper items.

[redacted] of the Pinal County branch of the NAACP, said he signed a petition asking cancellation of Rehnquist's nomination to the Supreme Court. He did not know Rehnquist personally but signed the NAACP petition which was circulated by [redacted] after reading a copy of a newspaper article indicating Rehnquist was against civil rights.

ALLEGATION RE AFFILIATION WITH RIGHT WING GROUPS:

The "Arizona Republic" of 9/12/58 contained an article disclosing that William H. Rehnquist was to be a panelist in discussion of Federal income tax at meeting of "Arizonans for America" which was described as an association of persons who were "strict constitutionalists" and favored states rights, competitive enterprise, private property, and individual liberty and opposed fascism, socialism, and communism. The Arizona Republic of 9/19/58 disclosed that Rehnquist had been a panelist at meeting of Arizonans for America where income tax had been discussed.

Several individuals formerly connected with Arizonans for America stated this organization went out of existence around 1965 or 1966 and they did not think that Rehnquist had ever been a member of the organization although he had spoken to the group on one or two occasions. [redacted] stated the sole function of Arizonans for America was to bring to Arizona speakers to inform public of vital issues. [redacted] of Arizonans for America but did not have any membership records. She said she had no recollection of Rehnquist speaking to the group and had no recollection of his being a member. She said he did not attend any meetings or take part in any activities.

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

[redacted] said he had received anonymous telephone calls concerning the article in the Arizona Republic about Rehnquist speaking before Arizonans for America and that persons who had called [redacted] had indicated that Arizonans for America was a front group for the John Birch Society. [redacted] said he had not been able to confirm any membership of Rehnquist in this organization.

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[redacted] admitted members of TACT and the John Birch Society, stated TACT is an adhoc committee of the John Birch Society. They said they were not in a position to state whether Rehnquist was ever a member of TACT and that they were not acquainted with him.

STATEMENTS BY PROMINENT JUDGES

[redacted] Phoenix, Arizona, on 10/26/71 stated he is familiar with public statements by [redacted] and [redacted] which were critical of Rehnquist's philosophy and his stand on civil rights legislation. [redacted] branded the inferences by [redacted] that Rehnquist was possibly a member of the John Birch Society as completely untrue. He states statement by [redacted] indicating Rehnquist had voted against civil rights legislation was completely without basis. In regard to allegations by [redacted] that Rehnquist opposed a public accommodations ordinance, he said Rehnquist's opposition was directed to the context of the particular legislation and had not been a statement of opposition to civil rights legislation. [redacted] stated Rehnquist would be extremely tolerant of the rights of others and would in no way be prejudiced against racial or minority groups. [redacted] said Rehnquist's qualifications for appointment to Supreme Court are of the highest order.

[redacted] stated on 10/26/71 that he had read in Phoenix newspapers allegations that Rehnquist is a "racist." He stated Rehnquist is not a racist and if Rehnquist had ever opposed any legislation, whether it pertained to civil rights or any other matter, Rehnquist's opposition was strictly on basis that legislation was not legally sound. He said he did not recall Rehnquist ever opposing any civil rights legislation. [redacted] said he had

Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

read charges in Phoenix newspapers that Rehnquist was a "racist" because he had opposed civil rights legislation contemplated by city of Phoenix. He indicated that any opposition by Rehnquist to such legislation would have been based on whether there was any legal soundness to it and that Rehnquist had never given him any indication of being a racist, adding that Rehnquist had always been impartial in dealings with Blacks and whites.

INCOME TAX DATA:

b3 Title 26, U.S.C., Section 6103

PROPERTY OWNED BY REHNQUIST:

Rehnquist owns property in Arizona, Colorado, and Virginia and there are no restrictive covenants as to race, creed, or color concerning ownership or occupancy of these premises, except for lot number 111 of the Palmcroft Subdivision, Maricopa County, Arizona. Warranty deed number 328623 dated 7-30-28 contains an item stating that no lot or any part thereof within a period of 99 years from the date of filing of record on the platt of Palmcroft shall ever be sold, transferred, or leased to nor shall any part thereof within said period be inhabited or occupied by any person not of white or Caucasian race. Lot number 111 of Palmcroft Subdivision was obtained October 24, 1961, by Rehnquist.

CREDIT AND ARREST CHECKS:

Rehnquist has no arrest record and credit agency checks have been favorable; however, holders of second mortgage on property purchased in 1968 in Colorado stated he [redacted] [redacted] were slow in making payments but after notice of overdue amounts on two occasions payments were made.

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Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist

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ORGANIZED OPPOSITION

There have been numerous items in the press indicating possible opposition by such individuals as Senator Birch Bayh (Democrat-Indiana) and Edward M. Kennedy (Democrat-Massachusetts) who are conducting investigation into Rehnquist's background and qualifications [redacted] of the Americans for Democratic Action and Leadership Conference on Civil Rights, has publicly stated that "We are making intensive investigation of his beliefs concerning the Bill of Rights." President George Meany of the AFL-CIO has stated Rehnquist's appointment is an effort of the Nixon administration to pack the court with ultra conservatives who subscribe to narrow views on human and civil rights. Members of the so-called Black Caucus in Congress have stated they will withhold comment on Rehnquist pending results of an investigation which they are conducting. The NAACP and the Research Action Project Council are also investigating Rehnquist. During our investigation, professors at Stanford and Columbia Universities have indicated they are doing research on Rehnquist's qualifications. These investigations will continue until the question of confirmation is resolved.

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE PHOENIX	OFFICE OF ORIGIN BUREAU	DATE 10/28/71	INVESTIGATIVE PERIOD 10/28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka		REPORT MADE BY SA [redacted]	TYPED BY sg
		CHARACTER OF CASE JUSTICE, SUPREME COURT OF THE UNITED STATES	

REFERENCE: Report of SA [redacted] dated 10/27/71 at Phoenix.

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DATE 07-06-2006 BY 60309/UC/TAM/DCG/YMW

*1 duplicate
3 photocopies
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ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE

COPIES MADE:
5 - Bureau (77-106904)
1 - Phoenix (77-3510)

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5 NOV 1 1971

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Notations
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60 JAN 25 1972

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:

[Redacted]

Office: PHOENIX

Date:

October 28, 1971

Field Office File #:

PX 77-3510

Bureau File #: 77-106904

Title:

WILLIAM HUBBS REHNQUIST

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Character:

JUSTICE, SUPREME COURT OF THE UNITED STATES

Synopsis:

Three former associates recommend. [Redacted] shoved out of voting line in 1964, unaware of identity of white men challenging her. [Redacted] did not witness any incident of shoving or fighting. Former Registrar of Voters for Maricopa County advised no records maintained re persons challenging voters.

- RUC -

DETAILS:

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YHM

PX 77-3510

JJJ:sg

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On October 28, 1971, [redacted] advised appointee was an associate of the firm of Carson, Messinger, Elliott, Laughlin and Ragan from 1957 through 1960. [redacted] stated appointee is the most outstanding lawyer he has ever known. He stated appointee will be an outstanding Associate Justice because of his even disposition and his great ability to listen to what others have to say. [redacted] said it is his opinion one could not do better as far as filling a space on the Supreme Court. He stated Mr. REHNQUIST is a practical intellectual who is constantly evaluating himself. He stated the appointee holds very strong and honest opinions and these opinions were formed without any consideration of a persons race, background or any other factor.

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[redacted] advised he has known appointee since he first came to Phoenix in 1953. He worked with him very closely while they were associates in [redacted] firm. [redacted] considers the appointee to be the best legal mind he has ever known. He recommends him highly as a judge because appointee views every question on its own merits without consideration of the persons or personalities involved. [redacted] said the appointee views each man as an individual, does not consider his race or any other thing about the man other than the fact that he is a man.

[redacted] advised he has known appointee since 1953. [redacted]

[redacted] advised they worked closely together until 1960 when Mr. REHNQUIST left to join another firm. [redacted] stated he has a very high regard for the appointee as a person and as an intellect. [redacted] is of the opinion one could not find a person more highly qualified than the appointee for a position on the Supreme Court. [redacted] said they are diametrically opposed politically. Through their discussions he has learned that the appointee is very honest in his opinions and he is his own man. [redacted] advised he has never known appointee to join any organization and the appointee appears to [redacted] to be the type man not to do so. [redacted] stated the appointee forms his opinions on various questions without any consideration of the persons involved and only considers the questions involved.

PX 77-3510

KRD:sg

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The following investigation was conducted by SA
[redacted] at Phoenix, Arizona:

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On October 28, 1971, [redacted]

[redacted] however, she was at the Bethune Poling Place during the Presidential Election of 1964 and was shoved out of line by a white man. She advised, however, that she did not know the identity of the white men, that she had never seen the men before and to her knowledge she has never seen the men since. [redacted] advised that the name WILLIAM REHNQUIST does not mean anything to her. [redacted] advised that she did vote.

On October 28, 1971, [redacted]

[redacted] advised that he recalls the incident which happened at Bethune School on Election Day, 1964. [redacted] advised that he was told by an acquaintance whose name he has forgotten, that [redacted] was shoved out of line. He went to Bethune School to see [redacted] and advised that upon arrival he did not witness any incident of shoving or fighting. [redacted] advised that one [redacted]

[redacted] may possibly know more information regarding the incident. [redacted] advised he did not know the identities of the white men involved.

On October 28, 1971, [redacted]

[redacted] advised that she does not know a [redacted] and that the market is owned by [redacted]. There are no employees at the market by the name of [redacted].

PX 77-3510
BFL:gjk

On October 28, 1971 [REDACTED]

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[REDACTED] advised SA [REDACTED] that in 1964 and for some time prior to that, he was the Registrar of Voters for Maricopa County. He pointed out that any individual can actually challenge a voter at a voting precinct and any persons appearing at a precinct in a challenge capacity appear on a voluntary basis. In certain instances, representatives of each party may appear at a voting precinct on the basis of having been selected by their respective party. These individuals are not employees of the Election Board and no record whatsoever is maintained regarding those individuals who do appear.

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE CHARLOTTE	OFFICE OF ORIGIN BUREAU	DATE 10/28/71	INVESTIGATIVE PERIOD 10/28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka., William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY SA 	TYPED BY gjc
		CHARACTER OF CASE JUSTICE, SUPREME COURT OF THE UNITED STATES.	

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REFERENCE:

WFO teletype to Bureau dated 10/27/71.

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

ACCOMPLISHMENTS CLAIMED					<input checked="" type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE

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77-106904-123

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By				

Notations:

Spec Inq

60 JAN 25 1972

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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Copy to:

Report of:
Date:

SA [REDACTED]
10/28/71

Office: CHARLOTTE

Field Office File #:

77-8095

Bureau File #:

Title:

WILLIAM HUBBS REHNQUIST

Character:

JUSTICE, SUPREME COURT OF THE UNITED STATES

Synopsis:

The Watauga Democrat, biweekly newspaper at Boone, N. C., in its issue of 5/13/71 reveals WILLIAM REHNQUIST, Assistant United States Attorney General, had addressed comments the previous week to Appalachian State University in a political science lecture series. This article quoted comments made by REHNQUIST. Article contained no comments as to how his lecture was received by the audience.

- RUC -

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

DETAILS:

On October 28, 1971, WARD CARROLL, Sheriff, Watauga County, Boone, North Carolina, advised there was only one newspaper published in Boone, North Carolina, the Watauga Democrat, which is published biweekly.

A review of the Watauga Democrat issue of May 6, 1971, contained no reference to WILLIAM REHNQUIST.

The May 13, 1971, issue of the Watauga Democrat on page 12a contained a photograph of REHNQUIST and an article entitled "Assistant United States Attorney General Comments." This article revealed that WILLIAM REHNQUIST, a Washington official, addressed his comments to an audience at Appalachian State University in a political science lecture series the previous week.

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The article quoted comments made by WILLIAM REHNQUIST but contained no comments as to how his speech was received.

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE WASHINGTON FIELD	OFFICE OF ORIGIN BUREAU	DATE 10/28/71	INVESTIGATIVE PERIOD 10/27 - 28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka		REPORT MADE BY <div style="border: 1px solid black; width: 100px; height: 15px;"></div>	TYPED BY 11h
		CHARACTER OF CASE JUSTICE SUPREME COURT OF THE UNITED STATES	

REFERENCES: WFO report of SA dated 10/27/71.
WFO airtel and LHM to Bureau, dated 10/27/71.

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- RUC -

ADMINISTRATIVE

Efforts to contact

have been unsuccessful. Inasmuch as his interview does not appear to have any particular importance, further efforts to contact him during the course of his business in WDC are being discontinued.

ACCOMPLISHMENTS CLAIMED					<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE DO NOT WRITE IN SPACES BELOW

COPIES MADE:
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1-WFO (77-86748)

ENCLOSURE

77-106904-124

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5 JAN 19 1972

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

Dissemination Record of Attached Report				
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations
[Signature]

60 JAN 25 1972

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of: [REDACTED]

Office: Washington, D. C.

Date: 10/28/71

Field Office File #: 77-86748

Bureau File #: 77-106904

Title: WILLIAM HUBBS REHNQUIST

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Character:

JUSTICE
SUPREME COURT OF THE UNITED STATES

Synopsis: The physician who gave applicant a physical about a year ago only had a vague recollection of the applicant and knew of no real health problems he might have. Other members of Congress highly recommend, except for U. S. Senator SAM ERVIN, who commented favorably concerning applicant, but who is making no commitment at this time concerning his endorsement of applicant for Supreme Court of the United States. [REDACTED]

[REDACTED] considers applicant's appointment superb. Other attorneys recommend most highly. Attached is an article written by applicant which appeared in U. S. News and World Report, 12/13/57, entitled "Who ~~Makes~~ ^{Writes} the Decisions of the Supreme Court?", and a rejoinder to this article which appeared in the 2/21/58, issue of this magazine, entitled "Another View: Clerks Might "Influence" Some Actions."

- RUC -

ENCLOSURES

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

AS ATTACHMENTS ARE:

✓ ^{Writes} One (1) an article written by applicant entitled "Who ~~Makes~~ ^{Writes} the Decisions of the Supreme Court?", which appeared in the December 13, 1957, issue of U. S. News and World Report.

WFO 77-86748

Two (2) is applicant's rejoinder to this article entitled "Another View: Clerks Might "Influence" Some Actions", which appears in February 21, 1958, issue of U. S. News and World Reports.

DETAILS: AT WASHINGTON, D. C.

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Interview of [REDACTED]	8
Interview of Attorneys	9 - 10

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WFO 77-86748

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PHYSICIAN

On October 27, 1971, [REDACTED]

[REDACTED] advised that he only has a vague recollection of giving the applicant a physical examination at a Government relocation facility near Purcellville, Virginia in October, 1970. To the best of his recollection, the applicant's general health was excellent, although he does believe the applicant was having some difficulty with his back and that he was referred to [REDACTED] [REDACTED] for treatment. He was confident [REDACTED] could furnish more up-to-date and pertinent information concerning the applicant's general health than he. [REDACTED] is not personally acquainted with the applicant and, therefore, could make no other comment concerning him.

[REDACTED] whose comments were previously reported, pronounced applicant's health as excellent.

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UNITED STATES SENATORS

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The following investigation was conducted by SA [redacted] on October 28, 1971.

Senator TED STEVENS (Alaska) advised he has known the applicant, WILLIAM HUBBS REHNQUIST, since the 1950's when both were students at Harvard University. They have been close personal friends and political associates since that time. Following their graduation from law school, Senator STEVENS had close contacts with the applicant during his service as law clerk to Associate Justice ROBERT H. JACKSON, U. S. Supreme Court. Senator STEVENS has not observed the applicant in a court of law, nor in an adversary type proceeding. His long time acquaintance with the applicant convinces him he is eminently qualified for nomination to the bench of the U. S. Supreme Court. Senator STEVENS has had frequent political and professional contact with the applicant during his service as Assistant Attorney General. He has been a house guest in the applicant's residence in Mc Lean, Virginia. He knows nothing of an unfavorable nature concerning him. His personal life is wholesome and refined. He considers the applicant to be fair and impartial in his contacts with persons of varying ethnic backgrounds. He is certain the applicant will uphold existing legal precedent in a fair and impartial manner without regard to the religious, economic, or political background of those appearing before him in a court of law. He considers the applicant's patriotism and reputation to be beyond reproach. Senator STEVENS continues to recommend the applicant to the bench of the U. S. Supreme Court.

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[redacted] Administrative Assistant to Senator SAM ERVIN (North Carolina), advised Senator ERVIN is not presently available for interview. He said he is authorized to furnish the following information in his absence. Senator ERVIN has a high personal and professional regard for the applicant's competency as Assistant Attorney General

WFO 77-86748

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and as a frequent witness before the Senators Subcommittee on Constitutional Law. He describes him as an able and worthy specimen for the Department and President Nixon. His credentials as an attorney are outstanding. He knows nothing of an unfavorable nature concerning the applicant's background and reputation as a trial and appellate attorney. At the moment, he considers him eminently qualified to be of continuing service to this country as a member of the U. S. Supreme Court and anticipates he will make a significant contribution in this area. Senator ERVIN knows of no unfavorable information concerning the applicant's morals, mannerisms, reputation, or loyalty to the United States. He will withhold further comments concerning him pending hearings concerning the nomination which will be conducted by the Committee on the Judiciary.

WFO 77-86748

RTT:jdw

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UNITED STATES REPRESENTATIVE

The following investigation was conducted by
SA on October 28, 1971.

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Representative MORRIS K. UDALL (Arizona) advised he has known the applicant for approximately 15 years as a personal friend and professional associate in Arizona. He also recalls having tried three or four criminal matters as opposing counsel to the applicant. He describes his court room temperament and demeanor to be decidedly above average. He considers him a scholar with regard to the law. He knows of no financial problems on the part of the applicant and he considers his personal and professional ethics to be impeccable. He has already communicated his congratulations to the applicant following the President's selection of him as his candidate for the Supreme Court. He noted he would vote to confirm the applicant if Representative UDALL were a member of the U. S. Senate. He knows of no information which would detract from his candidacy. He considers the applicant a loyal American of good character, reputation, and associates. He recommends him to the bench of the U. S. Supreme Court.

WFO 77-86748

JER:gdw

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Interview of [REDACTED]

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On October 27, 1971, [REDACTED]

[REDACTED] advised that he has known the applicant for the past twenty-three or twenty-five years, and [REDACTED] has been acquainted with the applicant's brilliant career as an attorney. The applicant is a man of impeccable character, loyalty, reputation, associates and integrity. [REDACTED] considers applicant to be one of the foremost legal scholars in the U.S. At one time, the applicant was called upon to conduct an investigation in the state of Arizona, and the outstanding job the applicant did can possibly only be compared to the outstanding investigation conducted on the insurance industry by the late Chief Justice of the U.S. Supreme Court, CHARLES EVAN HUGHES. [REDACTED] has also had some conferences with the applicant since he has been serving as an Assistant Attorney General with the U.S. Department of Justice. He has observed the applicant at numerous legal conferences and has found the applicant to have an unbelievable capacity for handling an amazing amount of work. In addition to the applicant's intellect, disposition, and juristic qualities of temperament and impartiality, the applicant possesses the quality of simplicity, a mark of a true genius. He considers the applicant's nomination to the Supreme Court of the U.S. to be superb and cannot think of a finer selection, as the applicant possesses qualifications to serve as a Justice on this Court with pre-eminence and distinction.

WFO 77-86748

MFD:scw

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ATTORNEYS

The following investigation was conducted by Special Agent (SA) [redacted] on October 26, 1971:

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[redacted]
[redacted] has known WILLIAM H. REHNQUIST since early in 1969 when they met together with other recently appointed General Counsels in the Federal Government. [redacted] has had a great deal of professional contact with applicant, both in [redacted] capacity as [redacted] and previously as [redacted]

[redacted] They have also had some occasional social contact, and [redacted] feels that he knows applicant well.

In [redacted] opinion applicant is an outstanding individual who is not only highly intelligent and capable as an attorney but also is a most dedicated and responsible individual. To the best of his knowledge applicant is very well regarded and respected throughout the Federal Government by those who have had contact with him and is considered the pre-eminent lawyer in the Government, and his opinion is requested by the various General Counsels in the Government on particularly difficult and involved legal questions. In [redacted] opinion applicant is ideally suited to the position of Justice on the United States Supreme Court and has the intelligence, background training, and temperament to make him an outstanding Justice. To the best of [redacted] knowledge applicant is a completely fair, unprejudiced and impartial individual and one who believes in giving every man his just due and full civil rights. He knows that applicant is a devoted family man, and his impression is that applicant is a clean-cut and responsible individual of unquestionable character, associates, reputation and loyalty. He considers applicant a most stable and reliable person, and he recommends him without reservation.

WFO 77-86748

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[redacted]
[redacted] has known applicant since April, 1969, and has seen him fairly frequently throughout that entire period, including some social contact. [redacted] was [redacted] of the Department of Labor when he first met applicant, but he has continued to have a great deal of working contact with applicant since he became [redacted]
[redacted]

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In [redacted] opinion, applicant is an extraordinarily able lawyer who should make a truly outstanding Justice in the United States Supreme Court. He has found applicant to be a man of great intellect and integrity who is fair and objective, almost to the point of being dispassionate. He knows of nothing to indicate any bias or prejudice on the part of applicant, and it is his opinion that applicant would afford every man his full rights and consideration. He knows applicant to be a clear thinker and a very articulate, although very carefully spoken person. Applicant has impressed him as a clean-cut man of unquestionable character, associates, reputation and loyalty. He knows that applicant is greatly admired and respected among the lawyers in the Federal Government.
[redacted] recommended applicant most highly.

WHO WRITES DECISIONS OF THE SUPREME COURT?

Supreme Court Justices usually have two law clerks—honor graduates of law schools.

Do these subordinates write any Court decisions? Is there any way in which they can influence selection of cases to be decided?

These questions often have been raised.

A former law clerk reveals here some aspects of the work of the clerks who serve Supreme Court Justices. He discusses the views held by some of the clerks with whom he served and speaks of the "left wing" philosophy of many of them.

by William H. Rehnquist

Former Law Clerk to Justice Jackson of U. S. Supreme Court

Each year some 18 young men who recently graduated from law school serve as clerks to the Justices of the Supreme Court of the United States. Some of the mystery and rumor which shroud their work so far as the general public is concerned must necessarily remain. The clerk is primarily a trusted subordinate. Not only information as to how or why a particular decision came to be made—which by Court tradition is confidential—but much else by way of conversations and expressions of opinion on the part of the Justice ought not to be revealed on the initiative of the subordinate.

In addition, each clerk is in a position to offer only a worm's-eye view of the Justice-clerk relation. He will know well the system used by the Justice for whom he works, but his knowledge about the use to which other Justices put their clerks will necessarily be sketchy. I commit my limited knowledge of the nonconfidential aspects of the system to public print because recent controversy about the Court's decisions may make it of general interest.

During my tenure as law clerk for Justice Robert H. Jackson, from February, 1952, until June, 1953, he and six of the other Justices had two law clerks apiece. Chief Justice Vinson had three clerks and Justice Douglas one. Then, as now, there were two branches of the Court's business: first, choosing what cases it would decide, and second, deciding them.

Each year more than a thousand requests are made to the Supreme Court to decide a case that has been decided by a lower State or federal court. By law the Court is free to grant or deny most of them as it sees fit. These requests for hearing are usually called "petitions for certiorari," and custom has established the rule that when four of the nine Justices vote to "grant" the petition, that is, vote to decide the case, the Court will hear argument on it and decide it. The Court usually grants less than 10 per cent of these petitions for certiorari, so its work of choosing what cases it will decide is neither a small nor an unimportant part of its job.

Each of these petitions for certiorari generally comprises a "brief" urging the Court to hear the case, another "brief" urging the Court not to hear the case, and an often lengthy record of all the proceedings in the lower courts. It is not surprising, therefore, that during my time the majority of Justices delegated substantial responsibilities to their clerks in the digesting of these petitions.

In Justice Jackson's office, the petitions for certiorari which

were scheduled to be discussed at the next conference of the Justices were split between the two clerks. Each clerk would then prepare memoranda on the petitions assigned to him. These would include the facts of the case, the law as declared by the lower courts, and a brief summary of previous cases involving the same point. They concluded with a recommendation by the clerk either that the petition be granted or that it be denied. Aided by this data, the Justice himself would then study the petitions in order to determine his vote. I believe that a procedure substantially similar to that just outlined was followed in the offices of a majority of the other Justices during the time that I was a clerk.

The role of the clerks in the preparation of written opinions deciding cases in which the Court had already agreed to decide varied far more from Justice to Justice than did their role in the handling of petitions for certiorari. Likewise, where the end product was to be a written opinion carrying the name of a Justice as its author, rather than merely an oral vote in conference, individual clerks were rightly far more closemouthed in talking about procedure in their particular offices. For these reasons, I can fairly describe only the system used by Justice Jackson in this branch of the Court's work.

Robert H. Jackson had one of the finest literary gifts in the history of the Supreme Court. Even a casual acquaintance with his opinions during the 13 years he served on the Court indicates that he neither needed nor used ghost writers. The majority of opinions which he wrote were drafted originally by him and submitted to his clerks for their criticism and suggestions. Frequently such a draft would be batted back and forth between the Justice and the particular clerk working on it several times. The contributions of the clerk by way of research, organization and, to a lesser extent, method of approach, was often substantial. But the end product was unquestionably the Justice's own, both in form and in substance.

On a couple of occasions each term, Justice Jackson would ask each clerk to draft an opinion for him along lines which he suggested. If the clerk were reasonably faithful to his instructions and reasonably diligent in his work, the Justice could be quite charitable with his black penicillin paste pot. The result reached in these opinions was no less the product of Justice Jackson than those he drafted himself; in literary style, these opinions generally suffered by comparison with those which he had drafted.

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... "Unconscious slanting of material by clerks" is possible

The conclusions to be drawn from these observations as to the "influence" of the clerks on the work of the Court will necessarily suffer from the worn's-eye point of view referred to above; nonetheless, some tentative ones will be ventured.

The speaker of the law clerk as a legal Rasputin, exerting an important influence on the cases actually decided by the Court, may be discarded at once. No published biographical materials dealing with any of the Justices suggest any such influence. I certainly learned of none during the time I spent as a clerk.

Granted that this is the sort of thing that biographers and commentators might not readily learn of, the complete absence of any known evidence of such influence is surely aided by the common-sense view of the relationship between Justice and clerk. It is unreasonable to suppose that a lawyer middle aged or older, of sufficient eminence in some walk of life to be appointed as one of nine judges of the world's most powerful court, would consciously abandon his own views as to what is right and what is wrong in the law because a strapping clerk just graduated from law school tells him to.

Finally, in this area of opinions with which the Court decides cases, a Justice to whom an opinion is assigned generally is able to take sufficient time to examine as carefully as he believes necessary the materials which are to go into the opinion; he is not forced by pressure of time to take the word of a subordinate clerk on any important point.

Passing from the question of influence on written opinions to influence on the Court's action in granting or denying certiorari, no such easy answer is possible. Because of the great number of these petitions, sheer pressure of time often prevents a Justice from personally investigating every point involved. The clerk's memorandum is usually supposed not only to digest the relevant matter in the case which the Court is being asked to consider, but to summarize research of other cases on this point. Most of the Justices will base their vote in conference as to whether a petition should be granted at least in part on legal materials digested for him by a subordinate.

Obviously, if the clerk has erred in carrying out this digressive process, or if the clerk has consciously or unconsciously slanted the result of this process in a way different from the way the Justice himself might have done, the Justice may cast his vote in conference in a way different from that which he would have done if properly informed. I do not believe it can be denied that the possibility for influence by the clerks exists in this realm of the Court's activities.

Because of the generally high level of capability among the clerks, factual error on their part may be discounted as influencing the Court's work. I would likewise rule out conscious slanting of the clerk's work on the Court's work. An ideal court clerk, in most aspects of his official capacity, to mirror as best he can the mind of the Justice for whom he works. There is room for sensibly presented difference of opinion when the lines of dispute are clearly drawn and in

the open, but there is no room for the clerk's deliberate use of his position as research assistant to champion a cause to which his Justice does not subscribe. It would be an extraordinary reflection on the Justices, the clerks and the law schools if there were many deliberate, conscious departures from this ideal standard by the clerks. I knew of none, and would expect to learn of any here no more than to learn of analogous breaches of faith among honor graduates of schools of medicine, engineering or divinity.

This leaves unconscious slanting of material by clerks as the sole remaining possible source of influence by the clerks on the Court's certiorari work. Here, unfortunately, no such clean bill of health is possible.

Any subordinate who briefs his superior is bound to have or acquire ideas of his own regarding the matters briefed. Unless each of the nine Justices is to be utterly without professional assistance, the Court, like many other institutions, is bound to be exposed to the risk of such subordinate bias. However, there are some facets peculiar to the clerks as a group which accentuate the problem of subordinate bias in their case.

Most of the clerks are recent honor graduates of law schools, and, as might be expected, are an intellectually high-spirited group. Some of them are imbued with deeply held notions about right and wrong in various fields of the law, and some in their youthful exuberance permit their notions to engender a cynical disrespect for the capabilities of anyone, including Justices, who may disagree with them.

The bias of the clerks, in my opinion, is not a random or hit-and-miss bias. From my observations of two sets of Court clerks during the 1951 and 1952 terms, the political and legal prejudices of the clerks were by no means representative of the country as a whole nor of the Court which they served.

After conceding a wide diversity of opinion among the clerks themselves, and further conceding the difficulties and possible inaccuracies inherent in political cataloguing of people, it is nonetheless fair to say that the political cast of the clerks as a group was to the "left" of either the nation or the Court.

Some of the tenets of the "liberal" point of view which commanded the sympathy of a majority of the clerks I knew were: extreme solicitude for the claims of Communists and other criminal defendants, expansion of federal power at the expense of State power, great sympathy toward any government regulation of business—in short, the political philosophy now espoused by the Court under Chief Justice Earl Warren.

There is the possibility of the bias of clerks affecting the Court's certiorari work because of the volume factor demanded above. I cannot speak for any clerk other than myself in stating as a fact that unconscious bias did creep into his work. Looking back, I must admit that I was not guileless on this score, and I greatly doubt if many of my fellow clerks were much less guileless than I. And where such bias did have any effect, because of the political outlook of the group of clerks that I knew, its direction would be to the political "left."

[END]



William E. Rehnquist holds degrees from Stanford University, Harvard and Stanford Law School. He was law clerk for the late Justice Jackson in 1952 and 1953. Mr. Rehnquist is now with the law firm of Cunningham, Corson & Messinger in Phoenix, Ariz.

... Each Justice "makes up his own mind" in cases before Court

professors. All had had ample opportunity to mature their own set of political preferences.

In the problems and cases where such preferences could affect the result—a minority at best—it was the Justices', not the law clerks', which were decisive.

A law clerk's contribution to such cases was far more likely to be on the technical rather than on the policy side. Justice, even in politically charged areas such as minority rights, is a complex and tangled affair. It blends equal parts of legal precedent and political judgment. The usual procedure in such matters was for the Justice to make up his own mind as to how he should vote independently. In few cases would he even consult his clerk. This decision would in most cases determine the general lines of his written opinion, if it were to be assigned to him.

He would then carve out specific and limited fields of background research for his law clerks. Often these research projects related to obscure aspects of the case. They had only the most collateral relationship to the final result. They might involve the details of a certain historic event, a particular line of old Court precedents or the text of speeches in the "Congressional Record" of some years back.

Such research could only be contributory to the legal and technical aspects of a written opinion not decisive of the ultimate result. Thus, even if a law clerk happened to be

strongly motivated on the central issue of the case, he would have little opportunity to bring that motivation to bear on the work he was doing.

The pattern is repeated a hundred times each Supreme Court term. The law clerks perform the drudgery of judging—looking up citations, examining old cases for apt quotations, general research. This liberates the Justices for their own important work. Theirs is the ultimate responsibility to decide and vote yea or nay on each case. And this vote is cast in secret conference of the Justices, from which the law clerks are rigorously barred.

Naturally, the clerks could generate heat in their own private discussions of major cases. But I never heard one boast that he had vitally changed his superior's vote at conference by the exercise of a political argument, conscious or unconscious.

Within the last four years the Court has taken giant steps on legal problems of national concern. New decisions have indeed altered the signposts on our constitutional landscape. Public debate on these decisions is proper.

To disagree in responsible fashion with the judgments of the majority is as legitimate off the bench as on. But, speaking from my experience, I cannot believe that it contributes to intelligent criticism and a proper understanding of the Court's recent work to look for scapegoats among the Justices' law clerks.

ANOTHER VIEW: CLERKS MIGHT "INFLUENCE" SOME ACTIONS

by William H. Rehnquist

Former Law Clerk to Justice Jackson of U.S. Supreme Court

I have read the statement by William D. Rogers which is designed as a rebuttal to the short piece I wrote for the Dec. 13, 1957, issue of "U.S. News & World Report." Mr. Rogers was a clerk at the same time I was. He was and, I hope, remains a good friend of mine.

I am glad that he has seen fit to add his own views as to the influence of the Justices' clerks on the Court's work to mine, since the subject is one on which, to date, there has been more speculation than observation.

It does seem to me that Mr. Rogers seeks to defend against a much more sweeping charge of influence on the part of the clerks than can fairly be drawn from my account. I said that, from what I knew, the clerks taken as a whole were left of center, and that it was possible that their political views could to some extent influence the action of the Court in deciding whether to grant a hearing in a particular case.

I rejected, quite as emphatically as Mr. Rogers, the thought that a clerk could exercise any sway over the views of a Justice. Indeed, the very reason urged by Mr. Rogers for this conclusion—the difference in age, experience and eminence between a Justice and his law clerk—was urged by me in support of the same conclusion.

Mr. Rogers and I do disagree on the political complexion of the law clerks who served when we did. We have each stated our view based upon observation.

The only way to move forward in such a debate would be detailed documentation naming names and explaining the reasons for classification of political views. The obvious unfairness to the people involved of doing this ex parte in a magazine article, coupled with the inevitable inconclusiveness of the result, suggests that no such attempt be made.

Mr. Rogers and I, likewise, disagree as to the possibility of a clerk's political convictions unconsciously influencing his work. Undoubtedly, as he says, the law clerks are the "cream"—at least in terms of class standing—of the recent law-school graduates. Whether all of them are "intellectually sophisticated" and "humanistically trained," as he claims, I am not able to say, from want to definition as much as from want of information.

But if Mr. Rogers means that this "intellectual sophistication" and "humanistic training" invariably enable law clerks to free themselves from the influences of prejudice and bias which beset ordinary mortals, I must respectfully dissent.

The resolution of these disagreements must await a thorough, impartial study of the matter by someone who is not personally involved. Meanwhile, every expression of a point of view by someone who was on the scene, even in as small a way as we were, is bound to contribute to a better understanding of this phase of the judicial process. [E-10]



MR. REHNQUIST

2/2/58

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE HONOLULU	OFFICE OF ORIGIN BUREAU	DATE 10/28/71	INVESTIGATIVE PERIOD 10/27/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka		REPORT MADE BY SA 	TYPED BY bad
		CHARACTER OF CASE JUSTICE, SUPREME COURT OF THE UNITED STATES	b6 b7C

REFERENCES:

WFO teletype to Director dated 10/27/71.
Honolulu teletype to Director dated 10/27/71.

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1st declassified
bad*

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ACCOMPLISHMENTS CLAIMED						HN <input checked="" type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of: SA [redacted]
Date: October 28, 1971

Office: HONOLULU

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b7C

Field Office File #: 77-1740

Bureau File #:

Title: WILLIAM HUBBS REHNQUIST

Character: JUSTICE, SUPREME COURT
OF THE UNITED STATES

Synopsis:

Combined morgue of "The Honolulu Advertiser" and "Honolulu Star-Bulletin, Honolulu's two major newspapers, checked and one article in each newspaper was located, pertaining to a speech by applicant at University of Hawaii on 12/2/70.

- RUC -

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DETAILS:

On October 27, 1971, [redacted] "Honolulu Star-Bulletin", 655 Kapiolani Boulevard, Honolulu, Hawaii, made available all articles pertaining to applicant maintained in the combined morgue of "The Honolulu Advertiser" and "Honolulu Star-Bulletin". Two articles were located, one dated December 3, 1970, appeared in "The Honolulu Advertiser", and the other article appeared in the December 3, 1970, edition of the "Honolulu Star-Bulletin". These articles pertain to applicant's speech at the University of Hawaii, Honolulu, Hawaii on December 2, 1970.

"The Honolulu Advertiser" and "Honolulu Star-Bulletin" are the two major newspapers published in Honolulu, Hawaii.

HN 77-1740

The following article appeared in the December 3, 1970, edition of "The Honolulu Advertiser":

students interrupt Justice official's talk

By JANE EVINGER
Advertiser Education Writer

The communications gap was strongly in evidence as U.S. Assistant Attorney General William H. Rehnquist from Washington, appeared before a University of Hawaii audience of 125 yesterday noon.

Rehnquist, in charge of the Justice Department's Office of Legal Counsel, had with him a prepared 28-page speech on "The Administration of Criminal Justice" in which he attempted to clarify policies of the Nixon Administration.

Students, tiring quickly of legalistic discussion, were interrupting by the time he reached the fifth page with cries such as, "Where's a person's individual rights?"

Rehnquist said, "I'll be glad to make myself available afterwards for questions, but I want to stress the facts first."

HE HAD LITTLE chance to go on in a coherent fashion, as he was frequently interrupted by questions from the Hemenway Hall audience, and was again interrupted as he tried to answer them.

Rehnquist gave reasons for his support of such controversial laws as those authorizing wiretapping, preventive detention, and "no knock" entry by police.

Students, expressing reportedly their belief that the Justice Department under the Nixon Administration is "repressive," cited what they feel is persecution of dissenters and blacks while the department ignores the "criminality" of the government in the case of the war in Vietnam.

JIM SMITH, a leader of the Students for a Democratic Society, asked Rehnquist why the FBI "comes onto this campus and takes pictures every time there is a demonstration?"

Rehnquist replied that "the FBI has no role in any typical local demonstration."

"You're either ignorant or you're lying," a student shouted.

At one point, graduate student Michael Weiner loudly protested that his picture was being taken. The brief disturbance subsided after an Advertiser photographer showed his press card to a

campus security man, who identified the photographer for Weiner.

REHNQUIST TOLD a reporter after the hectic session that this is the fifth campus he's visited.

"Elsewhere, it's generally been more courteous, in the sense that while there were questions, there were fewer interruptions and less tendency not to let me finish," he said.

In his discussion of wiretapping, Rehnquist noted that it was authorized by Congress in 1968 but was not used by the Justice Department under President Johnson "because of its expressed view that wiretapping was very likely unconstitutional, and also because it felt that wiretapping was not a useful source of evidence for criminal prosecution."

SOON AFTER Attorney General John Mitchell took over, "the department proceeded to carry out the authorization which Congress had given it," Rehnquist said.

He said that this was because it was felt that "it was far more apt to be held constitutional by the courts than

not" and "was a useful tool in obtaining evidence of criminal activity."

Rehnquist said that the Justice Department "is basically the law enforcement arm of the Federal government. It is not to the department, but to the courts, that any final decision as to the constitutionality of legislation passed by Congress is confided.

"IF THE DEPARTMENT of Justice were to refuse to enforce the legislation of Congress because of doubts as to its constitutionality, the matter would never get to court for decision.

"If, on the other hand, the Department of Justice, as it did in this case, proceeds on the assumption that it will enforce any law enacted by Congress unless its unconstitutionality is clear beyond a doubt, the question is then placed in a position where it may be ultimately decided by the courts.

"I believe this is a far more faithful adherence to our tripartite system of government than for an agency of the executive branch to take it upon itself to decide that a law enacted by Congress and signed by the President is unconstitu-

tional, and that therefore it will not be endorsed."

STUDENTS QUESTIONED the faithfulness with which the Justice Department adheres to the "tripartite system," noting that Rehnquist had said the department backs anti-obscenity legislation now pending in Congress.

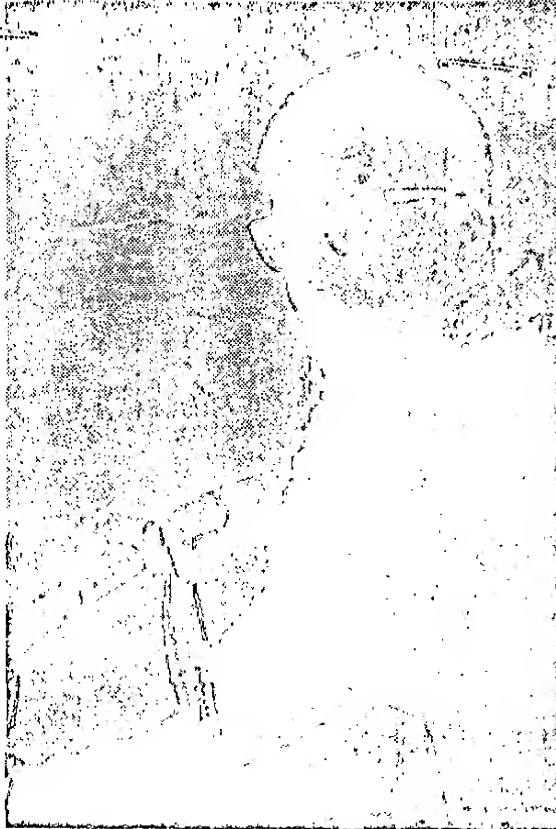
"You say you just enforce the laws, but there you're trying to get them written," a student said.

Rehnquist answered a reporter's request for a copy of his speech after he finished speaking, but crossed out one sentence from the prepared text.

THE DELETED sentence followed a portion of the text in which he acknowledged the need to get "at the root causes of crime" while at the same time "dealing with those who are now committing criminal acts, whatever the reasons for their anti-social behavior."

The crossed-out sentence was:

"We must not only do our best to reduce the disposition to commit criminal acts in future generations, but we must also strive to curtail — indeed, if you will, 'repress' — the proclivities of the criminally-inclined among the present generation."



Advertiser Photo by Art Ostrombo

Rehnquist: "I want to stress the facts first."

HN 77-1740

The following article appeared in the December 3, 1970, edition of the "Honolulu Star-Bulletin":

Free Speech Granted (Barely)

UH Students Assail Official

By Beverly Creamer
Star-Bulletin Writer

Assistant U.S. Atty. Gen. William Rehnquist turned into a whipping-boy for the Nixon Administration yesterday when some members of a University of Hawaii symposium audience verbally attacked him as a "fascist" and called his address a "lying, white-washing speech."

Rehnquist was the second major speaker in a University of Hawaii Symposium on Law and Individual Rights.

Although his individual right to freedom of speech was under severe challenge at some points in the Hemenway Hall confrontation, he never once lost his temper.

"LET ME DISCUSS the facts and you can ask questions later," he said a number of times, as a barrage of questions came from all parts of the 100-person audience.

"We've heard it all before," said student Mike Weiner shortly before he stalked from the room after disrupting the talk several times, and confronting a newspaper photographer with a loud "Who are you?"

Rehnquist, one of nine assistants under U.S. Atty. Gen. John N. Mitchell, worked on the administration's background investigations of both Harrold G. Carswell and Clement F. Haynsworth, whom President Richard Nixon unsuccessfully sought to place on the U.S. Supreme Court. He also helped establish guidelines which allow newsmen to be subpoenaed in court cases.

He said in an interview on Hawaii Educational Television that:

"I'm not sent out to be objective. I simply do what the Attorney General tells me to do."

REHNQUIST did his best to present the Administration line yesterday on such emotion-charged issues as "no-knock" legislation, the war in Vietnam, Angela Davis, the role of the Justice Department in relation to the Nixon Administration, and the country's prisons.

At one point, one student told Rehnquist:

"The reason you're being treated in this disrespectful manner is because you represent a contemptible federal government that we have no respect for. There's nothing personal."

The student was applauded loudly.

REHNQUIST did manage to make some points, sometimes after calmer students had yelled, "Let the man talk."

In the case of "no-knock" legislation, Rehnquist said it is "nothing more than a codification of constitutional law and of practices which were held not to violate the Constitution."

He also said that the purpose of pretrial detention "is to afford a judge, after a hearing at which a defendant accused of a serious crime is represented by counsel, to conclude that because the safety of the community cannot be assured by any milder conditions, the defendant should be held in custody."

ON THE SUBJECT of wiretapping, Rehnquist said the Attorney General and a number of career officials in the Justice Department concluded that it was "a useful tool in obtaining evidence of criminal activity, and that in cases involving organized crime it offers virtually the only probability of bringing to justice the perpetrators of this kind of criminal activity."

He talked further on crime:

"No one denies the paramount importance of getting at the root causes of crime, whatever these may be and however they may be gotten at. But to suggest that this is

the only problem is to entirely overlook the equally important problem of dealing with those who are now committing criminal acts.

"It is of little consolation to a woman who is mugged . . . to be told that the person who mugged her grew up in an urban ghetto," he said.

ONE STUDENT said that young people have no quarrel with the authorities for punishing persons for acts of rape, murder, etc.

"We're criticizing legislation that punishes people for political ideals," he said.

In answer to a question, Rehnquist said that the Federal Bureau of Investigation, an arm of the Justice Department, "has no role whatever in a typical local demonstration."

Jim Smith, a student activist and one leader of the Hawaii Students for a Democratic Society, replied:

"You're living in a dream world."

Smith said the FBI has visited his parents and told them he is under constant surveillance.

AT ANOTHER POINT in the turbulent symposia session, a student who said he had worked in the civil rights movement in the South for a year and a half, told Rehnquist that he is an "enemy of the people."

"You ought to be prosecuting yourself," he said.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Felt *A*

DATE: 10/28/71

FROM : T. E. Bishop *TEB*

SUBJECT: INVESTIGATION OF NOMINEES
LEWIS F. POWELL, JR. AND
WILLIAM H. OREHNQUIST, JR.
SPECIAL INQUIRY INVESTIGATION

- Tolson _____
- Felt *✓*
- Rosen _____
- Mohr _____
- Bishop *✓*
- Miller, E.S. _____
- Callahan _____
- Casper _____
- Conrad _____
- Dalbey *✓*
- Cleveland _____
- Ponder _____
- Bates _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

The above-captioned individuals are presently under investigation by the Bureau in connection with their nomination by the President for the position of Justices of the Supreme Court. On the afternoon of 10/28/71, a reporter for the "Washington Post," contacted Bishop. He stated he wished to ask Bishop some questions concerning the investigation which the Bureau may be conducting on the above-named individuals.

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b7C

He stated that the "Washington Post" has been advised by a number of people who have been contacted by FBI Agents, that the FBI is presently conducting an investigation of the above-named appointees. He advised that a has allegedly been contacted by an Agent named (phonetic) and, after the conclusion of the interview, the Agent asked if he intended to testify in opposition to the nomination of either of the above. also stated that has indicated that he, too, was contacted by an FBI Agent. had previously conducted a study of an earlier nominee to the Supreme Court who had been rejected. The Agent allegedly asked if intended to conduct a similar study of the two current nominees and whether he intended to appear in opposition to them.

advised that both of the people who had contacted the "Post" indicated that they felt the questions on the part of the FBI Agents were intended to "repress any possible dissent" that they might have to the nominees.

wished to know if the FBI was conducting an investigation, and what our policy is with regard to asking questions of persons contacted which are designed to elicit information as to whether or not they intend to appear in opposition to the nomination.

REC-39

77-106904-126

JAN 19 1972

- 1 - Mr. Cleveland
- 1 - Mr. Bishop
- 1 - Mr. M. A. Jones

TEB:jo
(4)

(CONTINUED - OVER)

TEB
10-29-71
JAR:lsk
let 2 AG
10-29-71
OF Bishop

51-118

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INDEXED
SERIALIZED
FILED

JAN 20 1972

UNRECORDED COPY FILED IN 77-12192-1-98

Bishop to Mr. Felt memo (continued)
Re: INVESTIGATION OF NOMINEES LEWIS F. POWELL, JR.
AND WILLIAM H. REHNQUIST, JR.

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[redacted] was advised that the FBI would have absolutely no comment to make whatsoever concerning this matter.

RECOMMENDATION:

None. For information.

Properly handled -
TEB

ADDENDUM - SPECIAL INVESTIGATIVE DIVISION - WVC:LS - 10/28/71

During the interview of [redacted] he volunteered he, in the past, had testified in Washington but he did not anticipate testifying concerning the current nominees. This was volunteered by [redacted] and was not solicited by direct or indirect question on the part of the interviewing Agent. He added that he did not know either Powell or Rehnquist and was not conducting any study into their background.

[redacted] was interviewed by an Agent of the Boston Office at which time he advised he has not made nor is he making any study of either of the nominees. He did advise that he has been reading background information regarding them but he does not consider this to be a study in any manner. [redacted] was not asked any questions from which it could be inferred either directly or indirectly as to whether or not he intended to oppose the appointment of the nominees.

Send memo
to A.G.
WVC
PLP
R
JA

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE HOUSTON	OFFICE OF ORIGIN BUREAU	DATE 10/28/71	INVESTIGATIVE PERIOD 10/28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY SA 	TYPED BY yk
		CHARACTER OF CASE DAPLI JUSTICE SUPREME COURT OF THE UNITED STATES	

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REFERENCE: WFO tel 10/27/71.

(RUC)

ADMINISTRATIVE

*1 Suffern
3 destroyed
add*

The library of the "Houston Chronicle" contains no clip regarding the speech of REHNQUIST at Houston 4/29/70. The editorial contained in the details of this report is the only item having local origin, other items being wire service articles datelined at Washington, D.C., namely, Newhouse News Service, New York Times News Service, UPI, AP, and Los Angeles Times - Washington Post News Service.

V

ACCOMPLISHMENTS CLAIMED					<input checked="" type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES		
							PENDING OVER ONE YEAR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
							PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

APPROVED: *[Signature]* SPECIAL AGENT IN CHARGE

COPIES MADE:
 5 - Bureau (AM)
 1 - Houston (77-5961)

DO NOT WRITE IN SPACES BELOW

77-106904-127

NOT RECORDED
12 NOV 1 1971

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

Dissemination Record of Attached Report				
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

WFO Spec Index

60 JAN 25 1972

- A* -
COVER PAGE

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of: SA [REDACTED] Office: Houston b6
Date: 10/28/71 b7C
Field Office File #: Houston 77-5961 Bureau File #:
Title: WILLIAM HUBBS REHNQUIST
Character: DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES
Synopsis: Editorial captioned "Nominees Well Qualified"
appearing in 10/24/71 edition of "Houston
Chronicle" set forth.

- RUC -

DETAILS:

On October 28, 1971, the following clipping of an editorial appearing in the Sunday, October 24, 1971, edition of the "Houston Chronicle" newspaper was obtained:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

HOUSTON CHRONICLE

Page 24, Section 3

Sunday, October 24, 1971

Editorials

Nominees well qualified

President Richard Nixon's selection of two nominees to the U.S. Supreme Court was complicated by his own commitments, pressures from various organizations and the involvement of the American Bar Assn.

The President, in resolving those complications, chose two men with strong law and order stances, bypassed selection of a woman and exercised his prerogative to make nominations without prior consultation with the ABA.

Now before the Senate are the names of Lewis F. Powell Jr. of Richmond, Va., and Asst. Atty. Gen. William H. Rehnquist. Both men are eminently qualified to be U.S. Supreme Court justices.

Powell, 64, is a member of a prestigious law firm. He is a past president of the American Bar Assn. He served on President Lyndon Johnson's National Crime Commission. A scholarly man, he is ranked among the elite of the nation's bar.

Rehnquist, 47, has earned great respect in his post as assistant attorney general in charge of the Office of Legal Counsel, a post in which he deals with constitutional issues. He has been active in seeking fundamental changes to improve criminal justice. He was a law clerk for Supreme Court Justice Robert H. Jackson.

The President was committed by his public statements to select for the Supreme Court individuals who could be considered strict constitutionalists, those who would interpret the Constitution and not bend it to fit personal philosophies. Nixon also is of the opinion that some Supreme Court rulings have tended to work for the benefit of

criminal forces and to the detriment of law enforcement officials. In making his choices for the court, the President not only met these personal commitments, but he also selected men of unquestionable legal standing.

Women's rights groups had urged the President to name a woman to the high court. Some believed the President should fill what has come to be known as the Jewish seat on the court, vacant since the departure of Abe Fortas. But those considerations had to give way before the need to select the best qualified individual.

The President's selection procedure was further complicated by the recently adopted custom of consulting the ABA's Standing Committee on Federal Judiciary. The practice has been to give the ABA committee an opportunity to consider nominees before they were announced publicly. In this instance, names placed before the ABA quickly became public. This procedure unfairly exposed individuals to damaging criticism before they ever became nominees. This lack of secrecy led President Nixon, with just cause, to make his final decision without prior consultation with the ABA.

Ahead are hearings on the nominees by the Senate Judiciary Committee and action by the Senate. Members of the Judiciary Committee are withholding comment, but general Congressional comment is favorable for Nixon's nominees. From all facts available, the President has made wise choices. There should be little delay in filling the two vacant Supreme Court seats so the court can, with all positions filled, move on to consideration of the pending vital issues.

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE Milwaukee	OFFICE OF ORIGIN Bureau	DATE 10/28/71	INVESTIGATIVE PERIOD 10/28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY SA 	TYPED BY yb
		CHARACTER OF CASE JUSTICE UNITED STATES SUPREME COURT	

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REFERENCES

Milwaukee report of SA dated 10/26/71.
Bureau telephone call 10/27/71.
Milwaukee teletype to Director 10/27/71.

RUC

*1 Defiance
3 destroyed
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ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT-TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

- ③ - Bureau (77-106904) (AM)
- 1 - Milwaukee (77-3821) *W*

77-106904-128

NOT RECORDED
10 NOV 1 1971

Dissemination Record of Attached Report

Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMM

60 JAN 25 1972

COVER PAGE A*

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of: SA [REDACTED]

Office: Milwaukee

Date: October 28, 1971

Field Office File #: MI 77-3821

Bureau File #: 77-106904

Title: WILLIAM HUBBS REHNQUIST

b6
b7cCharacter: JUSTICE
UNITED STATES SUPREME COURT

Synopsis: [REDACTED] high school classmate of appointee, has not seen appointee or had any contact with him since high school days in 1942. [REDACTED] highly recommends appointee, based upon his association with him during high school years.

- RUC -

DETAILS:

On October 28, 1971, [REDACTED] [REDACTED] advised that he has known WILLIAM REHNQUIST since approximately 1938, when they went to Shorewood High School together. He further advised that he has not seen REHNQUIST since their high school days, which has been almost 29 years ago, nor has he had any contact or correspondence with REHNQUIST during this period.

[REDACTED] advised that he remembers REHNQUIST as being a "giant brain" and brilliant fellow. He further advised that REHNQUIST was a personable individual and was well liked. He stated that he remembers absolutely nothing

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

MI 77-3821

unfavorable about REHNQUIST and that, as far as he knows, REHNQUIST was never in any sort of trouble during his high school years and had never been arrested.

stated that he recently made a few comments to the press which could possibly have been incorrectly interpreted, and he wishes to dispell any notion that appointee had been any sort of a troublemaker. He stated that he had been describing appointee as an individual who had been well liked and "just one of the boys" and that he never gave the impression that he thought he was better than anyone else.

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FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE MOBILE	OFFICE OF ORIGIN BUREAU	DATE 10/28/71	INVESTIGATIVE PERIOD 10/28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, Aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY SA 	TYPED BY :gre
		CHARACTER OF CASE JUSTICE, SUPREME COURT OF THE UNITED STATES	b6 b7C

REFERENCE: WFO teletype to Bureau, 10/27/71.

- RUC -

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lib*

ACCOMPLISHMENTS CLAIMED						<input checked="" type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED: *[Signature]* SPECIAL AGENT IN CHARGE

COPIES MADE:
 ③ - Bureau
 1 - Mobile (77-2839)

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77-106904-129

NOT RECORDED

16 NOV 1 1971

Dissemination Record of Attached Report				
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations: *[Handwritten]*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60 JAN 25 1972

**UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION**

Copy to:

Report of: SA [REDACTED] **Office:** MOBILE
Date: October 28, 1971
Field Office File #: 77-2839 **Bureau File #:**
Title: WILLIAM HUBBS REHNQUIST

b6
b7C

Character: JUSTICE,
SUPREME COURT OF THE UNITED STATES

Synopsis: Newspaper morgues, Montgomery, Alabama, Journal and Advertiser, negative re applicant. Arrest and credit checks, Montgomery, Alabama, negative.

- RUC -

DETAILS:

The following investigation was conducted at Montgomery, Alabama, on October 28, 1971:

[REDACTED] Librarian, Alabama Journal and Montgomery Advertiser, advised there was no record of WILLIAM HUBBS REHNQUIST in their morgue file. She also checked the microfilm of the two papers for August 23 and 24, 1971, and there was no indication of REHNQUIST speaking in Montgomery.

[REDACTED] Capitol Credit Bureau, 444 South Decatur, and [REDACTED] Credit Bureau of Montgomery, 435 South Decatur, advised their files were negative as to WILLIAM HUBBS REHNQUIST.

[REDACTED] Montgomery Police Department, and [REDACTED] Montgomery County Sheriff's Office, both advised their files were negative as to the applicant.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

- 1* -

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 28 1971

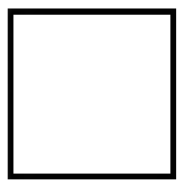
TELETYPE

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. Soyars _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

NR001 DL PLAIN
 9:36 AM URGENT 10-28-71 WBW
 TO DIRECTOR
 FROM DALLAS (77-7709) (RUC) (IPAGE)

MR. MARTIN
ROOM 1246

COVES, WILLIAM HUBBS REHNQUIST, AKA, WILLIAM H. REHNQUIST,
 WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME COURT OF THE
 UNITED STATES, BUDED NOON, OCTOBER TWENTY SEVEN LAST.



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b7c

RE WASHINGTON FIELD TELETYPE OCTOBER TWENTY SEVEN
 LAST.

[REDACTED] DALLAS MORNING NEWS MORGUE, ADVISED THEY
 HAVE NO PRIOR RECORD OF APPOINTEE AND APPARENTLY DID NOT
 CARRY HIS SPEECH BEFORE AMERICAN BAR ASSOCIATION, DALLAS,
 TEXAS, AUGUST TWELVE, SIXTY NINE.

V

[REDACTED] LIBRARY, DALLAS TIMES HERALD, ADVISED
 THEY HAVE NO PRIOR RECORD OF APPOINTEE AND APPARENTLY DID NOT
 CARRY SPEECH BEFORE AMERICAN BAR ASSOCIATION, DALLAS, AUGUST
 TWELVE, SIXTY NINE.

77-106904-130

NO RECORD DALLAS PD OR SHERIFF'S OFFICE.

JAN 10 1972

END

LMR FBI WA DC LR

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

JAN 23 1972

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 28 1971

TELETYPE

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. Soyars _____
- Tele. Room _____
- Miss Holmes _____
- Miss Gandy _____

PLAINTEXT

1011 PM 10-27-71 NITEL DXD

TO DIRECTOR

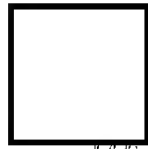
FROM HONOLULU (77-1740) (P)

COVES, WILLIAM HUBBS REHNQUIST, AKA, JUSTICE, SUPREME COURT OF THE UNITED STATES, BUDED NOON, OCTOBER TWENTYSEVEN LAST.

MR. MARTIN
ROOM 0246

REWFO TEL OCTOBER TWENTYSEVEN LAST.

CHECK OF NEWSPAPER MORGUE OCTOBER TWENTYSEVEN, LAST, FOR HONOLULU ADVERTISER AND HONOLULU STAR BULLETIN, HONOLULU'S TWO MAJOR NEWSPAPERS REVEALED ARTICLES IN DECEMBER THREE LAST EDITIONS OF ABOVE NEWSPAPERS CONCERNING APPLICANT'S SPEECH AT UNIVERSITY OF HAWAII, HONOLULU, DECEMBER TWO LAST. SPEECH RELATED TO ADMINISTRATION OF CRIMINAL JUSTICE AND WAS IN SUPPORT OF POLICIES OF PRESIDENT NIXON'S ADMINISTRATION.



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ACCORDING TO NEWS ARTICLES APPLICANT WAS FREQUENTLY INTERRUPTED DURING SPEECH BY SOME MEMBERS OF AUDIENCE. NEWS ARTICLES DO NOT REPORT AND STATEMENTS BY APPLICANT RELATIVE TO RACIAL MATTERS OR STATEMENTS REFLECTING UNFAVORABLY ON HIM.

V

REPORT FOLLOWS.

END

DCW

FBI WASH DC

77-106904-131

NOT RECORDED

JAN 19 1972

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

60309

[Handwritten signature]

October 28, 1971

77-106904-132

**WILLIAM HUBBS REHNQUIST
DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES**

[redacted] chief librarian, Daily Press, a newspaper published daily at Newport News, Virginia, advised on October 28, 1971, that newspaper records reflect applicant spoke at the 17th annual meeting of the National Conference of Law Reviews hosted by the William and Mary Law Review at Williamsburg, Virginia, on March 19, 1971.

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On page 3 in its March 20, 1971, issue, the Daily Press carried an article concerning this speech entitled, "Don't Overbalance Scales of Justice, Students Told."

The article stated that "an Assistant United States Attorney General Friday told delegates to the 17th annual National Conference of Law Reviews that surveillance and investigation are 'the fundamental tools' with which criminal laws are enforced.

"In criminal law, we should be wary lest in the name of privacy we balance the scales of justice too far - granting immunity to a criminal," said William H. Rehnquist, who spoke at the closing banquet of the conference at the Williamsburg Conference Center.

Rehnquist said his topic - "Privacy, Surveillance, and the Law" - was in keeping with Senator Sam J. Ervin, Democrat-North Carolina, and his subcommittee currently studying the question as to whether there should be a limit placed on the Government's information gathering processes.

He cited surveillance "excesses" in areas where the investigative agencies "have no business" to show that Ervin's committee is acting "in an entirely proper manner" in trying to set limits. But those limits should be carefully defined," the Assistant Attorney General said. "We can't risk impairing the process by which laws are enforced - the fundamental tools or surveillance and investigation."

- Tolson _____
- Felt _____
- Rosen _____
- Mohr _____
- Bishop _____
- Miller, E.S. _____
- Callahan _____
- Casper _____
- Conrad _____
- Dalbey _____
- Cleveland _____
- Ponder _____
- Bates _____
- Tavel _____
- Walters _____
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

WWW: bsh

60 JAN 25 1972

To DeLoach
10-28-71
ed

~~CONFIDENTIAL~~
JAN 25 1972

**Memorandum to Mr. Cleveland
Re: William Hubbs Rehnquist**

As an example of a "carefully defined limit," Rehnquist cited FBI Director J. Edgar Hoover's comment to the Senate Subcommittee that the FBI had no "objection" to giving citizens access to criminal record files but not to investigative files.

"A citizen can contest any inaccuracies in the criminal record files he wants," Rehnquist said. "But the investigative files are closed to the public. What we have to have is a law the people can live with and still be useful," he concluded.

stated the Daily Press does not have a copy of the speech Rehnquist gave and library records reflect no further information concerning him other than that information set forth above.

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b7C

NR01 NF PLAIN

310PM IMMEDIATE 10/28/71 JMF-

TO DIRECTOR

FROM NORFOLK (77-3500) 3P

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 28 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

COVES. WILLIAM HUBBS REHNQUIST, AKA WILLIAM H. REHNQUIST, WILLIAM DONALD REHNQUIST, JUSTICE, SUPREME COURT OF THE UNITED STATES, NOON, OCT. TWENTYSEVEN LAST.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YWM

RE WASHINGTON FIELD OFFICE TEL TO BUREAU, OCT. TWENTYSEVEN LAST.

[REDACTED] CHIEF LIBRARIAN, DAILY PRESS, A NEWSPAPER PUBLISHED DAILY AT NEWPORT NEWS, VA., ¹⁰⁻²⁸⁻⁷¹ TODAY ADVISED NEWSPAPER RECORDS REFLECT APPLICANT SPOKE AT THE SEVENTEENTH ANNUAL MEETING OF THE NATIONAL CONFERENCE OF LAW REVIEWS HOSTED BY THE WILLIAM AND MARY LAW REVIEW AT WILLIAMSBURG, VA., ON MARCH NINETEEN, LAST.

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ON PAGE THREE IN ITS MARCH TWENTY LAST ISSUE, THE DAILY PRESS CARRIED AN ARTICLE CONCERNING THIS SPEECH ENTITLED, "DON'T OVERBALANCE SCALES OF JUSTICE, STUDENTS TOLD."

77-106904-132

THE ARTICLE STATED THAT "AN ASSISTANT UNITED STATES ATTORNEY GENERAL FRIDAY TOLD DELEGATES TO THE SEVENTEENTH ANNUAL NATIONAL CONFERENCE OF LAW REVIEWS THAT SURVEILLANCE AND INVESTIGATION ARE 'THE FUNDAMENTAL TOOLS' WITH WHICH CRIMINAL LAWS ARE ENFORCED."

"IN CRIMINAL LAW, WE SHOULD BE WARY LEST IN THE NAME OF PRIVACY WE BALANCE THE SCALES OF JUSTICE TOO FAR - GRANTING IMMUNITY TO A CRIMINAL," SAID WILLIAM H. REHNQUIST, WHO SPOKE AT THE CLOSING BANQUET OF THE CONFERENCE AT THE WILLIAMSBURG CONFERENCE CENTER.

END PAGE ONE

Handwritten notes:
Chambers Report
10-28-71
[Signature]

Handwritten note:
G. Wood

PAGE TWO

REHNQUIST SAID HIS TOPIC - "PRIVACY, SURVEILLANCE, AND THE LAW" - WAS IN KEEPING WITH SENATOR SAM J. ERVIN, DEMOCRAT-NORTH CAROLINA, AND HIS SUBCOMMITTEE CURRENTLY STUDYING THE QUESTION AS TO WHETHER THERE SHOULD BE A LIMIT PLACED ON THE GOVERNMENT'S INFORMATION GATHERING PROCESSES.

HE CITED SURVEILLANCE "EXCESSES" IN AREAS WHERE THE INVESTIGATIVE AGENCIES "HAVE NO BUSINESS" TO SHOW THAT ERVIN'S COMMITTEE IS ACTING " IN AN ENTIRELY PROPER MANNER" IN TRYING TO SET LIMITS.)

"BUT THOSE LIMITS SHOULD BE CAREFULLY DEFINED," THE ASSISTANT ATTORNEY GENERAL SAID. "WE CAN'T RISK IMPAIRING THE PROCESS BY WHICH LAWS ARE ENFORCED - THE FUNDAMENTAL TOOLS OR SURVEILLANCE AND INVESTIGATION."

AS AN EXAMPLE OF A "CAREFULLY DEFINED LIMIT," REHNQUIST CITED FBI DIRECTOR J. EDGAR HOOVER'S COMMENT TO THE SENATE SUBCOMMITTEE THAT THE FBI HAD NO "OBJECTION" TO GIVING CITIZENS ACCESS TO CRIMINAL RECORD FILES BUT NOT TO INVESTIGATIVE FILES.
END PAGE TWO

PAGE THREE

"A CITIZEN CAN CONTEST ANY INACCURACIES IN THE CRIMINAL RECORD FILES HE WANTS," REHNQUIST SAID. "BUT THE INVESTIGATIVE FILES ARE CLOSED TO THE PUBLIC."

"WHAT WE HAVE TO HAVE IS A LAW THE PEOPLE CAN LIVE WITH - AND STILL BE USEFUL," HE CONCLUDED.

[REDACTED] STATED THE DAILY PRESS DOES NOT HAVE A COPY OF THE SPEECH REHNQUIST GAVE AND LIBRARY RECORDS REFLECT NO FURTHER INFORMATION CONCERNING HIM OTHER THAN THAT INFORMATION SET FORTH ABOVE.

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b7C

REPORT FOLLOWS. P

END

QMR FBI WA DC CLE

UNITED STATES GOVERNMENT

Memorandum

Tolson _____
 Felt _____
 Rosen _____
 Mohr _____
 Bishop _____
 Miller, E.S. _____
 Callahan _____
 Casper _____
 Conrad _____
 Dalbey _____
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 Holmes _____
 Gandy _____

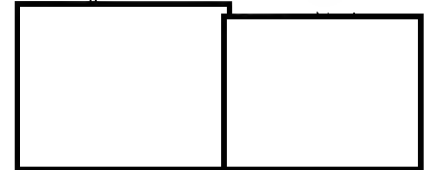
b6
b7C


TO : Mr. Cleveland *[initials]*


DATE: 10/29/71

FROM : L. H. Martin *[signature]*





SUBJECT: WILLIAM HUBBS REHNQUIST
DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES



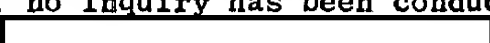
Memorandum from Mr. Rosen to Mr. Tolson dated 10/28/71 (attached) noted that Deputy Attorney General Kleindienst had called and requested a discreet check to determine whether  have criminal records or criminal backgrounds. These individuals, if they testify, would be expected to testify against Rehnquist's nomination.

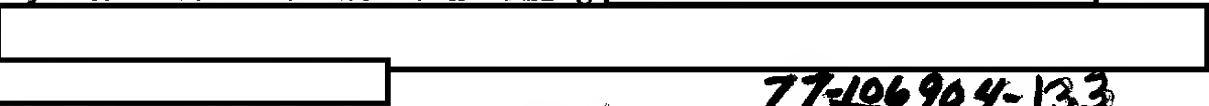
A check with the Phoenix Office, as well as a check of Bureau indices and Identification Division records, disclosed 

b6
b7C
b7D

Biographical data furnished by the Phoenix Division indicates  was born  at  Based on this data 

b6
b7C

Due to the discreet nature of this request from the Deputy Attorney General's Office, no inquiry has been conducted by the Phoenix Office concerning 



77-106904-133

NOT RECORDED

JAN 19 1972

ACTION: The above information has been furnished to the Deputy Attorney General's Office.

Enclosures

- 1 - Mr. Felt
- 1 - Mr. Rosen
- 1 - Mr. Bishop
- 1 - Administrative Review Unit
- 1 - Crime Records Division
- 1 - Mr. Cleveland
- 1 - Mr. Martin
- 1 - Mr. Coleman

OEC: bsh (8)

[Handwritten signatures and initials]
 R. [unclear] WVC DID [unclear]

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMM

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

TELETYPE
[Handwritten signature]

NR 05 PX PLAIN
 1000 AM IMMEDIATE 10-29-71 WJG
 TO DIRECTOR (77-106904)
 FROM PHOENIX (77-3510) 1P

WILLIAM HUBBS REHNQUIST, AKA.; JUSTICE, SUPREME COURT OF
 THE UNITED STATES.

RE PXTTELCALL TO THE BUREAU OCTOBER TWENTYNINE INSTANT.
 TO CONFIRM RETELCALL, SA [REDACTED] PHOENIX,
 ADVISED AS FOLLOWS CONCERNING HIS INTERVIEW WITH [REDACTED]
 [REDACTED] AT PHOENIX, OCTOBER TWENTYSEVEN LAST.

SA [REDACTED] ADVISED THAT HE DEFINITELY DID NOT QUESTION
 [REDACTED] AS TO WHETHER HE PLANNED TO FIGHT OR TESTIFY AGAINST
 APPOINTEE RELATIVE TO POSITION FOR WHICH APPOINTEE BEING
 CONSIDERED. THE RESULTS OF THIS INTERVIEW ARE AS SET FORTH
 ON PAGE THIRTYTWO OF REPORT OF SA [REDACTED] PHOENIX,
 OCTOBER TWENTYSEVEN LAST.

V
 b6
 b7C

77-106904-134

RUC. ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 END DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

JAN 19 1972

63 JAN 20 1972
 GXG FBI WASHDC

[Handwritten signature]

October 29, 1971

**WILLIAM HUBBS BEHNQUIST
DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES**

A check of the central files of the FBI, including the files of the Identification Division, as well as the files of the Phoenix Office of the FBI, has disclosed

[Redacted]

b6
b7C
b7D

[Redacted]

[Redacted]

V b6
b7C

Enclosure

sig
one cc Deputy A.G.

OCT 29 1971

77-106904-135

NOT RECORDED

JAN 19 1972

- Tolson _____
- Felt _____
- Rosen _____
- Mohr _____
- Bishop _____
- Miller, E.S. _____
- Callahan _____
- Casper _____
- Conrad _____
- Malby _____
- Cleveland _____
- Ponder _____
- Bates _____
- Tavel _____
- Halters _____
- Sears _____
- Tele. Room _____
- Holmes _____
- Gandy _____

OEC:bsh:dc
(4)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

NOV 20 1971

MAIL ROOM TELETYPE UNIT

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE NORFOLK	OFFICE OF ORIGIN BUREAU	DATE 10/29/71	INVESTIGATIVE PERIOD 10/28/71
TITLE OF CASE WILLIAM HUBBS REHNQUIST, aka William H. Rehnquist, William Donald Rehnquist		REPORT MADE BY SA 	TYPED BY jbd
		CHARACTER OF CASE DEPARTMENTAL APPLICANT JUSTICE SUPREME COURT OF THE UNITED STATES	

b6
b7C

REFERENCE: WFO teletype to Bureau, 10/27/71.

RJC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

*1 out of 3
3 destroyed
LH*

V

ACCOMPLISHMENTS CLAIMED						<input type="checkbox"/> NONE	ACQUIT- TALS	CASE HAS BEEN:
CONVIC.	AUTO.	FUG.	FINES	SAVINGS	RECOVERIES			
								PENDING OVER ONE YEAR <input type="checkbox"/> YES <input type="checkbox"/> NO PENDING PROSECUTION OVER SIX MONTHS <input type="checkbox"/> YES <input type="checkbox"/> NO

APPROVED *[Signature]* SPECIAL AGENT IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

- 5 - Bureau
- 1 - Norfolk (77-3500)

77-106904-136

NOT RECORDED
NOV 1 1971

Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

[Handwritten signature]

60 JAN 25 1972

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Copy to:

Report of:
Date:SA [REDACTED]
October 29, 1971

Office: Norfolk, Virginia

b6
b7c

Field Office File #:

77-3500

Bureau File #:

Title:

WILLIAM HUBBS REHNQUIST

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMM

Character:

DEPARTMENTAL APPLICANT
JUSTICE
SUPREME COURT OF THE UNITED STATES

Synopsis:

Applicant made speech 3/19/71, before the 17th annual meeting of the National Conference of Law Reviews hosted by the William and Mary Law Review at Williamsburg, Virginia. Applicant's topic was "privacy, surveillance and the law." The Daily Press, a newspaper published daily at Newport News, Virginia, in an article set forth in its 3/20/71, issue entitled "Don't Overbalance Scales of Justice, Students Told," set forth excerpts from this speech. [REDACTED] Librarian, the Daily Press, advised no further information is maintained in the library concerning applicant other than that set forth above.

- RUC -

DETAILS

[REDACTED] Librarian, the Daily Press, a newspaper published daily at Newport News, Virginia, October 28, 1971, advised library records reflect that the William and Mary Law Review hosted the 17th annual meeting of the National Conference of Law Reviews which opened March 17, 1971, at Williamsburg, Virginia.

She further stated that the March 20, 1971, issue of the Daily Press, on page three, reflected an article entitled "Don't Overbalance Scales of Justice, Students Told," which article commented on the speech given by applicant on March 19, 1971.

[REDACTED] stated library records do not contain a copy of the speech given by applicant. She stated that no further information is maintained concerning the applicant

NF 77-3500

other than that mentioned above.

[redacted] furnished the following two articles which appeared in the Daily Press on March 17, 1971, and March 20, 1971, respectively concerning the conference and a speech given by applicant.

b6
b7C

W&M Law Review Host To National Conference

WILLIAMSBURG—The William and Mary Law Review will host the 17th annual meeting of the National Conference of Law Reviews which opens today at the Cascades meeting center.

Approximately 250 delegates, representing 80 law review journals are expected to attend, making the 1971 conference the largest to date.

Delegates will meet with members of the bar, publishers and printers to discuss the future development and national orientation of law review publication. From the conference discussion, it is hoped that more sharply defined guidelines for the national conference for the dec-

ade of the 70s may be developed.

Atty. Gen. Andrew P. Miller will participate in a panel on legal reform Thursday. The panel will also include Delmar Karlen, professor of law at New York University; Gerald Aksent, general counsel of the American Arbitration Association; Dean Monrad G. Paulsen of the School of Law at the University of Virginia, and Russell M. Coombs, chief counsel for the Pennsylvania Crime Commission.

Luncheon speaker Thursday will be former U.S. Sen. Joseph D. Tydings of Maryland. Tydings is also slated to speak at William and Mary Thursday at 2:30 p.m. in the Moot Court Room of the Marshall-Wythe School of Law.

William H. Rehnquist, assistant U.S. Attorney General, will speak Friday.

Other conference participants will be Richard M. Markus, president of the American Trial Lawyers Association; Glenn R. Winters, executive director of the American Judicature Society; Robert Lipscher of the Institute of Judicial Administration at the New York University; Dr. William F. Swindler of the Marshall-Wythe School of Law, and William E. Schwartz, general director of the American Trial Lawyers Association.

Remarks by John P. Frank, author of a book on American law, "The Case For Radical Reform," as well as many other books and articles, will be delivered by Dean Paulsen. Frank is currently practicing law in Phoenix, Ariz.

Don't Overbalance Scales Of Justice, Students Told

WILLIAMSBURG — An assistant United States attorney general Friday told delegates to the 17th annual National Conference of Law Reviews that surveillance and investigation are "the fundamental tools" with which criminal laws are enforced.

"In criminal law, we should be wary lest in the name of privacy we balance the scales of justice too far—granting immunity to a criminal," said William H. Rehnquist, who spoke at the closing banquet of the conference at the Williamsburg Conference Center.

Rehnquist said his topic — "Privacy, Surveillance and the Law" — was in keeping with Sen. Sam J. Ervin, D-N.C., and his subcommittee currently studying the ques-

tion as to whether there should be a limit placed on the government's information-gathering processes.

He cited surveillance "excesses" in areas where the investigative agencies "have no business" to show that Ervin's subcommittee is acting "in an entirely proper manner" in trying to set limits.

"But those limits should be carefully defined," the assistant attorney general said. "We can't risk impairing the processes by which laws are enforced—the fundamental tools of surveillance and investigation."

As an example of a "carefully defined limit," Rehnquist cited FBI Director J. Edgar Hoover's comment to the Senate subcommittee that the FBI had "no objection" to

giving citizens access to criminal record files but not to investigative files.

"A citizen can contest any 'inaccuracies' in the criminal record files he wants," Rehnquist said. But the investigative files are closed to the public.

"What we have to have is a law the people can live with — and still be useful," he concluded.

Rehnquist, who served as law clerk to U.S. Supreme Court Justice Robert H. Jackson in 1952-53, was engaged in private practice in Phoenix, Ariz., until 1969. He has been a member of the National Conference of Lawyers and Realtors and is presently a member of the Council of the American Bar Association's section of administrative law.

"TREAT AS ORIGINAL"

~~SECRET~~

FBI

Date: 10/29/71

Transmit the following in Plain
(Type in plaintext or code)

Via AIRTEL
(Priority)

TO: DIRECTOR, FBI
FROM: SAC, ALEXANDRIA (77-2186) (RUC)

FACSIMILE

WILLIAM HUBBS REHNQUIST, aka
DAPLI
JUSTICE
UNITED STATES SUPREME COURT
BUDED: 10/27/71 NOON WITHOUT FAIL

Re Alexandria report of SA [redacted] 10/27/71.

Enclosed for the Bureau are four copies of an
LHM [redacted] (S)

DATE: 07-11-2006
CLASSIFIED BY 60309/UC/TAM/DCG/YHW
DECLASSIFY ON: 25X 3.3(1)
07-11-2031

77-106904-137

① - Bureau (Enc.-4) ENCLOSURE
1 - Alexandria

1- detached
for [unclear]
10-31
NOT RECORDED
JAN 19 1972
2- [unclear]

ALP:kma
(2)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

Approved: 60 JAN 25 1972 Sent _____ M Per _____

b6
b7C
b1

~~SECRET~~

WILLIAM H. REHNQUIST

b1



(S)

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

~~SECRET~~

F B I

Date: 10/29/71

Transmit the following in PLAINTEXT
(Type in plaintext or code)

Via TELETYPE IMMEDIATE
(Priority)

TO: DIRECTOR, FBI (MAIL)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YHM

FROM: SAC, WFO

COVES, WILLIAM HUBBS REHNQUIST, JUSTICE, SUPREME COURT
OF THE UNITED STATES, WFO (77-86748).

b6
b7c

COVES, LEWIS FRANKLIN POWELL, JR., JUSTICE, SUPREME
COURT OF THE UNITED STATES, WFO (77-94916).

RE BUREAU TELEPHONE CALL TO WFO OCTOBER TWENTYNINE,
SEVENTYONE, REQUESTING FACTS CONCERNING CONTACT WITH [REDACTED]

[REDACTED]

ON OCTOBER TWENTYSIX, SEVENTYONE, SA [REDACTED]
TELEPHONICALLY CONTACTED THE OFFICE OF [REDACTED]

[REDACTED] IN AN

ATTEMPT TO SET UP AN APPOINTMENT FOR INTERVIEW. SA [REDACTED]

WAS ADVISED THAT [REDACTED] WAS PRESENTLY IN CAMBRIDGE,
MASSACHUSETTS, **77-106904-138**

NOT RECORDED

5 JAN 19 1972

ON THE SAME DATE, [REDACTED] TELEPHONICALLY CONTACTED

- 2 - Bureau
 - 2 - WFO
 - 3 -
- HBA/cn

Approved: *Robert G. Hendel*
Special Agent in Charge

Sent _____ M Per _____

60 JAN 25 1972

77-106904-99
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F B I

Date:

Transmit the following in _____
(Type in plaintext or code)Via _____
(Priority)WFO 77-86748
PAGE TWO

SA [] FROM CAMBRIDGE, MASSACHUSETTS, WITH REGARD TO THE PREVIOUS PHONE CALL MADE TO HER OFFICE IN [] SHE WAS ADVISED THAT THE FBI WISHED TO CONTACT HER IN CAMBRIDGE REGARDING ANY INFORMATION OF VALUE SHE MIGHT FURNISH THE FBI IN CONNECTION WITH THE TWO SUPREME COURT NOMINEES.

IN VEIW OF A BAD CONNECTION, IT WAS SUGGESTED BY SA [] THAT SHE BE CONTACTED IN CAMBRIDGE BY AGENTS OF THE BOSTON FIELD OFFICE. SHE STATED THAT IN VIEW OF NO INFORMATION DEVELOPED TO DATE BY HER REGARDING THE SUPREME COURT NOMINEES, SHE FELT IT UNNECESSARY TO BE CONEACTED AT THIS TIME , STATING SHE WOULD BE UNABLE TO FURNISH ANY INFORMATION REGARDING THE TWO NOMINEES. NO REFERENCE WHATSOEVER WAS MADE REGARDING HER INTENTIONS TO EITHER OPPOSE THE NOMINATIONS OR TESTIFY IN ANY HEARING WHATSOEVER.

AS [] STATED SHE HAD NO INFORMATION OF VALUE TO FURNISH AT THIS TIME CONCERNING THE TWO SUPREME COURT

b6
b7C

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

F B I

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

WFO 77-86748
PAGE THREE

NOMINEES, THE CONVERSATION WAS TERMINATED.

IT SHOULD BE NOTED THAT [] TELEPHONICALLY CONTACTED
SA [] AT THE WASHINGTON FIELD OFFICE FROM CAMBRIDGE,
MASSACHUSETTS, AND AT NO TIME DID SA [] OR ANY AGENT
FROM THE WASHINGTON FIELD OFFICE CALL [] IN CAMBRIDGE,
MASSACHUSETTS.

b6
b7C

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

UNITED STATES GOVERNMENT

Memorandum

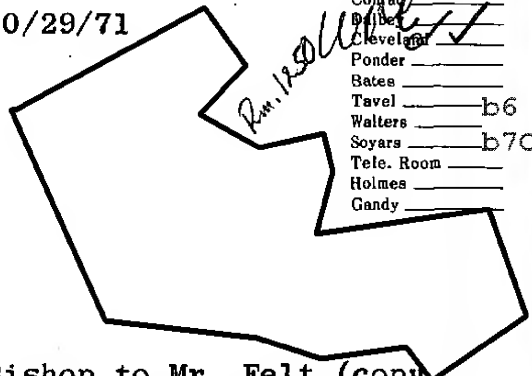
- Tolson _____
- Felt _____
- Rosen _____
- Mohr _____
- Bishop _____
- Miller, E.S. _____
- Callahan _____
- Casper _____
- Conrad _____
- DeLoach _____
- Cleveland _____
- Ponder _____
- Bates _____
- Tavel _____ b6
- Walters _____ b7C
- Soyars _____
- Tele. Room _____
- Holmes _____
- Gandy _____

TO : Mr. Rosen *RS*

DATE: 10/29/71

FROM : W. V. Cleveland

SUBJECT: LEWIS F. POWELL, JR.
WILLIAM HUBBS REHNQUIST
SUPREME COURT NOMINEES



By memorandum 10/28/71, Mr. Bishop to Mr. Felt (copy attached), it was recorded that a writer for "The Washington Post" made inquiry as to whether during our investigation we contacted two professors and, in part, inquired whether they intended to appear and testify in opposition to Powell or Rehnquist. The Special Investigative Division noted no such questions were posed by our Agents. The Director noted, "Send memo to A. G."

An article in this morning's "Washington Post" (copy attached) set forth the above allegation and included reference to other individuals interviewed indicating we inquired of the latter, too, whether they planned to fight the confirmations. The Director noted, "Why do we ask if the person plans to fight the confirmation."

In response to the Director's second notation, it has been established that none of the Agents who interviewed the persons mentioned in "The Washington Post" article did pose any such questions as suggested in the news article.

ACTION:

This is submitted in response to the Director's inquiries.

There is attached a suggested memorandum to the Attorney General apprising him of this situation.

Enclosures *sent 10-29-71*

- 1 - Mr. Felt
- 1 - Mr. Rosen
- 1 - Mr. Mohr
- 1 - Mr. Bishop

- 1 - Administrative Review Unit
Crime Records Division
- 1 - Mr. Cleveland
- 1 - Mr. Martin
- 1 - [REDACTED]

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 JAN 25 1972
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 JAN 20 1972

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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 29 1971

TELETYPE

NR 002 SF PLAIN

1022AM IMMEDIATE 10-29-71 MS

TO DIRECTOR (77-106904)

FROM SAN FRANCISCO (77-11804) (77-13737) 2P

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. E yars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

WILLIAM HUBBS REHNQUIST, AKA. DAPLI, JUSTICE, SUPREME COURT OF
THE UNITED STATES

MR. MARTIN
ROOM 1246

LEWIS FRANKLIN POWELL, JR. DAPLI, JUSTICE, SUPREME COURT OF THE
UNITED STATES

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMM

REBUTELCALL THIS DATE.

b6
b7c

SA [REDACTED] ADVISES THAT IN HIS INTERVIEW WITH [REDACTED]

[REDACTED] ON OCTOBER TWENTYSIX, LAST, REGARDING LEWIS

FRANKLIN POWELL AND WILLIAM HUBBS REHNQUIST HE AT NO TIME ASKED

[REDACTED] WHETHER HE PLANNED TO FIGHT THE CONFIRMATION OF THESE

INDIVIDUALS NOR DID HE ASK [REDACTED] WHETHER HE INTENDED TO TESTIFY

AGAINST EITHER OF THESE NOMINEES.

AT OUTSET OF INTERVIEW, [REDACTED] STATED HE HAD HAD NO PERSONAL

CONTACT WITH EITHER NOMINEE. HE SPECULATED PERHAPS HIS NAME CAME

UP BECAUSE OF HIS PREVIOUS COMMENTS REGARDING THE [REDACTED]

[REDACTED] CASES.

77-106904-140
NOT RECORDED

DURING INTERVIEW, [REDACTED] STATED HE FELT IT WAS USAID 1972

THE AMERICAN BAR ASSOCIATION (ABA) AND THE SENATE COMMITTEE TO

EVALUATE A NOMINEE'S PROFESSIONAL QUALIFICATIONS AND VOLUNTEERED

END PAGE ONE

60 JAN 20 1972

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PAGE TWO

THAT HE INTENDED TO MAKE RESULTS OF HIS RESEARCH REGARDING REHNQUIST KNOWN TO THE ABA AND SENATE COMMITTEE. HE THEN GAVE THE EXAMPLES CITED IN SAN FRANCISCO REPORT AS TO REASONS HE FELT REHNQUIST LACKED JUDICIAL TEMPERAMENT. HE INDICATED HE HAD FURTHER SPECIFIC EXAMPLES OF OBJECTIONS; HOWEVER, DID NOT WISH TO MAKE ADDITIONAL DISCLOSURES TO THE FBI, BUT WOULD MAKE THEM KNOWN TO THE ABA AND SENATE COMMITTEE IN NEAR FUTURE.

THE WORDS "FIGHT" AND "TESTIFY" WERE NEVER UTILIZED BY EITHER SA [] OR [] DURING INTERVIEW AND ONLY REFERENCES TO EIGHT ^{THEIR} ~~EIGHT~~ THE ABA OR SENATE COMMITTEE WERE MADE BY []

b6
b7c

END

RSP FBI WASH DC

Tolson
Felt
Rosen
Mohr
Bishop
Miller, E.S.
Callahan
Casper
Conrad
Dalbey
Cleveland
Ponder
Bates
Tavel
Walters
Soyars
Tele. Room
Holmes
Gandy

FBI Queries Possible Opponents Of 2 Supreme Court Nominees

By John P. MacKenzie
Washington Post Staff Writer

The FBI has carried its investigation of President Nixon's two Supreme Court nominees into the unfamiliar territory of the civil rights and civil liberties workers who uncovered damaging evidence against previous Nixon choices for the bench.

Agents in at least five cities have met with a mixed but mostly chilly reception after asking potential opponents of William H. Rehnquist and Lewis F. Powell Jr. whether they had any information and whether they planned to fight for confirmations.

Reaction to the FBI inquiries ranged from surprise at the bureau's sudden interest to outrage that the interest extended beyond data-gathering to the plans of persons considered unsympathetic to the Nixon administration.

Professor Gary Orfield of Princeton, who testified against confirmation of Clement F. Haynsworth Jr. and G. Harrold Carswell, said he was asked whether he expected to testify at Senate hearings opening on Wednesday.

Stanford law professor Anthony Amsterdam, who publicly opposed the possible nomination of Judge Mildred Lillie, was asked whether he would give his views on the court nominees either to the Senate or the American Bar Association, which is conducting its own investigation. Both men refused to commit themselves on the subject.

Among those who said they were questioned by the FBI was Richard T. Seymour, a lawyer with the Washington Research Project Action Council, a civil rights organization.

Seymour, whose investigation of Carswell produced evidence that he had helped convert a public golf course to a private club to avoid admitting Negroes, was called first at his Washington office. On that call the FBI learned that Seymour had already testified

coming an assistant attorney general in 1969.

Reached at a Phoenix motel yesterday, Seymour told The Washington Post that an FBI agent had contacted him by telephone on Wednesday.

Seymour said the agent expressed some confusion as to why he was supposed to contact him but that it concerned Rehnquist. The agent asked about Seymour's background, his purpose and whether he had developed any new information.

The young lawyer told the agent that he had turned up "nothing worth talking about yet." Then, said Seymour, "I asked him if he had any information. He said he couldn't disclose it without permission from higher-ups. I said we operated under the same system."

Seymour said the brief conversation was "very friendly—there was no attempt to scare me." Other individuals questioned expressed the same view.

Marian Wright Edelman, Seymour's superior at the Washington Research Project Action Council, said she received a call Wednesday in Massachusetts from the FBI's Washington office. The agent asked her to talk with a man from the FBI's Boston office, said Mrs. Edelman, who divides her time between Washington and Cambridge, Mass.

Mrs. Edelman, said she told the FBI that she had nothing to contribute as of now about either Rehnquist or Powell but she would call the bureau if anything developed.

From the agents' questions,

William H. Rehnquist

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

Why do we ask the person before they sign the confirmation?

- The Washington Post Times Herald A-1
- The Washington Daily News
- The Evening Star (Washington)
- The Sunday Star (Washington)
- Daily News (New York)
- Sunday News (New York)
- New York Post
- The New York Times V
- The Daily World
- The New Leader
- The Wall Street Journal
- The National Observer
- People's World

Date **OCT 29 1971**

JAN 20 1972

COPY MADE FOR MR. TOLSON

JAN 19 1972

77-106904-141

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59 JAN 20 1972

Mrs. Eganman said she had concluded "they clearly never heard of any of us."

The FBI took the brunt of criticism last year for failing to discover derogatory information on Carswell before critics did. Many in the bureau and elsewhere in government felt that the criticism was not entirely deserved because of the short notice and secrecy restrictions under which field agents were forced to operate.

Harvard law professor Laurence H. Tribe, another private attorney consulted by the FBI, said he has had three FBI inquiries since Oct. 18, when The Post published his study of the recent judicial record of Judge Lillie, then a top name on the administration's list of potential nominees.

Tribe said the agent who called first said he was not conducting a formal check on Judge Lillie but wanted to be ready in case Washington asked for one. Asked the source of his interest in the candidate and what his professional opinion was, Tribe said he replied that he was acting as a scholar and former law clerk concerned about the Supreme Court and that he had a low opinion of the California judge.

Wednesday of this week Tribe received a personal visit and a telephone call from another agent, this time about Rehnquist and Powell. The FBI, Tribe said, wanted to know if he was conducting a comparable study of the two nominees. Tribe said he was annoyed at the question and refused to answer it.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW



LEWIS F. POWELL JR. WILLIAM H. REHNQUIST
... Nixon's choices to fill Supreme Court vacancies.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 29 1971

TELETYPE

Mr. Tolson	_____
Mr. Felt	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, ES	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalby	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Tavel	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

NR006 NY PLAIN

130PM IMMEDIATE 10-29-71 PAC

TO DIRECTOR

FROM NEW YORK 77-34526 - 77-34527 1P

LEWIS FRANKLIN POWELL, JR., DAPLI, JUSTICE, SUPREME COURT
OF THE UNITED STATES (NYFILE 77-34527).

MR. MARTIN
ROOM 1240



b6
b7C

WILLIAM HUBBS REHNQUIST, AKA WILLIAM H. REHNQUIST,
WILLIAM DONALD REHNQUIST, DAPLI, JUSTICE, SUPREME COURT
OF THE UNITED STATES, (NYFILE 77-34526).

REFERENCE BUREAU TELEPHONE CONVERSATION TO NEW YORK,
OCTOBER TWENTY NINE INSTANT AND NEW YORK TELEPHONE
CONVERSATION TO BUREAU, OCTOBER TWENTY NINE INSTANT.

[REDACTED] WHEN INTERVIEWED
BY SPECIAL AGENT [REDACTED] WERE NOT ASKED WHETHER
THEY PLANNED TO FIGHT THE CONFIRMATION OF EITHER APPLICANT
OR WHETHER THEY WOULD TESTIFY AGAINST EITHER APPLICANT.

77-106904-142

RUC.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

5 JAN 19 1972

END

LMR FBI WA DC CLR

60 JAN 25 1972

Gene

UNRECORDED COPY FILED IN 77-106904-103

"TREAT AS ORIGINAL"

FD-36 (Rev. 5-22-64)

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

OCT 29 1971

Date: 10/29/71

TELETYPE

PLAIN

(Type in plaintext or code)

Transmit the following in _____

Via FACSIMILE _____

URGENT
(Priority)

- Mr. Tolson _____
- Mr. Felt _____
- Mr. Rosen _____
- Mr. Mohr _____
- Mr. Bishop _____
- Mr. Miller, ES _____
- Mr. Callahan _____
- Mr. Casper _____
- Mr. Conrad _____
- Mr. Dalbey _____
- Mr. Cleveland _____
- Mr. Ponder _____
- Mr. Bates _____
- Mr. Tavel _____
- Mr. Walters _____
- Mr. Soyars _____
- Miss Holmes _____
- Miss Gandy _____

TO: DIRECTOR (77-106904)

FROM: PHOENIX (77-3510)

WILLIAM HUBBS REHNQUIST, AKA. JUSTICE, SUPREME COURT OF
THE UNITED STATES.

REBUTELCALL TO PHOENIX OCTOBER TWENTY-NINE INSTANT.

ATTACHED HEREWITH IS A COPY OF NEWSPAPER CLIPPING
FROM THE ARIZONA REPUBLIC, SEPTEMBER TWELVE, NINETEEN
FIFTY-EIGHT, ENTITLED, "ARIZONANS FOR AMERICA TO
DISCUSS INCOME TAX."

RUC

77-106904-143

ALL INFORMATION CONTAINED
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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

auto clear
Dist: 10-31-71
5 JAN 19 1972

PKB/sp

60-972 N 25 372

DM

Approved: _____

Sent _____

M _____

Per _____

Arizona Republic 9/12/58
FBI

Date:

ALL INFORMATION CONTAINED
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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

Transmit the following in _____

(Type in plaintext or code)

Via P.2, PX 77-3510

(Priority)

Friday, September 12, 1958

Arizonans For America To Discuss Income Tax

A panel discussion of the federal income tax will feature a meeting of Arizonans For America at the Phoenix Women's Club auditorium Thursday at 8 p.m.

The panelists will be Charles Mickie, president of the Phoenix Title and Trust Co.; Raymond N. Conroy, executive manager of the Arizona Consolidated Masonry and Contractors Association; William N. Rehnquist, Phoenix attorney; and Philip Clark, a Tucson member of the national policy committee of Arizonans For America.



Mickie

Among questions to be dis-

cussed at the meeting Thursday are:

Is a personal income tax necessary?

Is it morally equitable?

Should the Sixteenth Amendment be repealed?

For America is a non-partisan association of Americans who describe themselves as "strict constitutionalists," and who pledge themselves to "resist" any bypassing of the Constitution by the congress, the courts, or the executive branch of the government."

The organization is for states rights, competitive enterprise, private property, and individual liberty. It opposes "all moves toward internationalism, fascism, socialism, and communism."

Arizonans For America was organized early this year.

State members of the national policy committee are Mrs. V. M. Haldiman and Frank C. Brophy of Phoenix, and Dan McKinney and Philip Clarke of Tucson.

Approved: _____

Sent _____ M Per _____

Special Agent in Charge

"TREAT AS ORIGINAL"

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

Date: 11/1/71

NOV 1 1971 PLAIN

(Type in plaintext or code)

TELETYPE URGENT

(Priority)

- Mr. Tolson.....
- Mr. Felt.....
- Mr. Rosen.....
- Mr. Mohr.....
- Mr. Bishop.....
- Mr. Miller, ES.....
- Mr. Callahan.....
- Mr. Casper.....
- Mr. Conrad.....
- Mr. Dalbey.....
- Mr. Cleveland.....
- Mr. Ponder.....
- Mr. Bates.....
- Mr. Tavel.....
- Mr. Walters.....
- Mr. Soyars.....
- Tele. Room.....
- Miss Holmes.....
- Miss Gandy.....

Transmit the following in

Via FACSIMILE

TO: BUREAU (77-106904)

FROM: PHOENIX (77-3510)

WILLIAM HUBBS REHNQUIST, AKA. JUSTICE, SUPREME COURT OF
THE UNITED STATES. BUDED PAST.

ATTACHED HERewith ARE COMMENTS OF REHNQUIST JUNE FIFTEEN,
NINETEEN SIXTY-FOUR AT THE PUBLIC HEARING ON THE PUBLIC
ACCOMMODATIONS ORDINANCE PROPOSED FOR THE CITY OF PHOENIX.

PENDING.

ENCLOSURE

77-106904-144

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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMG

ELFPP
(1)

Approved: [Signature] 11/23 1971
Special Agent in Charge

Sent _____ M Per _____

F B I

Date:

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(Type in plaintext or code)

Via _____
(Priority)

ALL INFORMATION CONTAINED
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DATE 06-30-2006 BY 60309/UC/TAM/DCG/YMW

COMMENTS OF WILLIAM REHNQUIST
made June 15, 1964, at the
PUBLIC HEARING ON THE PUBLIC ACCOMMODATIONS ORDINANCE
PROPOSED FOR THE CITY OF PHOENIX

Mr. Mayor, members of the City Council, my name is William Rehnquist. I reside at 1817 Palmcroft Drive, N.W., here in Phoenix. I am a lawyer without a client tonight. I am speaking only for myself. I would like to speak in opposition to the proposed ordinance because I believe that the values that it sacrifices are greater than the values which it gives. I take it that we are no less the land of the free than we are land of the equal and so far as the equality of all races concerned insofar as public governmental bodies, treatment by the Federal, State or the local government is concerned, I think there is no question. But it is the right of anyone, whatever his race, creed or color to have that sort of treatment and I don't think there is any serious complaint that here in Phoenix today such a person doesn't receive that sort of treatment from the governmental bodies. When it comes to the use of private property, that is the corner drugstore or the boarding house or what have you. There, I think we - and I think this



Approved: _____
Special Agent in Charge

ENCLOSURE
77-106904-144
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Via _____

(Priority)

ordinance departs from the area where you are talking about governmental action which is contributed to by every tax payer, regardless of race, creed or color. Here you are talking about a man's private property and you are saying, in effect, that people shall have access to that man's property whether he wants it or not. Now there have been other restrictions on private property. There have been zoning ordinances and that sort of thing but I venture to say that there has never been this sort of an assault on the institution where you are told, not what you can build on your property, but who can come on your property. This, to me, is a matter for the most serious consideration and, to me, would lead to the conclusion that the ordinance ought to be rejected.

What has brought people to Phoenix and to Arizona? My guess is no better than anyone else's but I would say it's the idea of the lost frontier here in America. Free

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Date:

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Via _____

(Priority)

enterprise and by that I mean not just free enterprise in the sense of right to make a buck but the right to manage your own affairs as free as possible from the interference of government. And I think, perhaps, the City of Phoenix is not the common denominator in that respect but that it is over on one side, stressing free enterprise. I have in mind, the state of the Housing Ordinance, last year, which a great number of people - you know, the opinion makers, leaders of opinions, community leaders were entirely for it. I happen to favor it myself and yet it was rejected by the people because they said, in effect, "we don't want another government agency looking over our shoulder while we are running our business". Now, I think what you are contemplating now is much more formidable interference with property rights.

than the Housing Ordinance would have been and I think it's a case where the thousands of small business proprietors have a right to have their own rights preserved since after all, it is their business.

Now, I would like to make a second point very briefly, if I might, and that is on the mandate existing to this Council and this again, of course, is a matter of one man's opinion against another. As I recall, the position taken by the preceding Council, of which I know you, Dr. Pisano, Mr. Hyde, Mr. Lindner were all on, was that there would be no compulsory public accommodations ordinance and as I recall, when this Council ran against the

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Special Agent in Charge

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(Type in plaintext or code)

Via _____
(Priority)

Act Ticket, which I would have thought would be the logical ticket, if elected, to bring in an ordinance like this, nothing was said about any sort of change that the voters might guide themselves by in voting in this particular matter. I don't think this Council has any mandate at all for the passing of such a far reaching ordinance and I would submit that if the Council, in its wisdom, does determine that it should be passed, it has a moral obligation to refer it for the vote of the people because something as far reaching as this without any mandate or even discussion on the thing at the time the election for City Council was held is certainly something that should be decided by the people as a whole rather than by their agents, honorable as you ladies and gentlemen are. I have heard the criticism made by the groups which have favored this type of ordinance in other cities that we don't want our rights voted on but of course, it is they who are bringing forward this bill. The question isn't whether or not their rights will be voted upon but instead, it's a question of whether their rights will be voted upon by you ladies and gentlemen who are the agents of the people or the people as a whole. Thank you very much for your time.

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Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION
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