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*Dudley Williams
Arthur Barnett
John C. Brown Jr.
Appointments*

Friday 9/17/76

Meeting
9/17/76
12 noon

11:40 Arthur Burnett has already arrived for
your 12 o'clock meeting.

((When I scheduled the appointment,
he suggested coming over on his lunch hour.)))

I have advised Barry that he is here and
Barry will come over -- needs to see you
before the meeting begins.



file

Thursday 9/16/76

Meetings

9/17/76

10 a.m.

--

12 noon

--

3:30 p.m.

1:15 p.m.

As requested by Barry, we have scheduled the following meetings for tomorrow (Friday 9/17) and have invited Barry (he will let Paul Manafort know of the meetings):

- 10 a.m. Dudley Williams
- 12 noon Arthur Barnett
- 3:30 p.m. Edwin C. Brown, Jr.



THE WHITE HOUSE
WASHINGTON

9-15-76

Ken:

Barry would like to set up meetings with Mr. Buchen and himself on Friday with the following people:

- 3:30
9/17
- 10 am
9/17
12 noon
9/17
1. Edwin Brown, Jr. (H) 966-7560 Denise Hamlett
(O) 667-7305
 2. Dudley Williams (H) 581-9074
(O) 638-4798
 3. Arthur Barnett (H) 244-4045
(O) 783-6794
426-7491
632-5421 632-5506

Do you have any problems with any of the above?

Should Bennett be invited to attend?

THE WHITE HOUSE
WASHINGTON

9-15-76

Ken says he has no problems with the listed people.

He doesn't want to participate and doesn't think Bennett will be interested. You may want to call him to be sure, however.

Also, Risher and Silbert should be checked.



D. C. JUDICIAL APPOINTMENTS

I. Attachments

TAB A -- Notification with regard to Superior Court vacancy caused by the death of Judge Draper

TAB B -- Upcoming vacancies

TAB C -- Appointment process (Part C of P.L. 93-198)

II. Recommended Procedures

1. Review of FBI investigations and reports of the Judicial Nomination Commission by Justice and Counsel's Office.
2. Interviews conducted by Counsel's Office.
3. Comments from Deputy Attorney General, Earl Silbert and John Risher.
4. 60-day limitation. October 15.



TAB
A



ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01232

Collection/Series/Folder ID : 001900240
Reason for Withdrawal : DR, Donor restriction
Type of Material : COR, Correspondence
Creator's Name : Duncan, Charles
Receiver's Name : Lazarus, Kenneth
Description : Dudley Ridault Williams
Creation Date : 08/17/1976
Date Withdrawn : 06/22/1988

1976 AUG 16 PM 8 10

RECEP. AND SECURITY UNIT
THE WHITE HOUSE
WASHINGTON

HOWARD UNIVERSITY
SCHOOL OF LAW
WASHINGTON, D. C. 20008

CHARLES T. DUNCAN
DEAN

To - Bennett
8-17-76
LTD

August 16, 1976

The President of the United States
The White House
Washington, D. C.

Dear Mr. President:

I have the honor to submit, pursuant to Public Law 93-198
(December 24, 1973), the following nominees for appointment to
the Superior Court of the District of Columbia:

- Edwin Cicero Brown, Jr.
- Arthur Louis Burnett
- Dudley Ridault Williams

Respectfully yours,

Charles T. Duncan
Chairman
The District of Columbia
Judicial Nomination Commission

Members:

- Frederick B. Abramson
- Clifford L. Alexander
- Judge Oliver Gasch
- John W. Hechinger
- Willie L. Leftwich
- William Lucy



TAB
B



Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

August 19, 1976

HAND DELIVERY

The Honorable Kenneth A. Lazarus
Associate Counsel to the President
Executive Office of the President
1600 Pennsylvania Avenue, N. W.
Washington, D. C. 20500

Dear Ken:

I have enclosed herewith a copy of my memorandum pertaining to the vacant positions on the District of Columbia courts. You will note that in addition to the present vacancy on the Superior Court, as of November 2, 1976, by operation of law there will be at least five new "vacancies," and the Nomination Commission will have to designate the chief judge of each court.

If I may be of further assistance, please so advise me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John R. Risher, Jr." with a stylized flourish.

JOHN R. RISHER, JR.
Corporation Counsel, D. C.

Enclosure



Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

August 19, 1976

MEMORANDUM

TO: D. C. Court File

SUBJECT: Vacancies During 1976-77

The Superior Court is authorized a complement of forty-four (44) active judges; that of the Court of Appeals is nine (9). Within the next three months, the chief judgeships on both courts will become vacant as the terms of five (5) judges expire.

Currently, there is one vacancy on the Superior Court, i. e. the position occupied by Judge Draper until his death, last month. The Judicial Nomination Commission has submitted a list of three persons to the President for possible nomination and appointment to that vacancy. (It appears that Dudley Williams, one of the persons on the list, failed to advise the Commission that he did not file his District income tax returns for the past five (5) years until after the Commission had expressed an interest in submitting his name. Whether Mr. Williams will request that his name be withdrawn, in which event "the [Nomination] Commission shall promptly recommend to the President [a replacement candidate]," Pub.L. 93-198, §434(d)(2), 87 Stat. 798, is not known.)

The terms of the Chief Judge of the Superior Court (Harold H. Greene), and that of Judges Alexander, Murphy and Atkinson expire on November 2, 1976. As only the first three have filed "a declaration of candidacy for reappointment with the Tenure Commission," as provided by 433(c) of Pub.L. 93-198, 87 Stat. 786, Judge Atkinson's position shall become vacant upon "the expiration of his




term." Therefore, as of October 2, 1976, the Nomination Commission is to submit a list of three possible appointees to fill Judge Atkinson's position. Ibid, §434(d)(1).

As of October 2, 1976, the day on which the Nomination Commission is to submit its list pertaining to the position occupied by Judge Atkinson, the Tenure Commission is to submit its separate recommendations respecting the candidacies of Judges Greene, Alexander and Murphy. If the Tenure Commission determines that a candidate is "unqualified," that judge's term shall expire on November 2, 1976, and he may not be reappointed. Ibid, §433(c). In that event, the Nominating Commission is to submit a list of three possible appointees to the resulting vacant position. Ibid, §434(d)(1). (The statute contemplates that the Nominating Commission's list will be submitted within thirty (30) days of the vacancy; hence, it is expected that the Tenure Commission will promptly advise if it determines that a candidate is "unqualified.")

The next vacancy on the Superior Court will be the position now filled by Judge Korman. As he was appointed prior to the effective date of §431(c) of Pub. L. 93-198, the consensus is that he is not subject to its mandatory retirement-at-age-seventy provision; his position therefore will not become vacant until the expiration of his term, circa April, 1977.

Chief Judge Reilly of the Court of Appeals reaches the mandatory retirement age circa September 27, 1976; hence, the Nomination Commission's list of three possible nominees to fill the vacancy resulting because of his retirement is to be submitted as of August 27, 1976. The next predictable vacancy on the Court of Appeal will be the position of Judge Yeagley -- in 1979.

Only the Nomination Commission may designate the new chief judges, Pub. L. 93-198, §431(b), 87 Stat. 793; presumably it will not designate them until after the selection process is completed. Chief Judge Greene is "eligible for redesignation as chief judge." Ibid.


JOHN R. RISHER, JR.
Corporation Counsel, D. C.



TAB
C



for the National Capital which may include land use elements, urban renewal and redevelopment elements, a multi-year program of municipal public works for the District, and physical, social, economic, transportation, and population elements. The Mayor's planning responsibility shall not extend to Federal and international projects and developments in the District, as determined by the National Capital Planning Commission, or to the United States Capitol buildings and grounds as defined in sections 1 and 16 of the Act of July 31, 1946 (40 U.S.C. 193a, 193m), or to any extension thereof or addition thereto, or to buildings and grounds under the care of the Architect of the Capitol. In carrying out his responsibilities under this section, the Mayor shall establish procedures for citizen involvement in the planning process and for appropriate meaningful consultation with any State or local government or planning agency in the National Capital region affected by any aspect of a proposed District element of the comprehensive plan (including amendments thereto) affecting or relating to the District.

(b) The Mayor shall submit the District's elements and amendments thereto, to the Council for revision or modification, and adoption by act, following public hearings. Following adoption and prior to implementation, the Council shall submit such elements and amendments thereto, to the National Capital Planning Commission for review and comment with regard to the impact of such elements or amendments on the interests and functions of the Federal Establishment, as determined by the Commission.

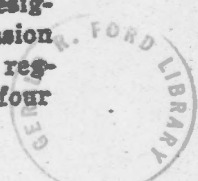
(c) Such elements and amendments thereto shall be subject to and limited by determinations with respect to the interests and functions of the Federal Establishment as determined in the manner provided by Act of Congress.

PART C—THE JUDICIARY

JUDICIAL POWERS

Sec. 431. (a) The judicial power of the District is vested in the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. The Superior Court has jurisdiction of any civil action or other matter (at law or in equity) brought in the District and of any criminal case under any law applicable exclusively to the District. The Superior Court has no jurisdiction over any civil or criminal matter over which a United States court has exclusive jurisdiction pursuant to an Act of Congress. The Court of Appeals has jurisdiction of appeals from the Superior Court and, to the extent provided by law, to review orders and decisions of the Mayor, the Council, or any agency of the District. The District of Columbia courts shall also have jurisdiction over any other matters granted to the District of Columbia courts by other provisions of law.

(b) The chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nominating Commission established by section 434 from among the judges of the court in regular active service, and shall serve as chief judge for a term of four



years or until his successor is designated, except that his term as chief judge shall not extend beyond the chief judge's term as a judge of a District of Columbia court. He shall be eligible for redesignation as chief judge.

(c) A judge of a District of Columbia court appointed on or after the date of enactment of the District of Columbia Court Reorganization Act of 1970 shall be appointed for a term of fifteen years subject to mandatory retirement at age seventy or removal, suspension, or involuntary retirement pursuant to section 432 and upon completion of such term, such judge shall continue to serve until reappointed or his successor is appointed and qualifies. A judge may be reappointed as provided in subsection (c) of section 433.

(d) (1) There is established a District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter referred to as the "Tenure Commission"). The Tenure Commission shall consist of seven members selected in accordance with the provisions of subsection (e). Such members shall serve for terms of six years, except that the member selected in accordance with subsection (e)(3)(A) shall serve for five years; of the members first selected in accordance with subsection (e)(3)(B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (e)(3)(C), one member shall serve for a term of three years and one member shall serve for five years; the member first selected in accordance with subsection (e)(3)(D) shall serve for six years; and the member first appointed in accordance with subsection (e)(3)(E) shall serve for six years. In making the respective first appointments according to subsections (e)(3)(B) and (e)(3)(C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

(2) The Tenure Commission shall act only at meetings called by the Chairman or a majority of the Tenure Commission held after notice has been given of such meeting to all Tenure Commission members.

(3) The Tenure Commission shall choose annually, from among its members, a Chairman and such other officers as it may deem necessary. The Tenure Commission may adopt such rules of procedures not inconsistent with this Act as may be necessary to govern the business of the Tenure Commission.

(4) The District government shall furnish to the Tenure Commission, upon the request of the Tenure Commission, such records, information, services, and such other assistance and facilities as may be necessary to enable the Tenure Commission properly to perform its functions. Information so furnished shall be treated by the Tenure Commission as privileged and confidential.

(e) (1) No person may be appointed to the Tenure Commission unless he—

(A) is a citizen of the United States;



(B) is a bona fide resident of the District and has maintained an actual place of abode in the District for at least ninety days immediately prior to his appointment; and

(C) is not an officer or employee of the legislative branch or of an executive or military department or agency of the United States (listed in sections 101 and 202 of title 5 of the United States Code); and (except with respect to the person appointed or designated according to subsection (b)(4)(D)) is not an officer or employee of the judicial branch of the United States, or an officer or employee of the District government (including its judicial branch).

(2) Any vacancy on the Tenure Commission shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of his predecessor.

(3) In addition to all other qualifications listed in this section, lawyer members of the Tenure Commission shall have the qualifications prescribed for persons appointed as judges of the District of Columbia courts. Members of the Tenure Commission shall be appointed as follows:

(A) One member shall be appointed by the President of the United States.

(B) Two members shall be appointed by the Board of Governors of the unified District of Columbia Bar, both of whom shall have been engaged in the practice of law in the District for at least five successive years preceding their appointment.

(C) Two members shall be appointed by the Mayor, one of whom shall not be a lawyer.

(D) One member shall be appointed by the Council, and shall not be a lawyer.

(E) One member shall be appointed by the chief judge of the United States District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

No person may serve at the same time on both the District of Columbia Judicial Nomination Commission and on the District of Columbia Commission on Judicial Disabilities and Tenure.

(f) Any member of the Tenure Commission who is an active or retired Federal judge shall serve without additional compensation. Other members shall receive the daily equivalent at the rate provided by grade 18 of the General Schedule, established under section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission.

(g) The Tenure Commission shall have the power to suspend, retire, or remove a judge of a District of Columbia court as provided in section 432.



REMOVAL, SUSPENSION, AND INVOLUNTARY RETIREMENT

Sec. 432. (a) (1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Tenure Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District.

(2) A judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Tenure Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Tenure Commission of—

(A) willful misconduct in office,

(B) willful and persistent failure to perform judicial duties,

or

(C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Tenure Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of his judicial duties, and (2) the Tenure Commission files in the District of Columbia Court of Appeals an order of involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

(c)(1) A judge of a District of Columbia court shall be suspended, without salary—

(A) upon—

(i) proof of his conviction of a crime referred to in subsection (a)(1) which has not become final, or

(ii) the filing of an order of removal under subsection (a)(2) which has not become final; and

(B) upon the filing by the Tenure Commission of an order of suspension in the District of Columbia Court of Appeals. Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover his salary and all rights and privileges of his office.

(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as he may be entitled, upon the filing by the Tenure Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover his ju-



dicial salary less any retirement salary received and shall be entitled to all the rights and privileges of his office.

(3) A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Tenure Commission, upon concurrence of five members, (A) orders a hearing for the removal or retirement of the judge pursuant to this subchapter and determines that his suspension is in the interest of the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The suspension shall terminate as specified in the order (which may be modified, as appropriate, by the Tenure Commission) but in no event later than the termination of all appeals.

NOMINATION AND APPOINTMENT OF JUDGES

Sec. 433. (a) Except as provided in section 434(d)(1), the President shall nominate, from the list of persons recommended to him by the District of Columbia Judicial Nomination Commission established under section 434, and, by and with the advice and consent of the Senate, appoint all judges of the District of Columbia courts.

(b) No person may be nominated or appointed a judge of a District of Columbia court unless he—

(1) is a citizen of the United States;

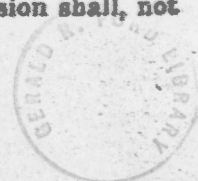
(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding his nomination or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to his nomination, and shall retain such residency as long as he serves as such judge, except judges appointed prior to the effective date of this part who retain residency as required by section 1501(a) of title 11 of the District of Columbia Code shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

(5) has not served, within a period of two years prior to his nomination, as a member of the Tenure Commission or of the District of Columbia Judicial Nomination Commission.

(c) Not less than three months prior to the expiration of his term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of his term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not



less than thirty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written evaluation of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be exceptionally well qualified or well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

DISTRICT OF COLUMBIA JUDICIAL NOMINATION COMMISSION

Sec. 434. (a) There is established for the District of Columbia the District of Columbia Judicial Nomination Commission (hereafter in this section referred to as the "Commission"). The Commission shall consist of seven members selected in accordance with the provisions of subsection (b). Such members shall serve for terms of six years, except that the member selected in accordance with subsection (b)(4)(A) shall serve for five years; of the members first selected in accordance with subsection (b)(4)(B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (b)(4)(C), one member shall serve for a term of three years and one member shall serve for five years; the member first selected in accordance with subsection (b)(4)(D) shall serve for six years; and the member first appointed in accordance with subsection (b)(4)(E) shall serve for six years. In making the respective first appointments according to subsections (b)(4)(B) and (b)(4)(C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

(b)(1) No person may be appointed to the Commission unless he—

- (A) is a citizen of the United States;
- (B) is a bona fide resident of the District and has maintained an actual place of abode in the District for at least 90 days immediately prior to his appointment; and



(C) is not a member, officer, or employee of the legislative branch or of an executive or military department or agency of the United States (listed in sections 101 and 202 of title 5 of the United States Code); and (except with respect to the person appointed or designated according to subsection (b)(4) (D)) is not an officer or employee of the judicial branch of the United States, or an officer or employee of the District government (including its judicial branch).

(2) Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of his predecessor.

(3) It shall be the function of the Commission to submit nominees for appointment to positions as judges of the District of Columbia courts in accordance with section 433 of this Act.

(4) In addition to all other qualifications listed in this section, lawyer members of the Commission shall have the qualifications prescribed for persons appointed as judges for the District of Columbia courts. Members of the Commission shall be appointed as follows:

(A) One member shall be appointed by the President of the United States.

(B) Two members shall be appointed by the Board of Governors of the unified District of Columbia Bar, both of whom shall have been engaged in the practice of law in the District for at least five successive years preceding their appointment.

(C) Two members shall be appointed by the Mayor, one of whom shall not be a lawyer.

(D) One member shall be appointed by the Council, and shall not be a lawyer.

(E) One member shall be appointed by the chief judge of the United States District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

(5) Any member of the Commission who is an active or retired Federal judge shall serve without additional compensation. Other members shall receive the daily equivalent at the rate provided by grade 18 of the General Schedule, established under section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission.

(c)(1) The Commission shall act only at meetings called by the Chairman or a majority of the Commission held after notice has been given of such meeting to all Commission members.

(2) The Commission shall choose annually, from among its members, a Chairman, and such other officers as it may deem necessary. The Commission may adopt such rules of procedures not inconsistent with this Act as may be necessary to govern the business of the Commission.



(3) The District government shall furnish to the Commission; upon the request of the Commission, such records, information, services, and such other assistance and facilities as may be necessary to enable the Commission properly to perform its function. Information so furnished shall be treated by the Commission as privileged and confidential.

(d)(1) In the event of a vacancy in any position of the judge of a District of Columbia court, the Commission shall, within thirty days following the occurrence of such vacancy, submit to the President, for possible nomination and appointment, a list of three persons for each vacancy. If more than one vacancy exists at one given time, the Commission must submit lists in which no person is named more than once and the President may select more than one nominee from one list. Whenever a vacancy will occur by reason of the expiration of such a judge's term of office, the Commission's list of nominees shall be submitted to the President not less than thirty days prior to the occurrence of such vacancy. In the event the President fails to nominate, for Senate confirmation, one of the persons on the list submitted to him under this section within sixty days after receiving such list, the Commission shall nominate, and with the advice and consent of the Senate, appoint one of those persons to fill the vacancy for which such list was originally submitted to the President.

(2) In the event any person recommended by the Commission to the President requests that his recommendation be withdrawn, dies, or in any other way becomes disqualified to serve as a judge of the District of Columbia courts, the Commission shall promptly recommend to the President one person to replace the person originally recommended.

(3) In no instance shall the Commission recommend any person, who in the event of timely nomination following a recommendation by the Commission, does not meet, upon such nomination, the qualifications specified in section 433.

PART D—DISTRICT BUDGET AND FINANCIAL MANAGEMENT

SUBPART 1—BUDGET AND FINANCIAL MANAGEMENT FISCAL YEAR

Sec. 441. The fiscal year of the District shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

SUBMISSION OF ANNUAL BUDGET

Sec. 442. (a) At such time as the Council may direct, the Mayor shall prepare and submit to the Council each year, and make available to the public, an annual budget for the District of Columbia government which shall include—



J. Clay Smith Jr
Judge Theodore Newman
Vincent Cohen

Wednesday 9/22/76

Judicial
appointments

9/22/76

3:00 p.m.

3:45 p.m.

9/24/76

10 a.m.

10:55 Barry had asked me to schedule appointments for the following three who are being considered for the D. C. Court of Appeals:

(They are scheduled as follows:

Wednesday 9/22

3:00 p.m. J. Clay Smith, Jr.
Associate General Counsel
FCC

632-7020

3:45 p.m. Judge Theodore Newman
Superior Court
(Secy: Shirley Dixon)

727-1433

Friday 9/24

10:00 a.m. Vincent Cohen *
Hogan & Hartson
(Secy: Ronda)

331-4586

* Today (Wednesday) he is interviewing applicants at Catholic University all day. Tomorrow (Thursday) he will be chairing a seminar.

I have asked Barry to get the background material over to you on the above three men.

cc: Barry



THE WHITE HOUSE
WASHINGTON

October 7, 1976

*Judicial
Appointments
(Backup
Bennett)*

Dear Mr. Berliner:

In behalf of the President, I am acknowledging receipt from the District of Columbia Commission on Judicial Disabilities and Tenure the evaluation of Chief Judge Harold H. Greene of the Superior Court of the District of Columbia whose term expires on November 2, 1976, and an evaluation of Judge Tim Murphy of the same court whose term likewise expires on November 2, 1976.

These reports were submitted pursuant to Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act.

The President is gratified to learn that you have found both Judge Greene and Judge Murphy to be exceptionally well qualified for reappointment so that the term of each shall be extended for a full term of fifteen years from November 2, 1976.

I understand that under these circumstances, the extension of the term is automatic and requires no action by the President.

You and the other members of the Commission are to be commended on the services you performed in making these evaluations.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

Mr. Henry A. Berliner
Chairman,
District of Columbia Commission
on Judicial Disabilities and Tenure
717 Madison Place, N. W.
Room 212
Washington, D. C. 20005



bcc: Doug Bennett/with enclosures
Ken Lazarus

December 6, 1976

Dear Mr. Chairman:

It has come to my attention that concern has been expressed with respect to the status of nominations submitted to the President by the District of Columbia Judicial Nominations Commission in your two letters dated October 1, 1976. On behalf of the President, I wish to confirm to you his intention to submit nominations to the Senate, in accordance with the provisions of P.L. 93-198, as soon as the Senate next convenes.

The second session of the 94th Congress adjourned sine die on October 1, 1976. Thus, as of that date, the Senate has not been in session to receive communications from the President, including nominations to judicial offices on the District of Columbia bench. Moreover, all nominations by the President that were then pending before the Senate were returned to the President at that time.

Background investigations by the Federal Bureau of Investigation of the persons whose names were submitted by your Commission are currently in process. When these investigations have been completed, the President will make his selections and will so advise the Commission. In view of the Constitutional questions that would be raised in the event that nominations are submitted to the Senate other than by the President, I trust these plans will be satisfactory to the Commission.

Sincerely,

15/
Philip W. Buchen
Counsel to the President

Mr. Charles T. Duncan
Chairman
The District of Columbia Judicial
Nomination Commission
2935 Upton Street, NW.
Washington, D.C. 20008
PWB:mlw

THE WHITE HOUSE
WASHINGTON

December 8, 1976

Judge
Scott, R.H.

*Original sent
to Barry*

MEMORANDUM FOR:

PHIL BUCHEN

THRU:

JACK MARSH *Jon*
MAX FRIEDERSDORF *M.B.*

FROM:

CHARLES LEPPERT, JR. *C.L.*

SUBJECT:

Rep. Caldwell Butler (R.-Va.)

Rep. Caldwell Butler called to express his support for the interim appointment of Robert Scott to the Superior Court of the District of Columbia.



THE WHITE HOUSE

WASHINGTON

December 8, 1976

MEMORANDUM FOR:

PHIL BUCHEN

THRU:

JACK MARSH
MAX FRIEDERSDORF

FROM:

CHARLES LEPPERT, JR. *CLJ.*

SUBJECT:

Rep. Caldwell Butler (R.-Va.)

Rep. Caldwell Butler called to express his support for the interim appointment of Robert Scott to the Superior Court of the District of Columbia.



Friday 12/16/76

4:20 Senator Mathias would like
to have Robert Scott considered for
District Judge.



UNITED STATES COURT OF APPEALS
WASHINGTON, D. C. 20001
December 21, 1976

cc: Barry

CARL MCGOWAN
UNITED STATES CIRCUIT JUDGE

Philip W. Buchen, Esq.,
1600 Pennsylvania Avenue
Washington, D.C. 20500

My dear Mr. Buchen:

I understand that the judicial nominating commission for the District of Columbia has submitted a number of names for consideration by the President as nominees to the Superior Court; and that one of the names so submitted is that of Mr. Robert M. Scott. During the years that I have been on the federal bench here, I have had a number of opportunities to see Mr. Scott before the bar of our court, where he has been a capable, forthright, and effective advocate. It is my understanding that he has had extensive experience in the trial courts, and that his performances there have been in the highest professional tradition. I have had occasion to make Mr. Scott's acquaintance outside the courthouse, and I have found him to be, both at first-hand and by reputation, a man of integrity in both his personal and professional conduct.

I have, of course, no basis for judging the potential nominees on a relative scale, but I can unreservedly state my opinion to be that Mr. Scott would be an excellent addition to the Superior Court in terms of industry, professional capacity, and personal rectitude.

Sincerely,

Carl McGowan



JOHN B. MARTIN
7607 GLENDALE ROAD
CHEVY CHASE, MARYLAND 20015
A. C. 301 652-6629

December 21, 1976

cc: Barry

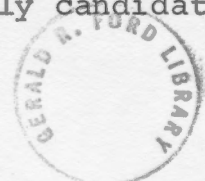
Mr. Philip Buchen
Counselor to the President
The White House
Washington, D.C. 20500

Dear Phil:

I am advised that in the near future the President will be forwarding to the Senate the names of proposed appointees to fill current judicial vacancies on the Superior Court of the District of Columbia. I understand that one of the names submitted to the President by the Nomination Commission for the District is that of Robert Scott, a long-time member of the District of Columbia bar and for many years an active, practicing attorney both in government and in the private sector. He has indicated to me his hope that, because of his broad experience in trial work in both civil and criminal litigation, he will be recommended by the President for appointment and has asked me to write to you on his behalf.

Bob Scott is 54 years of age. He is a former junior associate in the Covington, Burling firm. He has spent several years in the U.S. Attorney's office for the District and is now associated with the firm of Sachs, Greenebaum and Tayler. I believe also that he is president of the Barristers organization here in the District.

Since his experience is substantial, I have taken the occasion to contact several of the persons here in the District who might know most about his background. I have talked with Judge Gerard Reilly, recently retired Senior Judge of the D.C. Court of Appeals, with Judge Oliver Gasch, who is chairman of the Nomination Commission for the District, and with Fontaine Bradley, a long-time partner in Covington, Burling. Without exception, each of these men spoke most highly of Scott's abilities as an able and experienced trial lawyer and indicated that they hoped he would receive an appointment, since they felt that he was a most likely candidate



and one with outstanding ability. He has practiced before both Judge Gasch and Judge Reilly and has worked closely with Fontaine Bradley and others in the Covington, Burling firm.

I would appreciate it very much if you felt able to recommend this appointment and would hope that this letter could be included in any file which is presented to the President regarding the appointments on which he presumably will act before January 20.

Sincerely,

John B. Martin

John B. Martin



Mr. Philip Buchen
Counselor to the President
The White House
Washington, D.C. 20500

JOHN B. MARTIN
7607 GLENDALE ROAD
CHEVY CHASE, MARYLAND 20015

THE WHITE HOUSE
WASHINGTON

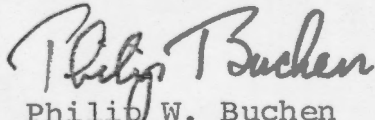
December 21, 1976

Dear Judge Reilly:

Many thanks for your letter in support of the nomination of Robert Scott to the D. C. Superior Court. Your views on this matter are highly valued and will be given full consideration.

Also, many thanks for your good wishes, and I, in turn, wish you the very best during the Holiday Season and the New Year.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Gerard D. Reilly (Ret.)
Chief Judge
District of Columbia Court of Appeals
400 F Street, N. W.
Washington, D. C. 20001

*Judicial
Appointments*



DISTRICT OF COLUMBIA COURT OF APPEALS
WASHINGTON, D. C.

CHAMBERS OF
CHIEF JUDGE GERARD D. REILLY, Ret.

December 17, 1976

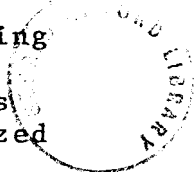
The Honorable Philip W. Buchen
Counsel to the President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Re: Appointments to D.C. Superior
Court

Dear Mr. Buchen:

Although I know that Washington newspaper stories based on speculation are frequently inaccurate, I was a bit disturbed at reading in the Star last night that the prospect of the President's nominating Robert M. Scott to the D.C. Superior Court is not as bright as some of the others on the list transmitted by the Nominating Commission. I hope that this is not the case, for in my opinion, Scott is head and shoulders above the other nominees of the Commission in terms of such judicial qualifications as legal ability, standing at the bar, trial experience, and objectivity.

I am aware that in the temper of the times, there has been a tendency to give preference to Negro and woman lawyers in selecting judges for the District of Columbia courts. As these categories are already over represented in proportion to their numbers at the local bar, I trust that this will not be the universal rule. Our local trial court with its now unlimited jurisdiction needs the same kind of appointments President Ford and President Nixon have made to the federal bench. I think that even the Nominating Commission, although heavily weighted on the side of liberal blacks, by including Scott's name and perhaps Shuker's in its latest list of nominees, has recognized this and is sensitive to criticisms that the lists it submitted to the President on four prior occasions were unduly one-sided. In any event, I think that the Commission might be tempted to revert to its old ways if the Administration should pass over Scott, and give consideration to such ultraliberal crusaders

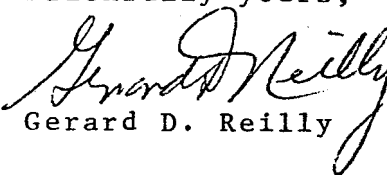


The Honorable Philip W. Buchen
December 17, 1976
Page 2

as Annie Waggoner, Gladys Kessler or Peter Wolfe, all
conspicuous for their lack of objectivity.

My I take this opportunity to wish you the
blessings of the Season and to express my deep
appreciation for the interest you have always shown in
improving our judicial system.

Faithfully yours,


Gerard D. Reilly





THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

cc: Barry

December 27, 1976

MEMORANDUM FOR:

PHILIP BUCHEN, ESQ.
COUNSEL TO THE PRESIDENT
THE WHITE HOUSE

FROM:

HAROLD R. TYLER, JR. *HTJ*
DEPUTY ATTORNEY GENERAL

RE:

Nominations to the Superior
Court of the District of Columbia

I pass on herewith to you a letter of Washington lawyer Daniel Rezneck, who apparently wishes to commend two nominees, Gladys Kessler and Peter Wolf, for the Superior Court.

encl.



ARNOLD & PORTER

1229 NINETEENTH STREET, N.W.

WASHINGTON, D. C. 20036

TELEPHONE: (202) 872-6700

CABLE: "ARFOPO"

TELEX: 89-2733

December 21, 1976

THURMAN ARNOLD (1891-1969)
PAUL A. PORTER (1904-1975)
MILTON V. FREEMAN
NORMAN DIAMOND
WILLIAM L. MCGOVERN
CAROLYN E. AGGER
G. DUANE VIETH
REED MILLER
ABE KRASH
B. HOWELL HILL
JULIUS M. GREISMAN
EDGAR H. BRENNER
DENNIS G. LYONS
STUART J. LAND
ROBERT E. HERZSTEIN
JAMES R. MCALEE
MITCHELL ROGOVIN
WALTER J. ROCKLER
WERNER KRONSTEIN
PAUL S. BERGER
JAMES F. FITZPATRICK
MELVIN C. GARBOW
BRUCE L. MONTGOMERY
MURRAY H. BRING
DANIEL A. REZNECK
GERALD M. STERN
MELVIN SPAETH
DAVID R. KENTOFF
DAVID H. LLOYD
RICHARD S. EWING
PETER K. BLEAKLEY
ALEXANDER E. BENNETT
RICHARD J. WERTHEIMER
HARRY HUGE
JACK L. LIPSON
JEROME I. CHAPMAN
MYRON P. CURZAN
JAMES A. DOBKIN
STEPHEN L. HESTER
MICHAEL N. SOHN
BROOKSLEY LANDAU
ANDREW S. KRULWICH
IRVIN B. NATHAN
ROBERT H. WINTER
JOHN M. FEDDERS
PATRICK F. J. MACRORY
NANCY K. MINTZ
NORTON F. TENNILLE, JR.
ROBERT D. ROSENBAUM
J. BRADWAY BUTLER

RICHARD L. HUBBARD
KENNETH A. LETZLER
STEPHEN M. SACKS
THOMAS J. MCGREW
JAMES W. JONES
MARK J. SPOONER
G. PHILIP NOWAK
DAVID BONDERMAN
STEVEN P. LOCKMAN
JEFFREY A. BURT
CARY H. SHERMAN
SIMON LAZARUS III
THOMAS E. SILFEN
DANIEL M. LEWIS
PAUL S. RYERSON
THOMAS D. NURMI
LAWRENCE C. MAISEL
LAURALEE A. MATTHEWS
THOMAS B. WILNER
ROBERT S. THORPE
ROBERT H. WOOD
ROSALIND C. COHEN
PAUL S. REICHLER
ROBERT J. JONES
LINDA D. FIENBERG
LEONARD H. BECKER
MARK L. YECIES
BURTON J. MALLINGER
LAWRENCE A. SCHNEIDER
FRANK WASHINGTON
DAVID P. TOWEY
JANE C. BERGNER
ROBERT K. GOLDMAN
PETER T. GROSSI, JR.
SCOTT B. SCHREIBER
LEONARD B. SIMON
JONATHAN D. SCHILLER
KENNETH V. HANDAL
JAMES A. BEAT
M. JANE SNYDER
ALBERT H. KRAMER
CLIFFORD D. STROMBERG
K. PETER SCHMIDT
JULIA M. DOBBS
JOHN C. ROEBUCK
EDWARD J. SPRIGGS, JR.
M. JEAN ANDERSON
PAUL W. SWEENEY, JR.
M. JONATHAN MEHLMAN

MARTIN RIGER
ROBERT PITOFSKY
OF COUNSEL

Hon. Harold R. Tyler
Deputy Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Judge Tyler:

I assume that you will be functioning with respect to the pending nominations to the Superior Court of the District of Columbia. I am writing to commend to you two of the nominees, Gladys Kessler and Peter Wolf. I recommended both of them to the Judicial Nominating Commission and was pleased to see that they are apparently on the list.

They are among the leaders of the Bar here in Washington. Both have made extraordinary contributions to the success of many activities of the D.C. Bar and to improvement of the administration of justice. Each of them has the qualities of character, intellect, and fairmindedness which I think would make them admirable judges.



12-22-76

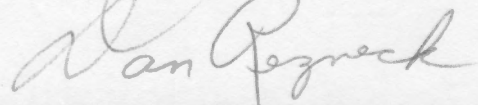
ARNOLD & PORTER

- 2 -

Please let me know if there is any other information about either of them with which I can furnish you.

With best regards.

Sincerely yours,

A handwritten signature in cursive script that reads "Daniel A. Rezneck".

Daniel A. Rezneck



THE WHITE HOUSE

WASHINGTON

January 3, 1977

MEMORANDUM FOR THE PRESIDENT

THROUGH: RICHARD B. CHENEY

FROM: PHILIP W. BUCHEN *P.W.B.*
DOUGLAS P. BENNETT *DPS*

SUBJECT: Associate Judges, Superior Court of the
District of Columbia, (PAS, Level V,
15-Year Term)

The purpose of this memorandum is to recommend the nomination of several individuals as Associate Judges, Superior Court of the District of Columbia.

We have received three lists of three candidates each from the District of Columbia Judicial Nomination Commission for your selection of three nominees to fill the vacancies created by the elevation of Judge Newman to the Court of Appeals, and the expiration of the terms of Judges Richard Atkinson and Harry Alexander. The Commission is a new body established in 1973 by the Home Rule Act (P. L. 93-198) to fill judicial vacancies in the District of Columbia. Within 30 days of the occurrence of a vacancy on the District of Columbia bench, the Commission must submit three candidates to the President; if the President fails to nominate one of the three within 60 days, the Commission makes the appointment with the advice and consent of the Senate. Although the 60 calendar day period lapsed in December, with respect to two of the lists submitted to you, the Department of Justice has advised that you have a reasonable time after the Senate convenes in which to submit nominations. We have advised the Commission that you will make these nominations as soon as practicable after the Senate returns. With respect to the third list, the 60-day period expires on January 14. The law allows you to pick from all nine candidates for these three vacancies.



Page 2
January 3, 1977

The Commission has submitted the following names for your selection;

George Washington Mitchell
Sole Practitioner

Robert Alan Shuker
Assistant United States Attorney
Chief of the Superior Court Division

Annice McBryde Wagner
People's Counsel
District of Columbia Public Service Commission

Diane Marie Sullivan
Partner, Jackson, Gray and Laskey

Paul Rainey Webber III
Partner, Dolphin, Branton, Stafford and Webber

Peter Henry Wolf
Partner, Wolf and Kovner

Gladys Kessler
Partner, Roisman, Kessler and Cashdan

Lee Arthur Satterfield
(Withdrawn from consideration, at his request,
for personal reasons)

Robert McCance Scott
Of Counsel, Sachs, Greenebaum and Tayler



January 3, 1977

The eight candidates remaining have been interviewed and have also been the subjects of a background investigation by the FBI. The following two candidates are outstanding, and we recommend their nomination:

Robert Alan Shuker

35; Brown University, A. B., 1963; University of Chicago, J. D., 1966. He has been employed in the United States Attorney's Office, Washington, D. C. from 1968 to the present and is currently serving as Chief of the Superior Court Division. From 1966 to 1968 he was an attorney with the Chicago Lawyer Project. He has also served as a Faculty Member at the National Trial Advocacy Institute, and as a guest lecturer at Georgetown University Law Center, American University Law School, and Yale University Law School. He has several commendations from the Department of Justice for outstanding service, and in 1976, he was the first recipient of the Harold J. Sullivan Award, an award for the "outstanding" Assistant U. S. Attorney. He is admitted to practice in Illinois and the District of Columbia. He is a resident of the District of Columbia (Fauntroy).

DECISION: Nominate Robert Alan Shuker
Associate Judge, Superior Court of the District of
Columbia

APPROVE: _____ DISAPPROVE: _____

Annice McBryde Wagner

39; Wayne State University, A. B., 1959; L. L. B., 1962. Since March 1975, she has served as People's Counsel of the District of Columbia, Public Service Commission. Previously, she served as General Counsel of the National Capital Housing Authority from



1973 to 1975; as an attorney with Houston and Gardner, 1965 to 1973; with the firm of Anival J. Grillo, 1965; and with the firm of Delong Harris, 1964-65. She is admitted to practice in the District of Columbia and Michigan. She is a resident of the District of Columbia (Fauntroy).

DECISION: Nominate Annice McBryde Wagner, Jr.
Associate Judge, Superior Court of the District of
Columbia

APPROVE: _____ DISAPPROVE: _____

For the third vacancy, we recommend:

Robert McCance Scott

55; University of Tulsa, A. B., 1942; George Washington University Law School, J. D. with distinction, 1945. He is currently "Of Counsel" to the firm of Sachs, Greenebaum and Tayler. Previously, he was a Partner in Gall, Lane, Powell and Kilcullen, 1967 to 1973; a sole practitioner from 1963 to 1967; a Partner in Clammer and Scott, 1960 to 1963; an Associate of Doerner, Rinehart, Stuart and Clammer, 1953 to 1960; an Assistant United States Attorney for the District of Columbia, 1948 to 1953; and an Associate of Covington and Burling, 1945 to 1948. He is admitted to practice in the District of Columbia. He is a Democrat and resides in the District of Columbia (Fauntroy).

The filling of this vacancy could be controversial, locally. With these nominations, the number of blacks on the D. C. Courts will decrease by one during your term. Moreover, Scott is ranked by Chief Judge Newman and the D. C. Corporation Counsel as being the least qualified of the eight candidates. However, Scott has been strongly endorsed as to experience and ability by



January 3, 1977

Gerard Reilly, former Chief Judge of the D. C. Court of Appeals, Ed McCabe, Edward Burling, Jr. and Newell Ellison of Covington and Burling, Frank Strickler, and many others. On the basis of merit, we believe Scott should be nominated notwithstanding the objections that have been raised.

DECISION: Nominate Robert McCance Scott
Associate Judge, Superior Court of the District of
Columbia

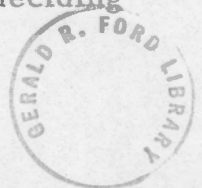
APPROVE: _____ DISAPPROVE: _____

On September 29, 1976, you nominated Edwin C. Brown to be an Associate Judge of the Superior Court of the District of Columbia. The nomination was not considered when the Senate adjourned on October 1 and, therefore, should be resubmitted to the Senate.

DECISION: Renominate Edwin C. Brown, Jr.
Associate Judge, Superior Court of the District of
Columbia

APPROVE: _____ DISAPPROVE: _____

On October 20, 1975, you nominated Judge Charles Halleck for reappointment to the Superior Court. His nomination was returned after the Senate adjourned. Judge Halleck has sued the D. C. Tenure Commission to enjoin disciplinary proceedings against him. An interim order by the Court has been issued which prohibits the Tenure Commission from reaching a final decision until the Court has ruled on the suit; a decision by the Court is expected shortly. We believe you should wait until the Court has acted before deciding whether to reappoint Judge Halleck.



Thursday 1/6/77

2:35 Ed McCabe called to express appreciation
for your processing through the
nomination of Robert Scott.



THE WHITE HOUSE

WASHINGTON

January 3, 1977

MEMORANDUM FOR THE PRESIDENT

THROUGH: RICHARD B. CHENEY

FROM: PHILIP W. BUCHEN ^{P.W.B.}
DOUGLAS P. BENNETT ^{DPS}

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Page 3

January 3, 1977

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DECISION: Nominate Robert Alan Shuker
Associate Judge, Superior Court of the District of
Columbia

APPROVE: _____ DISAPPROVE: _____

Annice McBryde Wagner

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1973 to 1975; as an attorney with Houston and Gardner, 1965 to 1973; with the firm of Anival J. Grillo, 1965; and with the firm of Delong Harris, 1964-65. She is admitted to practice in the District of Columbia and Michigan. She is a resident of the District of Columbia (Fauntroy).

DECISION: Nominate Annice McBryde Wagner, Jr.
Associate Judge, Superior Court of the District of
Columbia

APPROVE: _____ DISAPPROVE: _____

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Robert McCance Scott

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APPROVE: _____ DISAPPROVE: _____

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File

THE WHITE HOUSE

WASHINGTON

January 6, 1977

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

PHILIP W. BUCHEN
DOUGLAS P. BENNETT

FROM:

JAME E. CONNOR *JET*

SUBJECT:

Associate Judges, Superior Court
of the District of Columbia, (PAS,
Level V, 15-Year Term)

Confirming a phone call to your office, the President has reviewed your memorandum of January 3 on the above subject and has approved the nomination and renomination of the following as Associate Judges, Superior Court of the District of Columbia:

Robert Alan Shuker
Annice McBryde Wagner, Jr.
Robert McCance Scott
Edwin C. Brown, renomination

cc: Dick Cheney

