

6-9-1971

## 06-09-1971 Correspondence from Harlan to Burger

John Harlan  
*US Supreme Court Justice*

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June 9, 1971

No. 783 - Clay v. United States

Dear Chief:

My original Conference vote was to affirm, and it was of course on that basis that you assigned the opinion to me. As I tentatively indicated to the Conference a week or so ago and in later conversation with you, subsequent work on such an opinion brought me serious misgivings, and I am now convinced that the conviction should be reversed. I attach a memorandum setting forth the reasons that have brought me to this conclusion.

I regret very much that my switch in vote necessarily comes at the inopportune time of the closing days of the Term and that, with Brother Marshall out of the case, it will result in a 4-4 tie as the vote now stands. But seeing the case as I do, I cannot in good conscience vote otherwise.

Sincerely,

J. M. H.

The Chief Justice

CC: The Conference