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THE WHITE HOUSE
WASHINGTON

September 25, 1986

TO: Tony Dolan

FROM: Ralph Bledsoe

See attached comments on pages
1 and 4.

Fo: D.CLAREY (EOP027)
Fo: E.STUCKY (EOP028)
Fo: R.DAVIS (EOP029)
Fo: WH-RM (EOP043)
Fo: R.BLEDSON (EOP046)
From: WH-SPEECH (EOP047) Posted: Wed 24-Sep-86 15:10 EDT
Sys 64 (181)
To: N.FINNEGAN (EOP307)
Subject: judges speech for staffing
Acknowledgment Sent

(Judge/ARD)

September 24, 1986
2:30 p.m.

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

Mr. Chief Justice and Mr. ^{Chief} Justice, 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 written into the Constitution itself -- the oath, as it says, "to preserve, protect 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 15 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 our 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. Like the Chief Justice, he was first in his law school class. He had a distinguished career as a lawyer and as a professor of law before joining the D.C. 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 that small room in Philadelphia, 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 that would also, they believed, be restrained, that would not have a too assertive role in the delicate arrangement of checks and balances.

But 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. They remembered the warning of the French constitutional philosopher Montesquieu, who said, "There is no liberty if the power of judging be not separated from the legislative... powers." Still the Framers of our Constitution believed that the judiciary 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" and its judgments would be strictly limited to the construction of the Constitution. And this was a position that Americans of all persuasions supported.

Hamilton and Thomas Jefferson disagreed on most of the great issues of their day just about as many of us have disagreed in ours. And yet 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 a blank page [of it] 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 was 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 a guide for 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 or by one branch of government that has seized too much power? So they feared a judiciary responsible to no one, dressing up its decrees in Constitutional costume.

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... [to] those impersonal convictions that make a society a civilized community, and not the victims of personal rule."

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Mr. Chief Justice and Mr. Chief Justice, Members of the Court, Ladies and Gentlemen: Almost 200 years ago a small group of patriots met in Philadelphia to write one of the greatest plans for self-government in the history of man -- our Constitution. Through the hot summer of 1787 they worked and when they were done, as they were leaving Independence Hall, someone in the crowd gathered outside asked Benjamin Franklin what kind of a Government they had created. "A republic," he replied, "if you can keep it."

Well, today we mark one of those moments of passage and renewal that has kept our republic alive and strong, the last best hope of man on Earth, for all the years since then. 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, ~~he~~ ^{they} has been nominated by the President, confirmed by the Senate and ~~he~~ ^{they} has taken the oath that is written into the Constitution itself -- the oath, as it says, "to preserve, protect and defend the Constitution of the United States... so help me God."

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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." We the people are the ultimate defenders of freedom. Our love of liberty, our spiritual strength, our dedication to the Constitution are what preserves our great Nation and this great hope for all mankind. All of us, as Americans, are joined in a great common enterprise

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

~~Thank you and God bless you.~~

~~Holding onto the Constitution~~ — ~~this has been the~~ ^{honors his} ~~service of Chief Justice Burger, and a grateful nation says~~ ^{today.} ~~thanks.~~ ^{So far.} ~~(I can think of no two better public servants to continue~~ ~~that work than Chief Justice Rehnquist and Justice Scalia,~~ ~~and a hopeful nation sends them~~ ~~to their work.~~

~~We now~~
you both have our nation's heartfelt wishes
for success and happiness, ~~in your work.~~

(Judge)
September 24, 1986
10:00 a.m.

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

Mr. Chief Justice and Mr. Chief Justice, Members of the Court, Ladies and Gentlemen: Almost 200 years ago a small group of patriots met in Philadelphia to write one of the greatest plans for self-government in the history of man -- our Constitution. Through the hot summer of 1787 they worked and when they were done, as they were leaving Independence Hall, someone in the crowd gathered outside asked Benjamin Franklin what kind of a Government they had created. "A republic," he replied, "if you can keep it."

Well, today we mark one of those moments of passage and renewal that has kept our republic alive and strong, the last best hope of man on Earth, for all the years since then. 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, he has been nominated by the President, confirmed by the Senate and he has taken the oath that is written into the Constitution itself -- the oath, as it says, "to preserve, protect 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 15 years on the Supreme Court and for ___ years before that on the Court of Appeals for the D.C. Circuit, the Chief Justice's service to our Nation has been a monument of

integrity and of dedication to principle and to the judiciary itself. But Mr. Chief Justice, we know your service isn't ending today. You'll be guiding the bicentennial celebration of that Constitution that you have served with such distinction over the years. Because of the work you'll be doing, Americans in all walks of life will come to have an even more profound knowledge of the foundation on which our great Nation is built. And so, although your service has already been outstanding, if you'll excuse me borrowing an old phrase, I have a feeling that we ain't seen nothin' yet.

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 craftsmanship of his opinions. I nominated William Rehnquist because I believe he will be a Chief Justice of historic stature. And besides, I just figured that a promotion was the best way to hold onto a bright, energetic young fellow like that.

Associate justice Antonin Scalia is also a brilliant judge. Like the Chief Justice, he was first in his law school class. He had a distinguished career as a lawyer and as a professor of law before joining the D.C. 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 that is in our Constitution.

Our Founding Fathers recognized the central role the Supreme Court would play in maintaining the delicate checks and balances that they were arranging. In that small room in Philadelphia, 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 that 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. They remembered the warning of the French constitutional philosopher Montesquieu, who said, "There is no liberty if the power of judging be not separated from the legislative... powers." But the Framers of our Constitution believed that the judiciary was "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" and its judgments would be strictly limited to the construction of the Constitution.

Hamilton and Thomas Jefferson (who was not at the Convention) disagreed in their day just about as much as some of us disagree today. They helped begin our long tradition of loyal

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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 was 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 a guide for 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 or a government by a tiny judicial ruling class that is responsible to no one and that dresses up its decrees in Constitutional costumes?

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(Judge)
September 24, 1986
Draft

PRESIDENTIAL REMARKS: SWEARING IN OF CHIEF JUSTICE WILLIAM
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FRIDAY, SEPTEMBER 26, 1986

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(Judge)
September 24, 1986
Draft

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FRIDAY, SEPTEMBER 26, 1986

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(Judge)
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The genius of our Consitution is in its first words, "We, the People." We the people created the government. Its powers come from we the people. To keep government in the hands of we the people and out of the hands of passing factions, the Founding Fathers designed a system of checks and balances, of limited government and of federalism. For they knew that the great preserver of our freedoms would never be the courts or either of the other branches. It would not be the states. And it would not be the bill of rights or any particular law. They believed great preserver of our freedoms would always be the total Constitutional system itself, with no part getting the upper hand. This is why the judiciary must be independent. And this is 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." We the people are the ultimate defenders of freedom. Our love of liberty, our spiritual strength, our dedication to the Constitution are what 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. He said, "Hold onto the Constitution of the United States of America and to the Republic for which it stands. Miracles do not cluster -- what happened once in 6,000 years may never happen again. Hold onto your Consitution, for if the American Consitution shall fall there will be anarchy throughout the world."

Thank you and God bless you.

THE WHITE HOUSE
WASHINGTON

9/18/86

MEMORANDUM

TO: PETER WALLISON (Coordinate with Jack Courtemanche)
FROM: FREDERICK J. RYAN, JR. *FJR*
SUBJECT: APPROVED PRESIDENTIAL ACTIVITY

MEETING: Swearing-in Ceremony for Chief Justice Rehnquist
and Associate Justice Scalia

DATE: September 26, 1986

TIME: 11:00 am

DURATION: 15 minutes

LOCATION: East Room

BACKUP LOCATION:

REMARKS REQUIRED: Yes

MEDIA COVERAGE: Coordinate with Press Office

FIRST LADY

PARTICIPATION: Yes

NOTE: PROJECT OFFICER, SEE ATTACHED CHECKLIST

W. Ball	C. Fuller
K. Barun	W. Henkel
P. Buchanan	J. Hooley
D. Chew	A. Kingon
J. Courtemanche	J. Kuhn
M. Coyne	C. McCain
E. Crispen	J. Miller
M. Daniels	R. Riley
T. Dawson	R. Shaddick
D. Dellinger	B. Shaddix
A. Dolan	L. Speakes
J. Erkenbeck	G. Walters
L. Faulkner	WHCA Audio/Visual
	WHCA Operations