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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 26, 1986

REMARKS BY THE PRESIDENT
AT SWEARING IN OF
CHIEF JUSTICE WILLIAM REHNQUIST
AND ASSOCIATE JUSTICE ANTONIN SCALIA

The East Room

11:02 A.M. EDT

THE PRESIDENT: Thank you. (Applause.) Members of the Court, and ladies and gentlemen, welcome to the White House and thank you for coming to witness this historic occasion. This ceremony is the culmination of our constitutional process which involves each of the three branches of government. I've had the honor of nominating Justice Rehnquist to be the next Chief Justice of the United States and Judge Scalia to be the Associate Justice of the United States Supreme Court. The Senate has confirmed my nominations and now -- I now ask that Chief Justice Warren Burger administer the constitutional oath of office to Justice Rehnquist and Judge Scalia.

Mr. Chief Justice.

CHIEF JUSTICE BURGER: Thank you, Mr. President.

Justice Rehnquist, before I ask you to take the oath I would like to make this observation with your lead, Mr. President, that we will have today the 16th Chief Justice of the United States in almost 200 years and Judge Scalia will be the 103rd Justice of the Court. For me it is not only an honor, but a personal privilege to take part in the ceremony involving Justice Rehnquist, who has been a colleague and a friend, a warm friend for 15 years and Judge Scalia, with whom I have worked on extra-judicial activities relating to the administration of justice.

And now, without more, I ask Justice Rehnquist, are you prepared to take the oath?

JUSTICE REHNQUIST: I am, Chief Justice.

CHIEF JUSTICE BURGER: If you will place your left hand on the Bible and raise your right hand and repeat after me:

I, William H. Rehnquist, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

JUSTICE REHNQUIST: I, William H. Rehnquist, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

CHIEF JUSTICE BURGER: My congratulations. (Applause.)

CHIEF JUSTICE REHNQUIST: Thank you. Mr. President, I know that I speak for all of my colleagues and for all of my family when I thank you for inviting us to these proceedings -- to conduct

MORE

these proceedings at the White House, signifying the transition in the Supreme Court.

Today Chief Justice Burger retires after 17 years of distinguished service. I receive your appointment to be Chief Justice. And Judge Scalia, by virtue of your appointment, becomes Justice Scalia. The process established by the Constitution is thus fulfilled.

At the conclusion of the second part of these proceedings in our Court this afternoon, I will become the 16th Chief Justice of the United States. Forty-five years ago, when Harlan Stone succeeded Charles Evans Hughes in that position, he wrote to his predecessor that he now realized he must bear some burdens which John Marshall did not know. So, I'm sure, it will be with me.

Mr. President, I am grateful beyond measure to you for affording me the opportunity to serve the Court and to serve my country as Chief Justice of the United States. And I pray that God will grant me the patience, the wisdom and the fortitude to worthily follow in the footsteps of my illustrious predecessors in discharging the responsibilities of this high office. (Applause.)

CHIEF JUSTICE BURGER: Judge Scalia, are you prepared to take the oath of office?

JUDGE SCALIA: I am, Chief Justice.

CHIEF JUSTICE BURGER: Would you approach, and if Mrs. Scalia will hold the Bible, place your left hand on the Bible, raising your right hand, and repeat after me.

I, Antonin Scalia, do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic, that I will bear true faith and allegiance to the same, that I take this obligation freely without any mental reservation or purpose of evasion, that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

JUDGE SCALIA: I, Antonin Scalia, do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic, that I will bear true faith and allegiance to the same, that I take this obligation freely without any mental reservation or purpose of evasion, that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

CHIEF JUSTICE BURGER: I congratulate you. (Applause.)

JUSTICE SCALIA: Thank you. This is an occasion for thank yous. It's very easy to know where to begin. It's very hard to know where to end. I begin, of course, with President Reagan, who has chosen to think me worthy of this appointment for which I'm very grateful and will do my best to live up to his confidence. I have to thank my wife, Maureen, who is an extraordinary woman and without whom I wouldn't be here or if I were here, it wouldn't have been as much fun along the way. (Laughter.) And I have to thank a lot of other people going way back to teachers in Public School 13 in Queens, Xavier High School in Manhattan, up to my colleagues on the Court on which I presently serve who are here today.

In the course of my last tour of duty on the Court of Appeals for the District of Columbia Circuit, I have come to know in one way or another all of the current Justices on the Supreme Court, I have an enormous respect for that institution and I have an enormous personal regard for each of them. I look forward to working with them in our common enterprise for many years to come.

Thank you all very much. (Applause.)

MORE

THE PRESIDENT: Mr. Chief Justice Burger, Mr. Chief Justice Rehnquist, members of the Court, and ladies and gentlemen; today we mark one of those moments of passage and renewal that has kept our republic alive and strong -- as Lincoln called it, the last best hope of man on Earth -- for all the years since its founding. One Chief Justice of our Supreme Court has stepped down. And together with a new Associate Justice, another has taken his place. As the Constitution requires, they've been nominated by the President, confirmed by the Senate and they've taken the oath of office that is required by the Constitution itself -- the oath "to support and defend the Constitution of the United States...so help me God."

In marking this moment of transition, let me first say, on behalf of all Americans, how grateful we are to Chief Justice Burger. For 17 years on the Supreme Court and for 13 years before that on the D.C. Circuit, the Chief Justice's service to the nation has been a monument of integrity and of dedication to principle -- and especially to the judiciary itself. But, Mr. Chief Justice, we know your service isn't ending today. How appropriate it is that you will be guiding the bicentennial celebration of that Constitution that you have served with such distinction over the years. And what a lasting contribution this will be. Because of your work, Americans in all walks of life will come to have an even more profound knowledge of the rule of law and the sacred document upon which it rests. Your service as Chief Justice has been outstanding and it's a mark of your generosity that you've agreed to offer yourself for additional service to your country and the law.

Our new Chief Justice is one of America's most brilliant jurists. From his days in law school, where he graduated first in his class, he has been recognized for his extraordinary legal insight. On the Court he has distinguished himself through the brilliance of his reason and the clarity and the craftsmanship of his opinions. I nominated William Rehnquist because I believe he will be a Chief Justice of historic stature.

Associate Justice Antonin Scalia is also a brilliant judge. He had a distinguished career as a lawyer and as a professor of law before joining the Court of Appeals four years ago. There he became known for his integrity and independence and for the force of his intellect. Chief Justice Rehnquist and Justice Scalia, congratulations to both of you.

With these two outstanding men taking their new positions, this is, as I said, a time of renewal in the great constitutional system that our forefathers gave us -- a good time to reflect on the inspired wisdom we call our Constitution, a time to remember that the Founding Fathers gave careful thought to the role of the Supreme Court. In a small room in Philadelphia in the summer of 1787, they debated whether the Justices should have life terms or not, whether they should be part of one or the other branches or not, and whether they should have the right to declare acts of the other branches of government unconstitutional or not.

They settled on a judiciary that would be independent and strong, but one whose power would also, they believed, be confined within the boundaries of a written Constitution and laws. In the convention and during the debates on ratification, some said that there was a danger of the courts making laws rather than interpreting them. The framers of our Constitution believed, however, that the judiciary they envisioned would be "the least dangerous" branch of the government, because, as Alexander Hamilton wrote in the Federalist Papers, it had "neither force nor will, but merely judgment." The Judicial Branch interprets the laws, while the power to make and execute those laws is balanced in the two elected branches. And this was one thing that Americans of all persuasions supported.

Hamilton and Thomas Jefferson, for example, disagreed on most of the great issues of their day, just as many have disagreed in ours. They helped begin our long tradition of loyal opposition, of standing on opposite sides of almost every question while still working together for the good of the country. And yet for all their differences they both agreed -- as should be -- on the importance of judicial restraint. "Our peculiar security," Jefferson warned, "is in the possession of a written Constitution." And he made this appeal: "Let us not make it a blank paper by construction."

Hamilton, Jefferson and all the Founding Fathers recognized that the Constitution is the supreme and ultimate expression of the will of the American people.

They saw that no one in office could remain above it, if freedom were to survive through the ages. They understood that, in the words of James Madison, if "the sense in which the Constitution was accepted and ratified by the nation is not the guide to expounding it, there can be no security for a faithful exercise of its powers."

The Founding Fathers were clear on this issue. For them, the question involved in judicial restraint was not -- as it is not -- will we have liberal or conservative courts? They knew that the courts, like the Constitution itself, must not be liberal or conservative. The question was and is, will we have government by the people?

And this is why the principle of judicial restraint has had an honored place in our tradition. Progressive as well as conservative judges have insisted on its importance -- Justice Holmes, for example, and Justice Felix Frankfurter, who once said, "The highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law."

Chief Justice Rehnquist and Justice Scalia have demonstrated in their opinions that they stand with Holmes and Frankfurter on this question. I nominated them with this principle very much in mind. And Chief Justice Burger, in his opinions, was also a champion of restraint. All three men understand that the Founding Fathers designed a system of checks and balances, and of limited government, because they knew that the great preserver of our freedoms would never be the courts of either of the other branches alone.

It would always be the totality of our Constitutional system, with no one part getting the upper hand. And that's why the judiciary must be independent. And that is why it also -- it must exercise restraint.

So our protection is in the Constitutional system, and one other place as well. Lincoln asked, "What constitutes the bulwark of our own liberty? And he answered, "It is in the love of liberty which God has planted in us." Yes, we the people are the ultimate defenders of freedom. We the people created the government and gave it its powers. And our love of liberty, and our spiritual strength, our dedication to the Constitution are what, in the end, preserves our great nation and this great hope for all mankind.

All of us, as Americans, are joined in a great common enterprise to write the story of freedom -- the greatest adventure mankind has ever known and one we must pass on to our children and their children -- remembering that freedom is never more than one generation away from extinction.

The warning, more than a century ago, attributed to Daniel Webster, remains as timeless as the document he revered. "Miracles do not cluster," he said, "Hold on to the Constitution of the United States of America and to the Republic for which it stands -- what has happened once in 6,000 years may never happen again. Hold on to your Constitution, for if the American Constitution shall fall there will be anarchy throughout the world."

Holding on to the Constitution -- this has been the service of Chief Justice Burger, and a grateful nation honors him today. So, too, I can think of no two better public servants to continue that work than Chief Justice Rehnquist and Justice Scalia. You both have our nation's heartfelt wishes for success and happiness.

Thank you all for joining in this important ceremony. I know that, in a few moments, our new Chief Justice and Associate Justice look forward to greeting each of you in the Cross Hall.

Thank you again. (Applause.)

END

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The Documentary History of the Supreme Court of the United States, 1789-1800

Volume One
Part 1
Appointments and Proceedings

With a Foreword by Warren E. Burger,
Chief Justice of the United States

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THE WHITE HOUSE

WASHINGTON

September 26, 1986

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY R. DOLAN *AD*
SUBJECT: Swearing-in Ceremony

Attached are new pages 3 and 3.1 for the Rehnquist swearing in ceremony.

After research discovered that today is the anniversary of the swearing in of the first Chief Justice of the United States, John Jay, Senior Staff recommended that we make mention of this in your remarks. The insert can be found at the top of page 3.1.

Thank you.

YOUR SERVICE AS CHIEF JUSTICE HAS BEEN
OUTSTANDING AND IT IS A MARK OF YOUR
GENEROSITY THAT YOU HAVE AGREED TO OFFER
YOURSELF FOR ADDITIONAL SERVICE TO YOUR
COUNTRY AND THE LAW.

OUR NEW CHIEF JUSTICE IS ONE OF
AMERICA'S MOST BRILLIANT JURISTS. FROM HIS
DAYS IN LAW SCHOOL, WHERE HE GRADUATED FIRST
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COURT HE HAS DISTINGUISHED HIMSELF THROUGH
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CLARITY, THE CRAFTSMANSHIP OF HIS OPINIONS.
I NOMINATED WILLIAM REHNQUIST BECAUSE I
BELIEVE HE WILL BE A CHIEF JUSTICE OF
HISTORIC STATURE.

(CONTINUE ON PAGE 3.1)

I AM PARTICULARLY DELIGHTED HE COULD BE SWORN IN TODAY, THE ANNIVERSARY OF THE SWEARING-IN OF THE FIRST CHIEF JUSTICE, JOHN JAY.

ASSOCIATE JUSTICE ANTONIN SCALIA IS ALSO A BRILLIANT JUDGE. HE HAD A DISTINGUISHED CAREER AS A LAWYER AND AS A PROFESSOR OF LAW BEFORE JOINING THE COURT OF APPEALS 4 YEARS AGO.

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SEPTEMBER 26, 1986

OPENING REMARKS FOR SWEARING IN CEREMONY

MEMBERS OF THE COURT, LADIES &
GENTLEMEN:

WELCOME TO THE WHITE HOUSE AND THANK YOU FOR COMING TO WITNESS THIS HISTORIC OCCASION. THIS CEREMONY IS THE CULMINATION OF OUR CONSTITUTIONAL PROCESS THAT INVOLVES EACH OF THE THREE BRANCHES OF GOVERNMENT. I HAVE HAD THE HONOR OF NOMINATING JUSTICE REHNQUIST TO BE THE NEXT CHIEF JUSTICE OF THE UNITED STATES AND JUDGE SCALIA TO BE AN ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT. THE SENATE HAS CONFIRMED MY NOMINATIONS AND I NOW ASK THAT CHIEF JUSTICE WARREN BURGER ADMINISTER THE CONSTITUTIONAL OATH OF OFFICE TO JUSTICE REHNQUIST AND JUDGE SCALIA...

MR. CHIEF JUSTICE...

(JUDGE)

SEPTEMBER 26, 1986

SWEARING IN OF CHIEF JUSTICE WILLIAM
REHNQUIST AND JUSTICE ANTONIN SCALIA

MR. CHIEF JUSTICE BURGER, MR. CHIEF JUSTICE REHNQUIST, MEMBERS OF THE COURT, LADIES AND GENTLEMEN: TODAY WE MARK ONE OF THOSE MOMENTS OF PASSAGE AND RENEWAL THAT HAS KEPT OUR REPUBLIC ALIVE AND STRONG -- AS LINCOLN CALLED IT THIS LAST BEST HOPE OF MAN ON EARTH -- FOR ALL THE YEARS SINCE ITS FOUNDING. ONE CHIEF JUSTICE OF OUR SUPREME COURT HAS STEPPED DOWN, AND TOGETHER WITH A NEW ASSOCIATE JUSTICE, ANOTHER HAS TAKEN HIS PLACE. AS THE CONSTITUTION REQUIRES, THEY HAVE BEEN NOMINATED BY THE PRESIDENT, CONFIRMED BY THE SENATE AND THEY HAVE TAKEN THE OATH THAT IS REQUIRED BY THE CONSTITUTION ITSELF -- THE OATH "TO SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES... SO HELP ME GOD."

IN MARKING THIS MOMENT OF TRANSITION, LET ME FIRST SAY, ON BEHALF OF ALL AMERICANS, HOW GRATEFUL WE ARE TO CHIEF JUSTICE BURGER. FOR 17 YEARS ON THE SUPREME COURT AND FOR 13 YEARS BEFORE THAT ON THE COURT OF APPEALS FOR THE D.C. CIRCUIT, THE CHIEF JUSTICE'S SERVICE TO THE NATION HAS BEEN A MONUMENT OF INTEGRITY AND OF DEDICATION TO PRINCIPLE -- AND ESPECIALLY TO THE JUDICIARY ITSELF. BUT, MR. CHIEF JUSTICE, WE KNOW YOUR SERVICE ISN'T ENDING TODAY. HOW APPROPRIATE IT IS THAT YOU WILL BE GUIDING THE BICENTENNIAL CELEBRATION OF THAT CONSTITUTION THAT YOU HAVE SERVED WITH SUCH DISTINCTION OVER THE YEARS. AND WHAT A LASTING CONTRIBUTION THIS WILL BE. BECAUSE OF YOUR WORK, AMERICANS IN ALL WALKS OF LIFE WILL COME TO HAVE AN EVEN MORE PROFOUND KNOWLEDGE OF THE RULE OF LAW AND THE SACRED DOCUMENT UPON WHICH IT RESTS.

YOUR SERVICE AS CHIEF JUSTICE HAS BEEN OUTSTANDING AND IT IS A MARK OF YOUR GENEROSITY THAT YOU HAVE AGREED TO OFFER YOURSELF FOR ADDITIONAL SERVICE TO YOUR COUNTRY AND THE LAW.

OUR NEW CHIEF JUSTICE IS ONE OF AMERICA'S MOST BRILLIANT JURISTS. FROM HIS DAYS IN LAW SCHOOL, WHERE HE GRADUATED FIRST IN HIS CLASS, HE HAS BEEN RECOGNIZED FOR HIS EXTRAORDINARY LEGAL INSIGHT. ON THE COURT HE HAS DISTINGUISHED HIMSELF THROUGH THE BRILLIANCE OF HIS REASON AND THE CLARITY, THE CRAFTSMANSHIP OF HIS OPINIONS. I NOMINATED WILLIAM REHNQUIST BECAUSE I BELIEVE HE WILL BE A CHIEF JUSTICE OF HISTORIC STATURE.

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THERE HE BECAME KNOWN FOR HIS INTEGRITY AND INDEPENDENCE AND FOR THE FORCE OF HIS INTELLECT. CHIEF JUSTICE REHNQUIST AND JUSTICE SCALIA, CONGRATULATIONS TO BOTH OF YOU.

WITH THESE TWO OUTSTANDING MEN TAKING THEIR NEW POSITIONS, THIS IS, AS I SAID, A TIME OF RENEWAL IN THE GREAT CONSTITUTIONAL SYSTEM THAT OUR FOREFATHERS GAVE US -- A GOOD TIME TO REFLECT ON THE INSPIRED WISDOM WE CALL OUR CONSTITUTION, A TIME TO REMEMBER THAT THE FOUNDING FATHERS GAVE CAREFUL THOUGHT TO THE ROLE OF THE SUPREME COURT. IN A SMALL ROOM IN PHILADELPHIA IN THE SUMMER OF 1787, THEY DEBATED WHETHER THE JUSTICES SHOULD HAVE LIFE TERMS OR NOT, WHETHER THEY SHOULD BE PART OF ONE OF THE OTHER BRANCHES OR NOT AND WHETHER THEY SHOULD HAVE THE RIGHT TO DECLARE ACTS OF THE OTHER BRANCHES OF GOVERNMENT UNCONSTITUTIONAL OR NOT.

THEY SETTLED ON A JUDICIARY THAT WOULD BE INDEPENDENT AND STRONG, BUT ONE WHOSE POWER WOULD ALSO, THEY BELIEVED, BE CONFINED WITHIN THE BOUNDARIES OF A WRITTEN CONSTITUTION AND LAWS. IN THE CONVENTION AND DURING THE DEBATES ON RATIFICATION, SOME SAID THAT THERE WAS A DANGER OF THE COURTS MAKING LAWS RATHER THAN INTERPRETING THEM. THE FRAMERS OF OUR CONSTITUTION BELIEVED, HOWEVER, THAT THE JUDICIARY THEY ENVISIONED WOULD BE "THE LEAST DANGEROUS" BRANCH OF THE GOVERNMENT, BECAUSE, AS ALEXANDER HAMILTON WROTE IN THE FEDERALIST PAPERS, IT HAD "NEITHER FORCE NOR WILL, BUT MERELY JUDGMENT." THE JUDICIAL BRANCH INTERPRETS THE LAWS, WHILE THE POWER TO MAKE AND EXECUTE THOSE LAWS IS BALANCED IN THE TWO ELECTED BRANCHES. AND THIS WAS ONE THING THAT AMERICANS OF ALL PERSUASIONS SUPPORTED.

HAMILTON AND THOMAS JEFFERSON, FOR EXAMPLE, DISAGREED ON MOST OF THE GREAT ISSUES OF THEIR DAY, JUST AS MANY OF US HAVE DISAGREED IN OURS. THEY HELPED BEGIN OUR LONG TRADITION OF LOYAL OPPOSITION, OF STANDING ON OPPOSITE SIDES OF ALMOST EVERY QUESTION WHILE STILL WORKING TOGETHER FOR THE GOOD OF THE COUNTRY. YET FOR ALL THEIR DIFFERENCES THEY BOTH AGREED -- AS SHOULD WE -- ON THE IMPORTANCE OF JUDICIAL RESTRAINT. "OUR PECULIAR SECURITY," JEFFERSON WARNED, "IS IN THE POSSESSION OF A WRITTEN CONSTITUTION." AND HE MADE THIS APPEAL: "LET US NOT MAKE IT A BLANK PAPER BY CONSTRUCTION."

HAMILTON, JEFFERSON AND ALL THE FOUNDING FATHERS RECOGNIZED THAT THE CONSTITUTION IS THE SUPREME AND ULTIMATE EXPRESSION OF THE WILL OF THE AMERICAN PEOPLE.

THEY SAW THAT NO ONE IN OFFICE COULD REMAIN ABOVE IT, IF FREEDOM WERE TO SURVIVE THROUGH THE AGES. THEY UNDERSTOOD THAT, IN THE WORDS OF JAMES MADISON, IF "THE SENSE IN WHICH THE CONSTITUTION WAS ACCEPTED AND RATIFIED BY THE NATION... [IS] NOT THE GUIDE TO EXPOUNDING IT, THERE CAN BE NO SECURITY FOR... A FAITHFUL EXERCISE OF ITS POWERS."

THE FOUNDING FATHERS WERE CLEAR ON THIS ISSUE. FOR THEM, THE QUESTION INVOLVED IN JUDICIAL RESTRAINT WAS NOT -- AS IT IS NOT -- WILL WE HAVE LIBERAL OR CONSERVATIVE COURTS? THEY KNEW THAT THE COURTS, LIKE THE CONSTITUTION ITSELF, MUST NOT BE LIBERAL OR CONSERVATIVE. THE QUESTION WAS AND IS, WILL WE HAVE A GOVERNMENT BY THE PEOPLE.

AND THIS IS WHY THE PRINCIPLE OF JUDICIAL RESTRAINT HAS HAD AN HONORED PLACE IN OUR TRADITION.

PROGRESSIVE AS WELL AS CONSERVATIVE JUDGES HAVE INSISTED ON ITS IMPORTANCE -- JUSTICE HOLMES, FOR EXAMPLE, AND JUSTICE FELIX FRANKFURTER, WHO ONCE SAID, "THE HIGHEST EXERCISE OF JUDICIAL DUTY IS TO SUBORDINATE ONE'S PERSONAL PULLS AND ONE'S PRIVATE VIEWS TO THE LAW...."

CHIEF JUSTICE REHNQUIST AND JUSTICE SCALIA HAVE DEMONSTRATED IN THEIR OPINIONS THAT THEY STAND WITH HOLMES AND FRANKFURTER ON THIS QUESTION. I NOMINATED THEM WITH THIS PRINCIPLE VERY MUCH IN MIND. AND CHIEF JUSTICE BURGER, IN HIS OPINIONS, WAS ALSO A CHAMPION OF RESTRAINT. ALL THREE MEN UNDERSTAND THAT THE FOUNDING FATHERS DESIGNED A SYSTEM OF CHECKS AND BALANCES, AND OF LIMITED GOVERNMENT, BECAUSE THEY KNEW THAT THE GREAT PRESERVER OF OUR FREEDOMS WOULD NEVER BE THE COURTS OR EITHER OF THE OTHER BRANCHES ALONE.

IT WOULD ALWAYS BE THE TOTALITY OF OUR CONSTITUTIONAL SYSTEM, WITH NO ONE PART GETTING THE UPPER HAND. THAT IS WHY THE JUDICIARY MUST BE INDEPENDENT. AND THAT IS ALSO WHY IT MUST EXERCISE RESTRAINT.

SO OUR PROTECTION IS IN THE CONSTITUTIONAL SYSTEM... AND ONE OTHER PLACE AS WELL. LINCOLN ASKED, "WHAT CONSTITUTES THE BULWARK OF OUR OWN LIBERTY?" AND HE ANSWERED, "IT IS IN THE LOVE OF LIBERTY WHICH GOD HAS PLANTED IN US." YES, WE THE PEOPLE ARE THE ULTIMATE DEFENDERS OF FREEDOM. WE THE PEOPLE CREATED THE GOVERNMENT AND GAVE IT ITS POWERS. AND OUR LOVE OF LIBERTY, OUR SPIRITUAL STRENGTH, OUR DEDICATION TO THE CONSTITUTION ARE WHAT, IN THE END, PRESERVES OUR GREAT NATION AND THIS GREAT HOPE FOR ALL MANKIND.

ALL OF US, AS AMERICANS, ARE JOINED IN A GREAT COMMON ENTERPRISE TO WRITE THE STORY OF FREEDOM -- THE GREATEST ADVENTURE MANKIND HAS EVER KNOWN AND ONE WE MUST PASS ONTO OUR CHILDREN AND THEIR CHILDREN -- REMEMBERING THAT FREEDOM IS NEVER MORE THAN ONE GENERATION AWAY FROM EXTINCTION.

THE WARNING, MORE THAN A CENTURY AGO, ATTRIBUTED TO DANIEL WEBSTER, REMAINS AS TIMELESS AS THE DOCUMENT HE REVERED. "MIRACLES DO NOT CLUSTER," HE SAID, "HOLD ONTO THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND TO THE REPUBLIC FOR WHICH IT STANDS -- WHAT HAS HAPPENED ONCE IN 6,000 YEARS MAY NEVER HAPPEN AGAIN. HOLD ONTO YOUR CONSTITUTION, FOR IF THE AMERICAN CONSTITUTION SHALL FALL THERE WILL BE ANARCHY THROUGHOUT THE WORLD."

- 11 -

HOLDING ONTO THE CONSTITUTION --
THIS HAS BEEN THE SERVICE OF CHIEF JUSTICE
BURGER, AND A GRATEFUL NATION HONORS HIM
TODAY. SO, TOO, I CAN THINK OF NO TWO
BETTER PUBLIC SERVANTS TO CONTINUE THAT WORK
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HEARTFELT WISHES FOR SUCCESS AND HAPPINESS.

THANK YOU ALL FOR JOINING IN THIS
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MOMENTS, OUR NEW CHIEF JUSTICE AND ASSOCIATE
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- in
of
the
Chief
Justice
of
United
States
by

(JUDGE)

SEPTEMBER 26, 1986

SWEARING IN OF CHIEF JUSTICE WILLIAM REHNQUIST AND JUSTICE ANTONIN SCALIA

MR. CHIEF JUSTICE BURGER, MR. CHIEF JUSTICE REHNQUIST, MEMBERS OF THE COURT, LADIES AND GENTLEMEN: TODAY WE MARK ONE OF THOSE MOMENTS OF PASSAGE AND RENEWAL THAT HAS KEPT OUR REPUBLIC ALIVE AND STRONG -- AS LINCOLN CALLED IT THIS LAST BEST HOPE OF MAN ON EARTH -- FOR ALL THE YEARS SINCE ITS FOUNDING. ONE CHIEF JUSTICE OF OUR SUPREME COURT HAS STEPPED DOWN, AND TOGETHER WITH A NEW ASSOCIATE JUSTICE, ANOTHER HAS TAKEN HIS PLACE. AS THE CONSTITUTION REQUIRES, THEY HAVE BEEN NOMINATED BY THE PRESIDENT, CONFIRMED BY THE SENATE AND THEY HAVE TAKEN THE OATH THAT IS REQUIRED BY THE CONSTITUTION ITSELF -- THE OATH "TO SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES... SO HELP ME GOD."

IN MARKING THIS MOMENT OF TRANSITION,
LET ME FIRST SAY, ON BEHALF OF ALL
AMERICANS, HOW GRATEFUL WE ARE TO CHIEF
JUSTICE BURGER. FOR 17 YEARS ON THE SUPREME
COURT AND FOR 13 YEARS BEFORE THAT ON THE
COURT OF APPEALS FOR THE D.C. CIRCUIT,
THE CHIEF JUSTICE'S SERVICE TO THE NATION
HAS BEEN A MONUMENT OF INTEGRITY AND OF
DEDICATION TO PRINCIPLE -- AND ESPECIALLY
TO THE JUDICIARY ITSELF. BUT, MR. CHIEF
JUSTICE, WE KNOW YOUR SERVICE ISN'T ENDING
TODAY. HOW APPROPRIATE IT IS THAT YOU WILL
BE GUIDING THE BICENTENNIAL CELEBRATION OF
THAT CONSTITUTION THAT YOU HAVE SERVED WITH
SUCH DISTINCTION OVER THE YEARS. AND WHAT
A LASTING CONTRIBUTION THIS WILL BE.
BECAUSE OF YOUR WORK, AMERICANS IN ALL WALKS
OF LIFE WILL COME TO HAVE AN EVEN MORE
PROFOUND KNOWLEDGE OF THE RULE OF LAW AND
THE SACRED DOCUMENT UPON WHICH IT RESTS.

YOUR SERVICE AS CHIEF JUSTICE HAS BEEN OUTSTANDING AND IT IS A MARK OF YOUR GENEROSITY THAT YOU HAVE AGREED TO OFFER YOURSELF FOR ADDITIONAL SERVICE TO YOUR COUNTRY AND THE LAW.

OUR NEW CHIEF JUSTICE IS ONE OF AMERICA'S MOST BRILLIANT JURISTS. FROM HIS DAYS IN LAW SCHOOL, WHERE HE GRADUATED FIRST IN HIS CLASS, HE HAS BEEN RECOGNIZED FOR HIS EXTRAORDINARY LEGAL INSIGHT. ON THE COURT HE HAS DISTINGUISHED HIMSELF THROUGH THE BRILLIANCE OF HIS REASON AND THE CLARITY, THE CRAFTSMANSHIP OF HIS OPINIONS.

I NOMINATED WILLIAM REHNQUIST BECAUSE I BELIEVE HE WILL BE A CHIEF JUSTICE OF HISTORIC STATURE.

I am particularly delighted he could be sworn in today, the anniversary of
ASSOCIATE JUSTICE ANTONIN SCALIA

IS ALSO A BRILLIANT JUDGE. HE HAD A DISTINGUISHED CAREER AS A LAWYER AND AS A PROFESSOR OF LAW BEFORE JOINING THE COURT OF APPEALS 4 YEARS AGO.

*the court - in
with the
Chief Justice
John*

THERE HE BECAME KNOWN FOR HIS INTEGRITY AND INDEPENDENCE AND FOR THE FORCE OF HIS INTELLECT. CHIEF JUSTICE REHNQUIST AND JUSTICE SCALIA, CONGRATULATIONS TO BOTH OF YOU.

WITH THESE TWO OUTSTANDING MEN TAKING THEIR NEW POSITIONS, THIS IS, AS I SAID, A TIME OF RENEWAL IN THE GREAT CONSTITUTIONAL SYSTEM THAT OUR FOREFATHERS GAVE US -- A GOOD TIME TO REFLECT ON THE INSPIRED WISDOM WE CALL OUR CONSTITUTION, A TIME TO REMEMBER THAT THE FOUNDING FATHERS GAVE CAREFUL THOUGHT TO THE ROLE OF THE SUPREME COURT. IN A SMALL ROOM IN PHILADELPHIA IN THE SUMMER OF 1787, THEY DEBATED WHETHER THE JUSTICES SHOULD HAVE LIFE TERMS OR NOT, WHETHER THEY SHOULD BE PART OF ONE OF THE OTHER BRANCHES OR NOT AND WHETHER THEY SHOULD HAVE THE RIGHT TO DECLARE ACTS OF THE OTHER BRANCHES OF GOVERNMENT UNCONSTITUTIONAL OR NOT.

THEY SETTLED ON A JUDICIARY THAT WOULD BE INDEPENDENT AND STRONG, BUT ONE WHOSE POWER WOULD ALSO, THEY BELIEVED, BE CONFINED WITHIN THE BOUNDARIES OF A WRITTEN CONSTITUTION AND LAWS. IN THE CONVENTION AND DURING THE DEBATES ON RATIFICATION, SOME SAID THAT THERE WAS A DANGER OF THE COURTS MAKING LAWS RATHER THAN INTERPRETING THEM. THE FRAMERS OF OUR CONSTITUTION BELIEVED, HOWEVER, THAT THE JUDICIARY THEY ENVISIONED WOULD BE "THE LEAST DANGEROUS" BRANCH OF THE GOVERNMENT, BECAUSE, AS ALEXANDER HAMILTON WROTE IN THE FEDERALIST PAPERS, IT HAD "NEITHER FORCE NOR WILL, BUT MERELY JUDGMENT." THE JUDICIAL BRANCH INTERPRETS THE LAWS, WHILE THE POWER TO MAKE AND EXECUTE THOSE LAWS IS BALANCED IN THE TWO ELECTED BRANCHES. AND THIS WAS ONE THING THAT AMERICANS OF ALL PERSUASIONS SUPPORTED.

HAMILTON AND THOMAS JEFFERSON, FOR EXAMPLE, DISAGREED ON MOST OF THE GREAT ISSUES OF THEIR DAY, JUST AS MANY OF US HAVE DISAGREED IN OURS. THEY HELPED BEGIN OUR LONG TRADITION OF LOYAL OPPOSITION, OF STANDING ON OPPOSITE SIDES OF ALMOST EVERY QUESTION WHILE STILL WORKING TOGETHER FOR THE GOOD OF THE COUNTRY. YET FOR ALL THEIR DIFFERENCES THEY BOTH AGREED -- AS SHOULD WE -- ON THE IMPORTANCE OF JUDICIAL RESTRAINT. "OUR PECULIAR SECURITY," JEFFERSON WARNED, "IS IN THE POSSESSION OF A WRITTEN CONSTITUTION." AND HE MADE THIS APPEAL: "LET US NOT MAKE IT A BLANK PAPER BY CONSTRUCTION."

HAMILTON, JEFFERSON AND ALL THE FOUNDING FATHERS RECOGNIZED THAT THE CONSTITUTION IS THE SUPREME AND ULTIMATE EXPRESSION OF THE WILL OF THE AMERICAN PEOPLE.

THEY SAW THAT NO ONE IN OFFICE COULD REMAIN ABOVE IT, IF FREEDOM WERE TO SURVIVE THROUGH THE AGES. THEY UNDERSTOOD THAT, IN THE WORDS OF JAMES MADISON, IF "THE SENSE IN WHICH THE CONSTITUTION WAS ACCEPTED AND RATIFIED BY THE NATION... [IS] NOT THE GUIDE TO EXPOUNDING IT, THERE CAN BE NO SECURITY FOR... A FAITHFUL EXERCISE OF ITS POWERS."

THE FOUNDING FATHERS WERE CLEAR ON THIS ISSUE. FOR THEM, THE QUESTION INVOLVED IN JUDICIAL RESTRAINT WAS NOT -- AS IT IS NOT -- WILL WE HAVE LIBERAL OR CONSERVATIVE COURTS? THEY KNEW THAT THE COURTS, LIKE THE CONSTITUTION ITSELF, MUST NOT BE LIBERAL OR CONSERVATIVE. THE QUESTION WAS AND IS, WILL WE HAVE A GOVERNMENT BY THE PEOPLE.

AND THIS IS WHY THE PRINCIPLE OF JUDICIAL RESTRAINT HAS HAD AN HONORED PLACE IN OUR TRADITION.

PROGRESSIVE AS WELL AS CONSERVATIVE JUDGES HAVE INSISTED ON ITS IMPORTANCE -- JUSTICE HOLMES, FOR EXAMPLE, AND JUSTICE FELIX FRANKFURTER, WHO ONCE SAID, "THE HIGHEST EXERCISE OF JUDICIAL DUTY IS TO SUBORDINATE ONE'S PERSONAL PULLS AND ONE'S PRIVATE VIEWS TO THE LAW...."

CHIEF JUSTICE REHNQUIST AND JUSTICE SCALIA HAVE DEMONSTRATED IN THEIR OPINIONS THAT THEY STAND WITH HOLMES AND FRANKFURTER ON THIS QUESTION. I NOMINATED THEM WITH THIS PRINCIPLE VERY MUCH IN MIND. AND CHIEF JUSTICE BURGER, IN HIS OPINIONS, WAS ALSO A CHAMPION OF RESTRAINT. ALL THREE MEN UNDERSTAND THAT THE FOUNDING FATHERS DESIGNED A SYSTEM OF CHECKS AND BALANCES, AND OF LIMITED GOVERNMENT, BECAUSE THEY KNEW THAT THE GREAT PRESERVER OF OUR FREEDOMS WOULD NEVER BE THE COURTS OR EITHER OF THE OTHER BRANCHES ALONE.

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JUSTICE LOOK FORWARD TO GREETING EACH OF YOU
IN THE MAIN HALL.

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/25/86 ACTION/CONCURRENCE/COMMENT DUE BY: --

SUBJECT: REMARKS: SWEARING IN OF CHIEF JUSTICE WILLIAM REHNQUIST
AND JUSTICE ANTONIN SCALIA

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CHEW	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	THOMAS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WALLISON	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	DOLAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KINGON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MASENG	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: The attached has been forwarded to the President.

RESPONSE:

RR - none

David L. Chew
Staff Secretary
Ext. 2702

(Judge/ARD)
September 25, 1986
11:30 a.m. *PR*

PRESIDENTIAL REMARKS: SWEARING IN OF CHIEF JUSTICE WILLIAM
REHNQUIST AND JUSTICE ANTONIN SCALIA
FRIDAY, SEPTEMBER 26, 1986

Mr. Chief Justice Burger, Mr. Chief Justice Rehnquist,
Members of the Court, Ladies and Gentlemen: Today we mark one of
those moments of passage and renewal that has kept our republic
alive and strong -- as Lincoln called it this last best hope of
man on Earth -- for all the years since its founding. One chief
justice of our Supreme Court has stepped down. And together with
a new associate justice, another has taken his place. As the
Constitution requires, they have been nominated by the President,
confirmed by the Senate and they have taken the oath that is
required by the Constitution itself -- the oath "to support and
defend the Constitution of the United States... so help me God."

In marking this moment of transition, let me first say, on
behalf of all Americans, how grateful we are to Chief Justice
Burger. For 17 years on the Supreme Court and for 13 years
before that on the Court of Appeals for the D.C. Circuit, the
Chief Justice's service to the Nation has been a monument of
integrity and of dedication to principle -- and especially to the
judiciary itself. But, Mr. Chief Justice, we know your service
isn't ending today. How appropriate it is that you will be
guiding the bicentennial celebration of that Constitution that
you have served with such distinction over the years. And what a
lasting contribution this will be. Because of your work,
Americans in all walks of life will come to have an even more
profound knowledge of the rule of law and the sacred document

upon which it rests. Your service as Chief Justice has been outstanding and it is a mark of your generosity that you have agreed to offer yourself for additional service to your country and the law.

Our new Chief Justice is one of America's most brilliant jurists. From his days in law school, where he graduated first in his class, he has been recognized for his extraordinary legal insight. On the Court he has distinguished himself through the brilliance of his reason and the clarity, the craftsmanship of his opinions. I nominated William Rehnquist because I believe he will be a Chief Justice of historic stature.

Associate Justice Antonin Scalia is also a brilliant judge. He had a distinguished career as a lawyer and as a professor of law before joining the Court of Appeals 4 years ago. There he became known for his integrity and independence and for the force of his intellect. Chief Justice Rehnquist and Justice Scalia, congratulations to both of you.

With these two outstanding men taking their new positions, this is, as I said, a time of renewal in the great Constitutional system that our forefathers gave us -- a good time to reflect on the inspired wisdom we call our Constitution, a time to remember that the Founding Fathers gave careful thought to the role of the Supreme Court. In a small room in Philadelphia in the summer of 1787, they debated whether the justices should have life terms or not, whether they should be part of one of the other branches or not and whether they should have the right to declare acts of the other branches of Government unconstitutional or not. They

settled on a judiciary that would be independent and strong, but one whose power would also, they believed, be confined within the boundaries of a written constitution and laws. In the Convention and during the debates on ratification, some said that there was a danger of the courts making laws rather than interpreting them. The Framers of our Constitution believed, however, that the judiciary they envisioned would be "the least dangerous" branch of the government, because, as Alexander Hamilton wrote in the Federalist Papers, it had "neither force nor will but merely judgment." The Judicial Branch interprets the laws, while the power to make and execute those laws is balanced in the two elected branches. And this was one thing that Americans of all persuasions supported.

Hamilton and Thomas Jefferson, for example, disagreed on most of the great issues of their day, just as many of us have disagreed in ours. They helped begin our long tradition of loyal opposition, of standing on opposite sides of almost every question while still working together for the good of the country. Yet for all their differences they both agreed -- as should we -- on the importance of judicial restraint. "Our peculiar security," Jefferson warned, "is in the possession of a written Constitution." And he made this appeal: "Let us not make it a blank paper by construction."

Hamilton, Jefferson and all the Founding Fathers recognized that the Constitution is the supreme and ultimate expression of the will of the American people. They saw that no one in office could remain above it, if freedom were to survive through the

ages. They understood that, in the words of James Madison, if "the sense in which the Constitution was accepted and ratified by the nation... [is] not the guide to expounding it, there can be no security for... a faithful exercise of its powers."

The Founding Fathers were clear on this issue. For them, the question involved in judicial restraint was not -- as it is not -- will we have liberal or conservative courts? They knew that the courts, like the Constitution itself, must not be liberal or conservative. The question was and is, will we have a Government by the people.

And this is why the principle of judicial restraint has had an honored place in our tradition. Progressive as well as conservative judges have insisted on its importance -- Justice Holmes, for example, and Justice Felix Frankfurter, who once said, "[T]he highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law...."

Chief Justice Rehnquist and Justice Scalia have demonstrated in their opinions that they stand with Holmes and Frankfurter on this question. I nominated them with this principle very much in mind. They understand that the Founding Fathers designed a system of checks and balances, and of limited Government, because they knew that the great preserver of our freedoms would never be the courts or either of the other branches alone. It would always be the totality of our Constitutional system, with no one part getting the upper hand. That is why the judiciary must be independent. And that is also why it must exercise restraint.

So our protection is in the Constitutional system... and one other place as well. Lincoln asked, "What constitutes the bulwark of our own liberty?" And he answered, "[It] is in the love of liberty which God has planted in us." Yes, we the people are the ultimate defenders of freedom. We the people created the government and gave it its powers. And our love of liberty, our spiritual strength, our dedication to the Constitution are what, in the end, preserves our great Nation and this great hope for all mankind. All of us, as Americans, are joined in a great common enterprise to write the story of freedom -- the greatest adventure mankind has ever known and one we must pass onto our children and their children -- remembering that freedom is never more than one generation away from extinction.

The warning, more than a century ago, attributed to Daniel Webster, remains as timeless as the document he revered. "Miracles do not cluster," he said, "hold onto the Constitution of the United States of America and to the Republic for which it stands -- what has happened once in 6,000 years may never happen again. Hold onto your Constitution, for if the American Constitution shall fall there will be anarchy throughout the world."

Holding onto the Constitution -- this has been the service of Chief Justice Burger, and a grateful Nation honors him today. So, too, I can think of no two better public servants to continue that work than Chief Justice Rehnquist and Justice Scalia. You both have our Nation's heartfelt wishes for success and happiness.

Thank you all for joining in this important ceremony. I know that, in a few moments, our new Chief Justice and Associate Justice look forward to greeting each of you in the Main Hall.

(Judge/ARD)
September 25, 1986
8:00 a.m. RR

PRESIDENTIAL REMARKS: SWEARING IN OF CHIEF JUSTICE WILLIAM
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Δ's from Counsel

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/25/86 ACTION/CONCURRENCE/COMMENT DUE BY: ---

SUBJECT: REMARKS: SWEARING IN OF CHIEF JUSTICE WILLIAM REHNQUIST AND JUSTICE ANTONIN SCALIA

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/> P	<input type="checkbox"/> SS	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	WALLISON	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MASENG	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Unless you object, the attached will be forwarded to the President later this morning.

RESPONSE:

1986 SEP 25 AM 8:33

David L. Chew
Staff Secretary
Ext. 2702

(Judge/ARD)
September 25, 1986
8:00 a.m.

PRESIDENTIAL REMARKS: SWEARING IN OF CHIEF JUSTICE WILLIAM
REHNQUIST AND JUSTICE ANTONIN SCALIA
FRIDAY, SEPTEMBER 26, 1986

ok
Mr. Chief Justice Burger, Mr. Chief Justice Rehnquist,
Members of the Court, Ladies and Gentlemen: Today we mark one of
those moments of passage and renewal that has kept our republic
alive and strong as Lincoln called it this last best hope of man
on Earth for all the years since its founding. One chief
justice of our Supreme Court has stepped down. And together with
a new associate justice, another has taken his place. As the
Constitution requires, they have been nominated by the President,
confirmed by the Senate and they have taken the oath that is
required by the Constitution itself -- the oath "to support and
defend the Constitution of the United States... so help me God."

In marking this moment of transition, let me first say, on
behalf of all Americans, how grateful we are to Chief Justice
Burger. For 17 years on the Supreme Court and for 13 years
before that on the Court of Appeals for the D.C. Circuit, the
Chief Justice's service to the Nation has been a monument of
integrity and of dedication to principle -- and especially to the
judiciary itself. But, Mr. Chief Justice, we know your service
isn't ending today. How appropriate it is that you will be
guiding the bicentennial celebration of that Constitution that
you have served with such distinction over the years. And what a
lasting contribution this will be. Because of your work,
Americans in all walks of life will come to have an even more
profound knowledge of the rule of law and the sacred document

upon which it rests. Your service as Chief Justice has been outstanding and it is a mark of your generosity that you have agreed to offer yourself for additional service to your country and the law.

Our new Chief Justice is one of America's most brilliant jurists. From his days in law school, where he graduated first in his class, he has been recognized for his extraordinary legal insight. On the Court he has distinguished himself through the brilliance of his reason and the clarity, the craftsmanship of his opinions. I nominated William Rehnquist because I believe he will be a Chief Justice of historic stature.

Associate Justice Antonin Scalia is also a brilliant judge. He had a distinguished career as a lawyer and as a professor of law before joining the Court of Appeals 4 years ago. There he became known for his integrity and independence and for the force of his intellect. Chief Justice Rehnquist and Justice Scalia, congratulations to both of you.

With these two outstanding men taking their new positions, this is, as I said, a time of renewal in the great Constitutional system that our forefathers gave us -- a good time to reflect on the inspired wisdom we call our Constitution, a time to remember that the Founding Fathers gave careful thought to the role of the Supreme Court. In a small room in Philadelphia in the summer of 1787, they debated whether the justices should have life terms ~~or not~~, whether they should be part of one of the other branches ~~or not~~ and whether they should have the right to declare acts of the other branches of Government unconstitutional ~~or not~~. They

settled on a judiciary that would be independent and strong, but one whose power would also, they believed, be ~~restrained~~. In the Convention and during the debates on ratification, some said that there was a danger of the courts making laws rather than interpreting them. The Framers of our Constitution believed, however, that the judiciary they envisioned would be "the least dangerous" branch of the government, because, as Alexander Hamilton wrote in the Federalist Papers, it had "neither force nor will but merely judgment." The Judicial Department ~~undertakes the duty to say what the law is,~~ while the power to make those laws is balanced in the two elected branches. And this was one thing that Americans of all persuasions supported.

Confined within the boundaries of a written Constitution and laws.

Branch interprets the laws,

Hamilton and Thomas Jefferson, for example, disagreed on most of the great issues of their day, just as many of us have disagreed in ours. They helped begin our long tradition of loyal opposition, of standing on opposite sides of almost every question while still working together for the good of the country. Yet for all their differences they both agreed -- as should we -- on the ~~importance of judicial restraint.~~ "Our peculiar security," Jefferson warned, "is in the possession of a written Constitution." And he made this appeal: "Let us not make it a blank paper by construction."

importance of the Judiciary in our Constitutional system.

Hamilton, Jefferson and all the Founding Fathers recognized that the Constitution is the supreme and ultimate expression of the will of the American people. They saw that no one in office could remain above it, if freedom were to survive through the ages. They understood that, in the words of James Madison, if

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OK

OK

"the sense in which the Constitution was accepted and ratified by the nation... [is] not the guide to expounding it, there can be no security for... a faithful exercise of its powers."

The Founding Fathers were clear and ~~specific~~ on this issue. For them, the question involved in judicial restraint was not -- as it is not -- will we have liberal or conservative courts? They knew that the courts, like the Constitution itself, must not be liberal or conservative. The question was and is, will we have a Government by the people.

And this is why the principle of judicial restraint has had an honored place in our tradition. Progressive as well as conservative judges have insisted on its importance -- Justice Holmes, for example, and Justice Felix Frankfurter, who once said, "[T]he highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law...."

Chief Justice Rehnquist and Justice Scalia have demonstrated in their opinions that they stand with Holmes and Frankfurter on this question. I nominated them ~~for that reason.~~ *with this principle very much in mind.* They understand that the Founding Fathers designed the system of checks and balances, ^{and} of limited Government, ^a ~~and of federalism,~~ because they knew that the great preserver of our freedoms would never be the courts or either of the other branches alone. It would always be the ^{separation of powers in} ~~totality~~ of our Constitutional system, with no one part getting the upper hand. ~~That is why the judiciary must be independent. And that is also why it must exercise restraint.~~

totality of

a

no

So our protection is in the Constitutional system... and one other place as well. Lincoln asked, "What constitutes the bulwark of our own liberty?" And he answered, "[It] is in the love of liberty which God has planted in us." Yes, we the people are the ultimate defenders of freedom. We the people created the government and gave it its powers. And our love of liberty, our spiritual strength, our dedication to the Constitution are what, in the end, preserves our great Nation and this great hope for all mankind. All of us, as Americans, are joined in a great common enterprise to write the story of freedom -- the greatest adventure mankind has ever known and one we must pass onto our children and their children -- remembering that freedom is never more than one generation away from extinction.

The warning, more than a century ago, attributed to Daniel Webster, remains as timeless as the document he revered. "Miracles do not cluster," he said, "hold onto the Constitution of the United States of America and to the Republic for which it stands -- what has happened once in 6,000 years may never happen again. Hold onto your Constitution, for if the American Constitution shall fall there will be anarchy throughout the world."

Holding onto the Constitution -- this has been the service of Chief Justice Burger, and a grateful Nation honors him today. So, too, I can think of no two better public servants to continue that work than Chief Justice Rehnquist and Justice Scalia. You both have our Nation's heartfelt wishes for success and happiness.

Thank you all for joining in this important ceremony. I know that, in a few moments, our new Chief Justice and Associate Justice look forward to greeting each of you in the Main Hall.

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