

Dear Jim,

8/6/75

I had to go into town today, the Times was available, and I write to draw your attention in particular to the Oselsner story on Burger's speech headed, "Burger Calls in Chief Justices to Lobby on State Needs."

Burger's thoughts and beliefs are not by their nature congenial to our needs but in this case he used language and expressed thoughts about needs that are quite relevant to use on Haile, Foreman and Ryan, to say nothing of earlier lawyers.

He probably had the Kunstler's in mind but can a Chief Justice lay down a set of principles for lawyers that does not apply equally to all:

"There has been an almost complete lack of judicial or professional regulation of members of the bar, and this has led to great tolerance for misbehavior and misconduct that brings the system of justice into disrepute and works to the disadvantage of the client and the public. "

And: "This is one of the most crucial problems of our profession and of the courts in particular."

If he had had in mind what Haile did to me alone in the recent Ray hearing and prior to it and what Ryan just did in 226-75 and in 2052-73, he could not have selected words more completely appropriate.

So, if and when it is possible, I would like to do something.

What Haile did can be measured in McRae's decision in its reference to me for which there is in the record not even a suggestion of rational basis for any reference to me.

In 226-75 it relates no less to the judge, and I'm not unwilling to tackle that at some point. His response to proof of that of which Burger complains, "misbehavior and misconduct," was to threaten us rather than address the proof that after he finished remained ~~un~~contradicted.

Were there support I'd be willing to file a civil action against Pratt.

And if there is ever a committee with the interest, to testify before it.

I agree with Burger. Something has to be done about all these obstructions and frustrations of justice.

That he may have had other examples in mind is immaterial. I like his principles as they apply to my experiences.

Best,

Burger Calls in Chief Justices To Lobby on State Court Needs

By LESLEY CELSNER

Special to The New York Times

8/6/75

WASHINGTON, Aug. 5 — Chief Justice Warren E. Burger exhorted the chief justices of the 50 states today to lobby in the state legislatures for the courts' needs. The courts "must be heard," he told them, on "every piece of legislation" that will have an impact on their work.

Mr. Burger also called on the chief justices, at their annual conference in Hot Springs, Va., to drastically improve their regulation of errant lawyers.

"There has been an almost complete lack of judicial or professional regulation of members of the bar, and this has led to great tolerance for misbehavior and misconduct that brings the system of justice into disrepute and works to the disadvantage of the client and of the public," he said.

The "bottleneck" in this failure to regulate lawyers, he went on, is believed, by those who have studied the matter, to be "the unwillingness of state supreme courts to assume responsibility."

"This is one of the most crucial problems of our profession and of the courts in particular," he contended.

Prison Troubles Cited

Mr. Burger, whose remarks were released here in excerpted form by the Supreme Court's information officer, Barrett McGurn, also urged the chief justices to exert leadership in other areas as well—including solving the problems of the prisons.

He noted that judicial power over prison systems was "limited." But, he suggested, the judges could "help focus the attention of the public and the legal profession" on the conditions in the prisons in their area. Then, he said, they could "let public opinion work its will."

Mr. Burger handed out some praise along with the criticism, applauding the work of the National Center for the State Courts and the creation of state-Federal judicial councils in most of the states, both projects he had advocated.

He concentrated, however, on his call for new "leadership" from the judges, both in communicating with legislatures and in disciplining lawyers. In so doing, he brought to the state level themes he had expressed before for the Federal judiciary.

Mr. Burger has repeatedly advocated — and practiced — closer communication between Congress and the Federal judiciary. In one instance this year,

he met with President Ford and Congressional leaders to discuss two problems he considered crucial: the lack of sufficient Federal judges and the inadequate pay for judges.

Defends Strong Ties

The Chief Justice explained and defended this practice in an interview with U.S. News and World Report published last March 31. Basically, he said that it was perfectly proper—despite the courts' supposed independent status—for the judiciary and Congress to communicate so long as the discussion involved "nuts and bolts" matters of "administration" rather than legal issues.

Mr. Burger implied that the concepts were even more important on the state level than on the Federal, saying, "The state courts are the basic system of justice of this country . . . four hundred ninety-seven Federal judges cannot begin to deal with the problems of the people of this country, as 20,000 state and local judges can do."

Mr. Burger told the chief justices that the courts had accepted their place as the "stepchildren of government," with the low funding that that role meant, "far too submissively."

Part of the problem is that legislatures are "overwhelmed" with demands from a variety of areas, he said. But part, he went on, was also "the absence of a spokesman for the courts in the halls of legislative bodies."

The chief justice said that the courts must communicate with the legislature not just on finances, but also on such issues as the jurisdiction of the courts, procedural rules, and the structure of the courts.

"These problems will not be solved unless you set in motion the forces that can develop remedies," he said. "You need no money to do this. You need no legislative authority to do this. You have the inherent power, and the public has a right to look to you for that leadership."