

Originally Processed With FOIA(s):

S

FOIA Number:

S

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the George Bush Presidential Library Staff.

Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Speechwriting, White House Office of
Series: Speech File Backup Files
Subseries: Chron File, 1989-1993

OA/ID Number: 13729
Folder ID Number: 13729-002

Folder Title:
International Appellate Judges Conference 9/14/90 [OA 8315]

Stack:	Row:	Section:	Shelf:	Position:
G	26	20	7	3

INTERNATIONAL APPELLATE JUDGES CONFERENCE \ EAST ROOM
FRIDAY, SEPTEMBER 14, 1990 \ 11:30 A.M.

GOOD MORNING. THANKS FOR YOUR WARM GREETING.
I'M PLEASED TO SHARE THE STAGE WITH SOMEONE I TRULY
ADMIRE -- JUSTICE SANDRA DAY O'CONNOR. \ \ \ SITTING
NEXT TO HER, MY OWN LEGAL COUNSEL, IN WHOM I HAVE THE
HIGHEST CONFIDENCE, BOYDEN GRAY.

I WANTED TO SINGLE OUT FOR SPECIAL COMMENDATION
JUDGE CYNTHIA HALL FOR ALL THE WORK SHE DID TO MAKE
THIS CONFERENCE POSSIBLE.

- 2 -

AND SOMEONE ELSE DESERVES THANKS FOR THE SUCCESS OF
THIS CONFERENCE -- I KNOW HE WANTED TO BE HERE TODAY
-- AMERICA'S CHIEF JUSTICE WILLIAM REHNQUIST.

RARELY HAS THE WHITE HOUSE BEEN GRACED BY SUCH
DISTINGUISHED TALENT. MORE THAN 100 CHIEF JUDICIAL
OFFICERS FROM AROUND THE WORLD. CHIEF JUSTICES
REPRESENTING MOST OF AMERICA'S 50 STATES AND
TERRITORIES. AND PRACTICALLY THE ENTIRE LEADERSHIP OF
THE JUDICIAL CONFERENCE OF THE UNITED STATES.

INTERNATIONAL APPELLATE JUDGES CONFERENCE \ EAST ROOM
FRIDAY, SEPTEMBER 14, 1990 \ 11:30 A.M.

GOOD MORNING. THANKS FOR YOUR WARM GREETING.
I'M PLEASED TO SHARE THE STAGE WITH SOMEONE I TRULY
ADMIRE -- JUSTICE SANDRA DAY O'CONNOR. \ \ \ SITTING
NEXT TO HER, MY OWN LEGAL COUNSEL, IN WHOM I HAVE THE
HIGHEST CONFIDENCE, BOYDEN GRAY.

I WANTED TO SINGLE OUT FOR SPECIAL COMMENDATION
JUDGE CYNTHIA HALL FOR ALL THE WORK SHE DID TO MAKE
THIS CONFERENCE POSSIBLE.

- 2 -

AND SOMEONE ELSE DESERVES THANKS FOR THE SUCCESS OF
THIS CONFERENCE -- I KNOW HE WANTED TO BE HERE TODAY
-- AMERICA'S CHIEF JUSTICE WILLIAM REHNQUIST.

RARELY HAS THE WHITE HOUSE BEEN GRACED BY SUCH
DISTINGUISHED TALENT. MORE THAN 100 CHIEF JUDICIAL
OFFICERS FROM AROUND THE WORLD. CHIEF JUSTICES
REPRESENTING MOST OF AMERICA'S 50 STATES AND
TERRITORIES. AND PRACTICALLY THE ENTIRE LEADERSHIP OF
THE JUDICIAL CONFERENCE OF THE UNITED STATES.

INTERNATIONAL APPELLATE JUDGES CONFERENCE \ LAST ROOM
FRIDAY, SEPTEMBER 14, 1990 \ 11:30 A. M.

GOOD MORNING. THANKS FOR YOUR WARM GREETING. I'M
PLEASED TO SHARE THE STAGE WITH SOMEONE I TRULY
ADMIRE -- JUSTICE SANDRA DAY O'CONNOR. \ \ \ SITTING
NEXT TO HER, MY OWN LEGAL COUNSEL, IN WHOM I HAVE THE
HIGHEST CONFIDENCE, BOYDEN GRAY.

I WANTED TO SINGLE OUT FOR SPECIAL COMMENDATION
JUDGE CYNTHIA HALL FOR ALL THE WORK SHE DID TO MAKE
THIS CONFERENCE POSSIBLE.

- 2 -

AND SOMEONE ELSE DESERVES THANKS FOR THE SUCCESS OF
THIS CONFERENCE -- I KNOW HE WANTED TO BE HERE TODAY
-- AMERICA'S CHIEF JUSTICE WILLIAM REHNQUIST.

RARELY HAS THE WHITE HOUSE BEEN GRACED BY SUCH
DISTINGUISHED TALENT. MORE THAN 100 CHIEF JUDICIAL
OFFICERS FROM AROUND THE WORLD. CHIEF JUSTICES
REPRESENTING MOST OF AMERICA'S 50 STATES AND
TERRITORIES. AND PRACTICALLY THE ENTIRE LEADERSHIP OF
THE JUDICIAL CONFERENCE OF THE UNITED STATES.

(I HEARD THAT JUDGE SOUTER MIGHT INVITE SOME FRIENDS TO WASHINGTON FOR HIS HEARING, BUT I NEVER IMAGINED ANYTHING LIKE THIS!) \\\

TRULY, IT IS A GREAT HONOR TO WELCOME THIS EXTRAORDINARY ASSEMBLY TO WASHINGTON, AND TO GREET YOU AT THE WHITE HOUSE.

YOUR VISIT IS HISTORIC FOR MANY REASONS. YOUR WASHINGTON GATHERING MARKS THE FIRST TIME THIS CONFERENCE HAS BEEN HELD IN THE UNITED STATES.

BUT EVEN MORE HISTORIC THAN THE PLACE, ARE THE TIMES. YOUR VISIT COMES AS THE CAPSTONE OF AMERICA'S CELEBRATION OF 200 YEARS OF THE WORLD'S OLDEST CONTINUOUS CONSTITUTION AND INDEPENDENT JUDICIARY. AND WITH WHAT I CALL THE REVOLUTION OF '89 JUST BEHIND US, YOUR CONFERENCE ALSO SERVES TO COMMEMORATE THE EMERGENCE OF SOME OF THE WORLD'S NEWEST DEMOCRACIES.

AND SO I AM ESPECIALLY PLEASED TO WELCOME AND CONGRATULATE THOSE JUSTICES REPRESENTING THE NEW AND MORE INDEPENDENT JUDICIARIES OF CENTRAL EUROPE AND CENTRAL AMERICA, AND YES, ALSO OUR NEW FRIENDS FROM THE SOVIET UNION.

MORE THAN 200 YEARS AGO, 55 AMERICANS MET LATE INTO THE NIGHT DURING A SWELTERING HOT PHILADELPHIA SUMMER, DEBATING A DOCUMENT THAT WOULD BE ADOPTED BY THE AMERICAN PEOPLE AS THE SUPREME LAW OF THE LAND.

BY COMMON AGREEMENT, AMERICANS CHOSE TO LIVE NOT UNDER INDIVIDUAL DICTATE, BUT ACCORDING TO THE RULE OF LAW. ITS GREATEST INNOVATION: AN INDEPENDENT JUDICIARY THAT PROTECTS CONSTITUTIONAL PRINCIPLES THROUGH JUDICIAL REVIEW OF EXECUTIVE AND LEGISLATIVE ACTIONS. AND TRULY, THE U.S. CONSTITUTION STANDS AS ONE OF THE WORLD'S GREAT EXPERIMENTS IN FREEDOM AND DIVERSITY -- AND ONE OF THE WORLD'S GREAT MILESTONES IN THE EFFORT TO BE FREE OF TYRANNY, TO BE JUST, AND TO BE CIVILIZED.

THE AMERICAN EXPERIMENT IS A CONTINUING ONE. AND OUR SUCCESS AS A NATION THAT IS RULED BY LAW -- AND NOT BY MEN -- DEPENDS UPON OUR CONTINUING COMMITMENT TO AN INDEPENDENT JUDICIARY. A JUDICIARY THAT IS NOT SUBJECT TO THE NATION'S POLITICAL WINDS, BUT THAT WILL INTERPRET FAIRLY AND IMPARTIALLY OUR CONSTITUTION AND THE STATUTES AS ADOPTED BY THE ELECTED REPRESENTATIVES OF OUR PEOPLE.

AND IN THE AMERICAN TRADITION, THE KEY TO PRESERVING A TRULY INDEPENDENT JUDICIARY IS ENSURING THAT THE ROLE OF THE JUDICIARY -- LIKE THE ROLE OF GOVERNMENT ITSELF -- REMAINS TRUE TO ITS CONSTITUTIONAL FUNCTION.

THE ROLE OF OUR JUDICIARY IS NOT TO SET POLICY, BUT TO APPLY THE LAW OF THE LAND -- AS FOUND IN THE CONSTITUTION AND IN OUR STATUTES.

OUR SUPREME COURT PLAYS THE ROLE OF THE REFEREE -- IT DOES NOT MAKE UP THE RULES, BUT RATHER, APPLIES THE RULES TO THE SITUATIONS THAT COME BEFORE IT. THUS OUR JUDICIARY IS NOT A SUBSTITUTE FOR REPRESENTATIVE GOVERNMENT -- BUT A LIMITATION ON IT.

I MENTIONED THE HISTORIC TIMES, AND, OF COURSE, IT IS ALSO A HISTORIC WEEK HERE IN WASHINGTON.

EVEN AS WE SPEAK, OUR CONSTITUTIONAL EXPERIMENT IS UNFOLDING UP THE STREET IN THE UNITED STATES SENATE, WHERE AMERICA IS ENGAGED IN THE SOLEMN PROCESS OF THE CONFIRMATION OF A VERY FINE AND DECENT JUDGE. A JUDGE WHO I HOPE AND BELIEVE WILL BECOME OUR NEWEST SUPREME COURT JUSTICE.

MY OLD FRIEND AND NEIGHBOR -- THE LATE AND BELOVED JUSTICE POTTER STEWART -- WAS ONCE ASKED TO NAME THE MOST IMPORTANT ATTRIBUTES IN A JUDGE.

HE FIRED BACK WITHOUT HESITATION: "QUALITY, AND COMPETENCE, AND TEMPERAMENT, AND CHARACTER, AND DILIGENCE."

THOSE ATTRIBUTES ARE EXACTLY THE QUALITIES I BELIEVE DESCRIBE JUDGE DAVID SOUTER, MY FIRST NOMINEE TO THE SUPREME COURT. JUDGE SOUTER HAS A STRONG, INCISIVE, INDEPENDENT DEVOTION TO THE CONSTITUTION.

I THINK OF WHAT ONE WOMAN SAID -- A RESPECTED NEW HAMPSHIRE LAWYER WHO TRIED MANY CASES BEFORE JUDGE SOUTER, AND WHO IS NOW HEAD OF THE CRIMINAL DEFENSE BAR UP THERE. SHE SAID: "I'M A LIBERAL, BUT I HAVE TREMENDOUS RESPECT FOR JUDGE SOUTER. I THINK HE WILL HONOR THE CONSTITUTION."

OF COURSE, HE WAS ELEVATED FROM THE TRIAL COURT TO SERVE ON NEW HAMPSHIRE'S SUPREME COURT.

AND I UNDERSTAND THAT, AFTER THE CONFERENCE ENDS TODAY, MANY OF YOU ARE GOING OUT TO OBSERVE OUR STATE SUPREME COURTS IN ACTION. THEY ARE AMERICA'S JUDICIAL LABORATORIES, THE COURT OF LAST RESORT FOR MOST OF OUR CITIZENS' CASES, THE PROVING GROUNDS FOR SOME OF OUR MOST DISTINGUISHED U.S. SUPREME COURT JUSTICES: NEW YORK'S GREAT JURIST, BENJAMIN CARDOZO. WILLIAM BRENNAN, WHO HAS JUST STEPPED DOWN AFTER 34 YEARS ON THE COURT. AND, OF COURSE, OLIVER WENDELL HOLMES.

BUT AS WE GATHER TO TALK ABOUT THE RULE OF LAW THIS WEEK, THERE'S ANOTHER SUBJECT THAT'S VERY MUCH ON EVERYONE'S MIND.

I HAVE SAID MANY TIMES IN THE PAST YEAR THAT WE HAVE ENTERED A NEW ERA IN WORLD AFFAIRS. AND THE INTERNATIONAL RESPONSE TO IRAQ'S NAKED AGGRESSION AGAINST A TINY NEIGHBOR PROVES JUST HOW TRUE THAT IS.

AS I SAID IN HELSINKI, JUST SIX DAYS AGO: "IF THE NATIONS OF THE WORLD -- ACTING TOGETHER -- CONTINUE TO ISOLATE IRAQ, AND DENY SADDAM THE FRUITS OF AGGRESSION, WE WILL SET IN PLACE THE CORNERSTONE OF AN INTERNATIONAL ORDER MORE PEACEFUL, STABLE AND SECURE THAN ANY WE HAVE KNOWN." \\\

ONE OF THE LEADERS OF THE WORLD'S LAST GREAT UNIFIED ALLIANCE, BEFORE THE CHILLY DESCENT OF THE COLD WAR, WAS DWIGHT DAVID EISENHOWER.

IKE UNDERSTOOD THE STAKES WHEN HE SAID: "THE clearest way to show what the rule of law means to us in everyday life, is to recall what has happened when there is no rule of law."

AND AS WE STAND HERE TODAY, COMMEMORATING MORE THAN 200 YEARS OF CONSTITUTIONAL GOVERNMENT IN AMERICA, WE LOOK BACK WITH PRIDE ON THE JUSTICE WE HAVE ACHIEVED AS A NATION -- AND THE PROMISE THAT HAS BEEN OFFERED THE WORLD -- THROUGH THIS ONE, SIMPLE, MAGNIFICENT IDEA -- THE IDEA WE KNOW AS THE RULE OF LAW.

BECAUSE, LIKE MANY OF THE PRINCIPLED NATIONS YOU REPRESENT, ALL TODAY WHO EMBRACE THE RULE OF LAW STAND AS A POWERFUL FORCE FOR JUSTICE AT HOME, AND AS A POWERFUL EXAMPLE FOR JUSTICE ABROAD.

I SALUTE THIS GREAT TRADITION, ITS RICH HERITAGE, AND ALL THE FINE MEN AND WOMEN GATHERED HERE WHO ARE DEDICATED TO JUSTICE AND THE RULE OF LAW.

THANK YOU FOR COMING TO THE WHITE HOUSE.
CONGRATULATIONS ON YOUR SUCCESSFUL CONFERENCE.

AND GODSPEED YOU IN YOUR SERVICE IN THE CAUSE OF JUSTICE AROUND THE WORLD.

#

FRIDAY, SEPTEMBER 14, 1990 \ 11:30 A.M.

GOOD MORNING. THANKS FOR YOUR WARM GREETING.

RARELY HAS THE WHITE HOUSE BEEN GRACED BY SUCH DISTINGUISHED TALENT. MORE THAN 100 CHIEF JUDICIAL OFFICERS FROM AROUND THE WORLD. CHIEF JUSTICES REPRESENTING MOST OF AMERICA'S 50 STATES AND TERRITORIES. AND PRACTICALLY THE ENTIRE LEADERSHIP OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

- 2 -

(I HEARD THAT JUDGE SOUTER MIGHT INVITE SOME FRIENDS TO WASHINGTON FOR HIS HEARING, BUT I NEVER IMAGINED ANYTHING LIKE THIS!) \\\

TRULY, IT IS A GREAT HONOR TO WELCOME THIS EXTRAORDINARY ASSEMBLY TO WASHINGTON, AND TO GREET YOU AT THE WHITE HOUSE.

YOUR VISIT IS HISTORIC FOR MANY REASONS. YOUR WASHINGTON GATHERING MARKS THE FIRST TIME THIS CONFERENCE HAS BEEN HELD IN THE UNITED STATES.

BUT EVEN MORE HISTORIC THAN THE PLACE, ARE THE TIMES. YOUR VISIT COMES AS THE CAPSTONE OF AMERICA'S CELEBRATION OF 200 YEARS OF THE WORLD'S OLDEST CONTINUOUS CONSTITUTION AND INDEPENDENT JUDICIARY. AND WITH WHAT I CALL THE REVOLUTION OF '89 JUST BEHIND US, YOUR CONFERENCE ALSO SERVES TO COMMEMORATE THE EMERGENCE OF SOME OF THE WORLD'S NEWEST DEMOCRACIES.

AND SO I AM ESPECIALLY PLEASSED TO WELCOME AND CONGRATULATE THOSE JUSTICES REPRESENTING THE NEW AND MORE INDEPENDENT JUDICIARIES OF CENTRAL EUROPE AND CENTRAL AMERICA, AND YES, ALSO OUR NEW FRIENDS FROM THE SOVIET UNION.

MORE THAN 200 YEARS AGO, 55 AMERICANS MET LATE INTO THE NIGHT DURING A SWELTERING HOT PHILADELPHIA SUMMER, DEBATING A DOCUMENT THAT WOULD BE ADOPTED BY THE AMERICAN PEOPLE AS THE SUPREME LAW OF THE LAND.

BY COMMON AGREEMENT, AMERICANS CHOSE TO LIVE NOT UNDER INDIVIDUAL DICTATE, BUT ACCORDING TO THE RULE OF LAW. ITS GREATEST INNOVATION: AN INDEPENDENT JUDICIARY THAT PROTECTS CONSTITUTIONAL PRINCIPLES THROUGH JUDICIAL REVIEW OF EXECUTIVE AND LEGISLATIVE ACTIONS. AND TRULY, THE U.S. CONSTITUTION STANDS AS ONE OF THE WORLD'S GREAT EXPERIMENTS IN FREEDOM AND DIVERSITY -- AND ONE OF THE WORLD'S GREAT MILESTONES IN THE EFFORT TO BE FREE OF TYRANNY, TO BE JUST, AND TO BE CIVILIZED.

\\

THE AMERICAN EXPERIMENT IS A CONTINUING ONE. AND OUR SUCCESS AS A NATION THAT IS RULED BY LAW -- AND NOT BY MEN -- DEPENDS UPON OUR CONTINUING COMMITMENT TO AN INDEPENDENT JUDICIARY. A JUDICIARY THAT IS NOT SUBJECT TO THE NATION'S POLITICAL WINDS, BUT THAT WILL INTERPRET FAIRLY AND IMPARTIALLY OUR CONSTITUTION AND THE STATUTES AS ADOPTED BY THE ELECTED REPRESENTATIVES OF OUR PEOPLE.

AND IN THE AMERICAN TRADITION, THE KEY TO PRESERVING A TRULY INDEPENDENT JUDICIARY IS ENSURING THAT THE ROLE OF THE JUDICIARY -- LIKE THE ROLE OF GOVERNMENT ITSELF -- REMAINS TRUE TO ITS CONSTITUTIONAL FUNCTION.

THE ROLE OF OUR JUDICIARY IS NOT TO SET POLICY, BUT TO APPLY THE LAW OF THE LAND -- AS FOUND IN THE CONSTITUTION AND IN OUR STATUTES.

- 8 -

OUR SUPREME COURT PLAYS THE ROLE OF THE REFEREE -- IT DOES NOT MAKE UP THE RULES, BUT RATHER, APPLIES THE RULES TO THE SITUATIONS THAT COME BEFORE IT. THUS OUR JUDICIARY IS NOT A SUBSTITUTE FOR REPRESENTATIVE GOVERNMENT -- BUT A LIMITATION ON IT.

I MENTIONED THE HISTORIC TIMES, AND, OF COURSE, IT IS ALSO A HISTORIC WEEK HERE IN WASHINGTON.

EVEN AS WE SPEAK, OUR CONSTITUTIONAL EXPERIMENT IS UNFOLDING UP THE STREET IN THE UNITED STATES SENATE, WHERE AMERICA IS ENGAGED IN THE SOLEMN PROCESS OF THE CONFIRMATION OF A VERY FINE AND DECENT JUDGE. A JUDGE WHO I HOPE AND BELIEVE WILL BECOME OUR NEWEST SUPREME COURT JUSTICE.

MY OLD FRIEND AND NEIGHBOR -- THE LATE AND BELOVED JUSTICE POTTER STEWART -- WAS ONCE ASKED TO NAME THE MOST IMPORTANT ATTRIBUTES IN A JUDGE.

- 10 -

HE FIRED BACK WITHOUT HESITATION: "QUALITY, AND COMPETENCE, AND TEMPERAMENT, AND CHARACTER, AND DILIGENCE."

THOSE ATTRIBUTES ARE EXACTLY THE QUALITIES I BELIEVE DESCRIBE JUDGE DAVID SOUTER, MY NOMINEE TO THE SUPREME COURT. JUDGE SOUTER'S STRONG, INCISIVE, INDEPENDENT DEVOTION TO THE CONSTITUTION WAS DEMONSTRATED DURING 12 YEARS OF DISTINGUISHED SERVICE ON THE TRIAL COURT, THE U.S. COURT OF APPEALS, AND, IN PARTICULAR NEW HAMPSHIRE'S SUPREME COURT.

AND I UNDERSTAND THAT, AFTER THE CONFERENCE ENDS TODAY, MANY OF YOU ARE GOING OUT TO OBSERVE OUR STATE SUPREME COURTS IN ACTION. THEY ARE AMERICA'S JUDICIAL LABORATORIES, THE COURT OF LAST RESORT FOR MOST OF OUR CITIZENS' CASES, THE PROVING GROUNDS FOR SOME OF OUR MOST DISTINGUISHED U.S. SUPREME COURT JUSTICES: NEW YORK'S GREAT JURIST, BENJAMIN CARDOZO. WILLIAM BRENNAN, WHO HAS JUST STEPPED DOWN AFTER 34 YEARS ON THE COURT. AND, OF COURSE, OLIVER WENDELL HOLMES.

BUT AS WE GATHER TO TALK ABOUT THE RULE OF LAW THIS WEEK, THERE'S ANOTHER SUBJECT THAT'S VERY MUCH ON EVERYONE'S MIND.

I HAVE SAID MANY TIMES IN THE PAST YEAR THAT WE HAVE ENTERED A NEW ERA IN WORLD AFFAIRS. AND THE INTERNATIONAL RESPONSE TO IRAQ'S NAKED AGGRESSION AGAINST A TINY NEIGHBOR PROVES JUST HOW TRUE THAT IS. AS I SAID IN HELSINKI, JUST SIX DAYS AGO:

"IF THE NATIONS OF THE WORLD -- ACTING TOGETHER -- CONTINUE TO ISOLATE IRAQ, AND DENY SADDAM THE FRUITS OF AGGRESSION, WE WILL SET IN PLACE THE CORNERSTONE OF AN INTERNATIONAL ORDER MORE PEACEFUL, STABLE AND SECURE THAN ANY WE HAVE KNOWN." \\\

ONE OF THE LEADERS OF THE WORLD'S LAST GREAT UNIFIED ALLIANCE, BEFORE THE CHILLY DESCENT OF THE COLD WAR, WAS DWIGHT DAVID EISENHOWER.

IKE UNDERSTOOD THE STAKES WHEN HE SAID: "THE CLEAREST WAY TO SHOW WHAT THE RULE OF LAW MEANS TO US IN EVERYDAY LIFE, IS TO RECALL WHAT HAS HAPPENED WHEN THERE IS NO RULE OF LAW."

AND AS WE STAND HERE TODAY, COMMEMORATING MORE THAN 200 YEARS OF CONSTITUTIONAL GOVERNMENT IN AMERICA, WE LOOK BACK WITH PRIDE ON THE JUSTICE WE HAVE ACHIEVED AS A NATION -- AND THE PROMISE THAT HAS BEEN OFFERED THE WORLD -- THROUGH THIS ONE, SIMPLE, MAGNIFICENT IDEA -- THE IDEA WE KNOW AS THE RULE OF LAW.

BECAUSE, LIKE MANY OF THE PRINCIPLED NATIONS YOU REPRESENT, ALL TODAY WHO EMBRACE THE RULE OF LAW STAND AS A POWERFUL FORCE FOR JUSTICE AT HOME, AND AS A POWERFUL EXAMPLE FOR JUSTICE ABROAD.

I SALUTE THIS GREAT TRADITION, ITS RICH HERITAGE, AND ALL THE FINE MEN AND WOMEN GATHERED HERE WHO ARE DEDICATED TO JUSTICE AND THE RULE OF LAW.

THANK YOU FOR COMING TO THE WHITE HOUSE.
CONGRATULATIONS ON YOUR SUCCESSFUL CONFERENCE.

- 16 -

AND GODSPEED YOU IN YOUR SERVICE IN THE CAUSE OF JUSTICE AROUND THE WORLD.

#

THE FIFTH INTERNATIONAL CONFERENCE OF APPELLATE JUDGES
AN INTERNATIONAL CONFERENCE OF CHIEF JUSTICES
HOSTED BY THE UNITED STATES

Background Information

The International Appellate Judges Conference is a conference of chief justices (or chief judicial officers) of the participating nations. The Conference meets at two to four-year intervals, beginning with a meeting in Manila, Philippines, in 1976. Subsequent meetings were held in Australia, India, and Malaysia. On average, 150 judges from 75 nations around the world have attended conference meetings. The Conference provides a forum for discussion of the relationship of the judiciary to the governments and the peoples of the nations involved. It is the general consensus of those who attended earlier conferences that those meetings have played an important role in promoting understanding and exchange of information among the world's judges. Representatives of the United States, designated by the Chief Justice of the Supreme Court, participated in two of the four previous conferences (Australia in 1980 and Malaysia in 1987). During the latter, the United States representative, pursuant to a decision of the Judicial Conference of the United States, presented an offer from the United States Judicial Conference to host the Fifth International Appellate Judges Conference in Washington, D.C. The offer was accepted enthusiastically and by acclamation.

The planned Washington, D.C. meeting of the Conference has been regarded from the beginning as a Bicentennial project. Although topics listed in the program of previous conferences varied in form, most dealt in substance with a single subject: the protection by the judiciary of the principles of each nation's constitutional system through judicial review of executive and legislative actions. The United States is properly regarded as the birthplace of this constitutional idea. A meeting in Washington, D.C. of the chief judicial officers of the nations of the world would thus be a near perfect celebration of the Bicentennial of the United States Constitution, which first embodied this concept.

A secondary objective of the Conference is to provide the chief judicial officers of the nations of the world a forum for the discussion of the problems they share in the administration of justice in their respective countries. This objective applies to discussion of practical problems in judicial administration, including technology that may be particularly suitable for developing countries.

The opening session of the Fifth International Conference of Appellate Judges will convene on September 11, 1990; the closing session will be held on September 14. Invitations were extended by the Chief Justice of the United States to the equivalent highest judicial officials around the world. United States embassies were asked to inform governments, and in particular the highest judicial officers, concerning the Conference and to deliver these invitations. In the program, the twin themes of Comparative Constitutions and Judicial Administration will receive approximately equal time. The former will cover protection of individual rights, judicial review, and constitutional interpretation; the latter will focus on judicial training and research and modern techniques in judicial administration, including use of computers. Both themes will be introduced in plenary session and then be carried out through small group discussions. Discussion leaders for the small groups will be selected from conference participants and from the principal law school faculties in the United States. The ideas which emerge during the group sessions will be developed into the Final Conference Report, which will be distributed to conference participants.

Preparations for the Fifth International Conference of Appellate Judges are under the overall policy supervision of a special committee of the Judicial Conference of the United States. The committee is chaired by Judge Cynthia Holcomb Hall. Conference arrangements have been made by the MAXIMA Corporation under contract to the Administrative Office of the United States Courts.

FIFTH INTERNATIONAL CONFERENCE OF APPELLATE JUDGES

Acceptances by Country (92) & Name (131) as of September 4, 1990

Argentina	Dr. Enrique Petracchi*
Australia	Sir Anthony Mason*
	Sir William Deane*
Bahamas	Joaquin Gonsalves Sabola
Bangladesh	Shahabuddin Ahmed
Barbados	D. A. Williams*
Belgium	Robert Soetaert*
Belize	Taufik S. Cotran*
	George N. Brown*
Bermuda	Sir James Astwood*
Bolivia	Dr. Edgar Oblitas Fernandez*
	Adan Soria Diez Canseco*
Botswana	Eben Livesey Luke*
Brazil	Jose Neri da Silveira*
	Jose Carlos Moreira Alves*
Burundi	Evariste Niyonkuru
	Ladislav Ndayisenga
Cameroon	Alexis Dipanda Mouelle*
	Bissombi Salomon*
Canada	Antonio Lamer*
Central African Republic	Antoine Grothe
Colombia	Reynaldo Arciniegas Baedecker
	Pedro LaFont-Pianetta
Costa Rica	Miguel Blanco Quiros*
	Jorge Baudrit Gomez*
Cyprus	A. N. Loizou*
	Georghios P. Piki*
Denmark	P. Christensen*
Djibouti	Houssein Aganeh Djilal
Equatorial Guinea	Julio Ndong Mangué
	Jose Luis Ndong Mandeme
Egypt	Dr. Mamdouh Mustafa Hassan
	Awad El-Mor
Ethiopia	Assefa Liben
European Community	Ole Due*
Fiji	Sir Timoci Tuivaga
	Daniel Fatiaki
Finland	Olavi Heinonen
	Per Lindholm
The Gambia	E. Olayinka Ayoola
Ghana	E. B. Sowah*
	Alexander K. Ampiah
Guinea	Mohammed L. Toure
Guinea-Bissau	Joao Aurigemma Cruz Pinto
Guyana	K. M. George*
	Cecil Kennard
Honduras	Jose Oswaldo Ramos Soto*
	Don Joaquin Donato Alcerro
<u>Hungary</u>	Dr. Pal Solt
	Dr. Laszlo Solyom

*many are going out to observe
State Sup. Courts in action*

India	Sabyasachi Mukerji*
Indonesia	Ali Said, Sh
	H. R. Djoko Foegianto, Sh
Ireland	Frank Griffin*
	Hugh O'Flaherty*
Israel	Meir Shamgar
Italy	Antonio Brancaccio
	Giovanni Longo
Jamaica	Edward Zacca*
	Ira Rowe
Japan	Tomoo Araki
Kenya	James Onyango Nyarangi
	Lady Justice Effie Owour
Korea	Lee, Il-Kyu*
	Lee, Keun-Woung
Kiribati	Faqir Mohammad
Luxembourg	Fernand Hess*
Malawi	Friday L. Makuta
	M. P. Mkandawire
Malaysia	Abdul Hamid J. Omar*
	Gunn Chit Tuan
Maldives	Moosa Fathy
	Abdul Hameed Abdul Wahhab
Malta	H. W. Harding*
Marshall Islands	Clinton Ashford
Mauritania	Mohameden Ould M'Boirik
Mauritius	Sir Victor Glover
Mexico	Carlos del Rio*
Micronesia, Federated States of	Edward C. King
Mozambique	Dr. Mario Mangaze
	Joaquim Madeira
Namibia	H. J. Berker*
Nauru and Tuvalu	Sir Gaven Donne*
Netherlands	Sjoerd Royer
New Zealand	Sir Robin Cooke*
Nigeria	Mohammed Bello*
	M. L. Uwais*
Norway	Erling Sandene*
Oman	Sa'id Bin Hilal Al Busa'id*
Pakistan	Muhammed Afsal Zullah*
	Zaffar Hussain Mirza*
Panama	Carlos Lucas Lopez Tejada*
	Arturo Hoyos*
Papua New Guinea	Mari Kapi
	Timothy Hinchliffe
Peru	Dr. Eloy Espinoza-Saldana Catasus*
	Dra. Elsie Landa Zapater
Philippines	Marcelo B. Fernan
Portugal	Augusto Victor Coelho*
Romania	Teofil Pap
Rwanda	Joseph Kavaruganda
Senegal	Ousmane Camara*
	Magatte Diop

Poland

Seychelles

I. K. Abban

Singapore

F. Bonte

Sierra Leone

Wee Chong Jin

South Africa

S. M. F. Kutubu

Michael M. Corbett*

Spain

J. J. F. Hefer*

Sri Lanka

Francisco Tomas Y Valiente*

K. A. P. Ranasinghe

Sudan

G. P. S. de Silva

Swaziland

Galal Ali Lutfi

Sweden

N. R. Hannah*

Olof Hoglund*

Switzerland

Sven Nyman*

Tanzania

Rolf Raschein*

F. L. Nyalali*

Trinidad and Tobago

Agostino Ramadhani

Turkey

C. Bernard*

Uganda

Dr. Ismet Ocakcioglu*

Samuel William Wako Wambuzi*

Jeremiah Herbert Ntabgoba*

United Kingdom

Lord Hope*

Sir Brian Hutton*

USSR

Yevgeny A. Smolentsev

V. A. Vlasikhin

Venezuela

Pedro Alid Zoppi

Yemen

Isma'il Ahmad al-Wazir

Zaire

Balanda Miluin Leliel

Zambia

Annel M. Silungwe

Zimbabwe

Anthony Gubbay

*Spouse will attend.

Number of second justices: 38

Number of spouses: 62

LEKahn/ccg

ID: Response.2

786-6157

Updated:

02/23/90, 02/26/90, 02/28/90, 03/09/90, 03/15/90
 03/30/90, 04/09/90, 04/16/90, 04/20/90, 05/04/90
 05/07/90, 05/16/90, 05/18/90, 05/25/90, 06/01/90
 06/06/90, 06/08/90, 06/13/90, 06/18/90, 06/20/90
 06/22/90, 06/27/90, 06/29/90, 07/02/90, 07/06/90
 07/09/90, 07/11/90, 07/20/90, 07/23/90, 07/26/90
 07/27/90, 08/02/90, 08/06/90, 08/17/90, 08/17/90
 08/27/90, 08/30/90, 08/31/90, 09/04/90

THE WHITE HOUSE
WASHINGTON

September 13, 1990

INFORMATION

MEMORANDUM FOR THE PRESIDENT

THROUGH: CHRISS WINSTON *cw*
FROM: EDWARD E. McNALLY *EMN*
SUBJECT: INTERNATIONAL APPELLATE JUDGES CONFERENCE

I. SUMMARY

On Friday, Sept. 14, at 11:30 a.m., you will give brief remarks in the East Room to the chief justices (and spouses) of over 90 countries who are meeting in Washington this week. Also in attendance will be chief justices from most of the 50 states and U.S. territories, and federal judges who are members of the U.S. Judicial Conference.

II. DISCUSSION

The remarks (10 minutes, on cards) were developed with input from Counsel's office, as well as Judge John Walker. There are three themes: the U.S. Constitution's role as a model for the world, a strong endorsement of Judge Souter's nomination, and the importance of the rule of law in international relations, particularly with regard to the situation in Iraq.

(McNally/Simon)
Sept. 13, 1990
Draft Three (B:JUDGES)

PRESIDENTIAL REMARKS: INTERNATIONAL APPELLATE JUDGES CONFERENCE
THE EAST ROOM
FRIDAY, SEPTEMBER 14, 1990, 11:30 A.M.

Good morning. Thanks for your warm greeting.

Rarely has the White House been graced by such distinguished talent. More than 100 chief judicial officers from around the world. Chief Justices representing most of America's 50 states and territories. And practically the entire leadership of the Judicial Conference of the United States. (I heard that Judge Souter might invite some friends to Washington for his hearing, but I never imagined anything like this!) \\

Truly, it is a great honor to welcome this extraordinary assembly to Washington, and to greet you at the White House.

Your visit is historic for many reasons. Although the United States is a Pacific nation, your Washington gathering marks the first time this conference has been held in the United States.

But even more historic than the place, are the times. Your visit comes as the capstone of America's celebration of 200 years of the world's oldest continuous constitution and independent judiciary. And with what I call the Revolution of '89 just behind us, your conference also serves to commemorate the emergence of some of the world's newest democracies.

And so I am especially pleased to welcome and congratulate those Justices representing the new and more independent

judiciaries of Central Europe and Central America, and yes, also our new friends from the Soviet Union.

More than 200 years ago, 55 Americans met late into the night during a sweltering hot Philadelphia summer, debating a document that would be adopted by the American people as the supreme law of the land. By common agreement, Americans chose to live not under individual dictate, but according to the Rule of Law. Its greatest innovation: an independent judiciary that protects constitutional principles through judicial review of executive and legislative actions. And truly, the U.S. Constitution stands as one of the world's great experiments in freedom and diversity -- and one of the world's great milestones in the effort to be free of tyranny, to be just, and to be civilized. \\\

The American experiment is a continuing one. And our success as a Nation that is ruled by law -- and not by men -- depends upon our continuing commitment to an independent judiciary. A judiciary that is not subject to the nation's political winds, but that will interpret fairly and impartially our Constitution and the statutes as adopted by the elected representatives of our people.

And in the American tradition, the key to preserving a truly independent judiciary is ensuring that the role of the judiciary -- like the role of government itself -- remains limited to its constitutional function.

The role of our judiciary is not to set policy, but to apply the law of the land -- as found in the Constitution and in our statutes. Our Supreme Court plays the role of the referee -- it does not make up the rules, but rather, applies the rules to the situations that come before it. Thus our judiciary is not a substitute for representative government -- but a limitation on it.

I mentioned the historic times, and, of course, it is also a historic week here in Washington. Even as we speak, our constitutional experiment is unfolding up the street in the United States Senate, where America is engaged in the solemn process of the confirmation of a very fine and decent judge. A judge who I hope and believe will become our newest Supreme Court Justice.

My old friend and neighbor -- the late and beloved Justice Potter Stewart -- was once asked to name the most important attributes in a judge. He fired back without hesitation: "Quality, and competence, and temperament, and character, and diligence."

Those attributes are exactly the qualities I believe describe Judge David Souter, my first nominee to the Supreme Court. Judge Souter has a strong, incisive, independent devotion to the Constitution. I think of what one woman said -- a respected New Hampshire lawyer who tried many cases before Judge Souter, and who is now head of the criminal defense bar up there. She said: "He was an excellent trial judge, though he was the

kind of judge you knew was really going to hammer people at sentencing." And she added: "I'm a liberal, but I have tremendous respect for Judge Souter. I think he will honor the Constitution."

Of course, he was elevated from the trial court to serve on New Hampshire's Supreme Court, where he proved to be an outstanding appellate judge with a keen legal mind and a reputation for impartiality. And I understand that, after the conference ends today, many of you are going out to observe our state supreme courts in action. They are America's judicial laboratories, the court of last resort for most of our citizens' cases, the proving grounds for some of our most distinguished U.S. Supreme Court justices: New York's great jurist, Benjamin Cardozo. William Brennan, who has just stepped down after 34 years on the Court. And, of course, Oliver Wendell Holmes.

The Souter nomination is an important link in the constitutional tradition we celebrate today. But as we gather to talk about the rule of law this week, there's another subject that's very much on everyone's mind.

I have said many times in the past year that we have entered a new era in world affairs. And the international response to Iraq's naked aggression against a tiny neighbor proves just how true that is. As I said in Helsinki, just six days ago: "If the nations of the world -- acting together -- continue to isolate Iraq, and deny Saddam the fruits of aggression, we will set in

place the cornerstone of an international order more peaceful, stable and secure than any we have known." \\\

One of the leaders of the world's last great unified alliance, before the chilly descent of the Cold War, was Dwight David Eisenhower. Ike understood the stakes when he said: "The clearest way to show what the rule of law means to us in everyday life, is to recall what has happened when there is no rule of law."

And as we stand here today, commemorating more than 200 years of constitutional government in America, we look back with pride on the justice we have achieved as a nation -- and the promise that has been offered the world -- through this one, simple, magnificent idea -- the idea we know as the Rule of Law.

Because, like many of the principled nations you represent, all today who embrace the rule of law stand as a powerful force for justice at home, and as a powerful example for justice abroad.

I salute this great tradition, its rich heritage, and all the fine men and women gathered here who are dedicated to justice and the rule of law.

Thank you for coming to the White House. Congratulations on your successful conference. And Godspeed you in your service in the cause of justice around the world.

#

(McNally/Simon)
Sept. 7, 1990
Draft One (B:JUDGES)

PRESIDENTIAL REMARKS: INTERNATIONAL APPELLATE JUDGES CONFERENCE
THE EAST ROOM, ~~THE WHITE HOUSE~~
FRIDAY, SEPTEMBER 14, 1990, 11:00 A.M.

Anthony Kennedy?
Good morning. Thanks for your warm greeting. And thanks especially to Chief Justice ~~Rehnquist~~, for his kind words and for his faithful and distinguished service, both to the United States, and to this historic conference.

Rarely has the White House been graced by such distinguished talent. More than 150 chief judicial officers from around the world. Chief Justices representing most of America's 50 states. *+ territories* And practically the entire leadership of the Judicial Conference of the United States. (I heard that Judge Souter might invite a few friends to Washington for his hearing, but I never imagined anything like this!) \\\

Truly, it is a great honor to welcome this extraordinary assembly to Washington, and to greet you at the White House.

Loa Kahn 786-6157
Your visit is historic for many reasons. Although the United States is a Pacific Ocean *nation* country, your Washington gathering marks the first time this conference has been held outside the Asia-Pacific region.

But even more historic than the place, is the times. Your visit comes as the capstone of America's celebration of 200 years of the world's oldest constitution *still in effect* and continuous, independent *the oldest* judiciary. And with what I call the Revolution of '89 just behind us, your conference also serves to commemorate the emergence of some of the world's newest democracies.

And so I hope no one will be offended if I offer particular greetings -- and particular congratulations -- to those Justices representing the new and more independent judiciaries of Central Europe and Central America, and yes, also our old allies from the Soviet Union.

*Constitutional convention
1789
1989 almanac
P. 450*

Two hundred years ago, ~~54~~ ^{SS} Americans met late into the night during a sweltering hot Philadelphia summer, debating a profound, audacious, startling idea. Today we call it the Rule of Law -- the protection by the judiciary of a nation's constitutional principles through judicial review of executive and legislative actions. And truly, the U.S. Constitution stands as one of the world's great experiments in freedom and diversity -- and one of the world's great milestones in the effort to be free of tyranny, to be just, and to be civilized. \\\

The American experiment is a continuing experiment. And its success as a nation that is ruled by law -- and not by men -- depends upon our continuing commitment to an independent judiciary that is not subject to the nation's political winds. And in the American experiment, the key to maintaining a truly independent judiciary is ensuring that the role of the judiciary -- like the role of government itself -- remains limited.

The role of our judiciary is not to set policy, but to apply neutral principles as found in the law -- as found in the Constitution. Our Supreme Court plays the role of the referee

-- determining not who will win the game -- but what the rules will be. Thus our judiciary is not a substitute for democratic government -- but a limitation on it.

I mentioned the historic times, and, of course, it is also a historic week here in Washington. Even as we speak, our constitutional experiment is unfolding up the street in the United States Senate, where America is engaged in the solemn process of the confirmation of our newest Supreme Court Justice.

My old friend and neighbor -- the late and beloved Justice Potter Stewart -- was once asked to name the most important attributes in a judge. He fired back without hesitation: "Quality, and competence, and temperament, and character, and diligence."

Those five attributes are exactly the qualities I believe describe Judge David Souter, my first nominee to the Supreme Court. Judge Souter has a strong, incisive, independent devotion to interpreting the Constitution. I think of what one woman said -- a respected New Hampshire lawyer who tried many cases before Judge Souter, and who is now head of the criminal defense bar up there. She said: "He was an excellent trial judge, though he was the kind of judge you knew was really going to hammer people at sentencing." And she added: "I'm a liberal, but I have tremendous respect for Judge Souter. I think he will honor the Constitution."

Of course, he was elevated from the trial court to serve on New Hampshire's Supreme Court, where he proved to be an

W Post
6-20-81

in
the Quotable
Lawyer

Cathy
Green
Legal
Times

7-30-90

outstanding appellate judge with a great legal mind and an impartial quality. And I understand that, after the conference ends today, many of you are going out to observe our state supreme courts in action. They are America's judicial laboratories, the general court of last resort for most of our citizens' cases, the proving grounds for some of our most distinguished U.S. Supreme Court justices: New York's great jurist, Benjamin Cardozo. William Brennan, now stepping down after 34 years. And Judge Souter's own personal hero, Oliver Wendell Holmes.

Judge
Cynthia
Hall

Webster's
Am.
Biographies

The Souter nomination is an important link in the constitutional tradition we celebrate today. But as we gather to talk about the rule of law this week, there's another subject that's very much on everyone's mind.

I have said many times in the past year that we have entered a new era in world affairs. And the international response to Iraq's naked aggression against a tiny neighbor proves just how true that is. As I said in Helsinki, just six days ago: "If the nations of the world -- acting together -- continue to isolate Iraq, and deny Saddam the fruits of aggression, we will set in place the cornerstone of an international order more peaceful, stable and secure than any we have known." \\\

One of the leaders of the world's last great unified alliance, before the chilly descent of the Cold War, was Dwight David Eisenhower. Ike understood the stakes very clearly. He said: "The clearest way to show what the rule of law means to us

NYT
9-9-90
p. 1

see
file
Law Daily
1958

in everyday life, is to recall what has happened when there is no rule of law."

And as we stand here today, commemorating 200 years of constitutional government in America, we look back with pride on the justice we have achieved as a nation -- and the promise that has been offered the world -- through this one, simple, magnificent idea -- the idea we know as the Rule of Law.

You know, America is sometimes referred to as the world's "last, best hope." But the truth is, it's not so much America the nation, but America the idea, that offers that hope. Because, like many of the principled nations you represent, **all who embrace the rule of law stand today as a powerful force for justice at home, and as a powerful example for justice abroad.**

I salute this great tradition, its rich heritage, and all the fine men and women who serve justice under the banner of the rule of law today.

Thank you for coming to the White House. Congratulations on your successful conference. And Godspeed you in your service in the cause of justice around the world.

#

CONSTITUTION OF THE UNITED STATES



CULVER PICTURES (PAINTING BY JUNIUS BRUTUS STEARNS IN VIRGINIA MUSEUM OF FINE ART)

The Constitutional Convention of 1787 at Philadelphia is addressed by George Washington, its presiding officer. Benjamin Franklin sits at left, holding cane. James Madison stands in the center.

CONSTITUTION OF THE UNITED STATES, the fundamental law of the United States of America. Drafted by the Constitutional Convention in Philadelphia, Pa., between May 25 and Sept. 17, 1787, it is the world's oldest written constitution still in effect. The document presents a set of general principles out of which implementing statutes and codes have emerged. As such, it embodies the essence of constitutionality—that government must be confined by the rule of law.

The success of the framers of the U. S. Constitution in writing a document geared to serving the varied and changing needs of Americans has been complemented by an ability on the part of successive Congresses and courts to readapt it to these changing demands. The Constitution's 25 amendments, added over a period of 180 years, have in most cases, plugged minor loopholes rather than changed the focus or the general structure of the document. As President Franklin D. Roosevelt stated in his first inaugural address on March 4, 1933: "Our Constitution is so simple and practical that it is possible always to meet extraordinary needs by changes in emphasis and arrangement without loss of essential form. That is why our constitutional system has proved itself the most superbly enduring political mechanism the modern world has produced."

Basic Principles. The Constitution was a product of the thought of the 18th century "Age of the Enlightenment." European and American philosophers, such as John Locke, Voltaire, Montesquieu, and Thomas Paine, attacked despotic government and advanced the following ideas: that government comes from below, not from above, and that it derives its powers from the consent of the governed; that men have cer-

tain natural, inalienable rights; that it is wise and feasible to distribute and balance powers within government, giving local powers to local governments, and general powers to the national government; that men are born equal and should be treated as equal before the law.

The framers of the U. S. Constitution sought to do what, as yet, Europeans had not tried: to make these enlightenment ideas the governing principles of a nation. Hence, the document stressed that the people were forming the government ("We, the People . . . do ordain and establish this Constitution. . .") and were themselves dividing power in such a way as to afford checks and balances on its use and potential abuse.

The allotting to the federal government of only those powers specifically delegated—a principle further bolstered by the addition of the 10th Amendment—made clear that the residual powers would remain with the local units of government. The creation of three separate branches within the federal structure, each in numerous ways dependent upon the others for its healthy functioning, afforded another way to ensure that federal power would not be used indiscriminately. The extensive powers of the president likewise were proscribed in a number of places by designated responsibilities. The judicial power, which the framers clearly intended to "extend to all cases, in law and equity, rising under this Constitution, the laws of the United States, and treaties made . . . under their authority," was to be wielded by judges, "holding their offices during good behaviour"; explicit jurisdiction of the courts was subject to congressional definition and, by implication, redefinition.

Indeed, so impressed were certain of the

Justice Benjamin Cardozo
Court once said that a
ate principles for an es
1 a constitution deals only
ends itself to future inter
n to changing conditions
l as flexible.
, the more a constitution
the application of law
artakes of the nature of a
it becomes. Unless a con
type provides for an easy
ndment, it becomes rigid
is. The normal distinction
a flexible constitution is
the amendment process
nent and phraseology of
ast as important in deter
ty or rigidity. A consti
tional principles properly
s amendment; it may be
n if difficult to amend
tutions. By its nature a
g special and different from
e highest legal statement
the record of the decision
It follows that the means
ed must differ from the
rdinary law. Amendments
r by a special body, or a
on, or by a special process
g body, as an extraordinary
Altering a constitution
document that deals with
eed not and should not be
conform with the passing

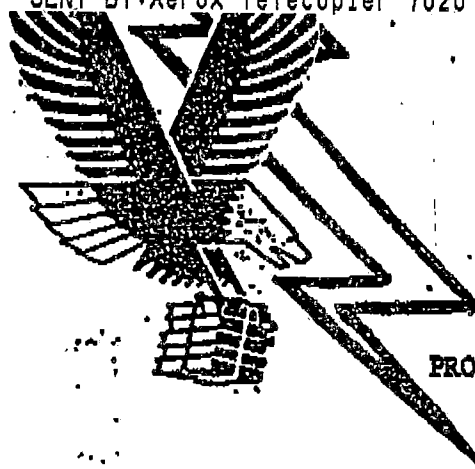
s amendments may be pro
thirds vote of both houses
national constitutional con
gress on petition by two
subsequently the propos
ardless of how they were
a majority vote of the
fourths of the states or
ch of three fourths of the

usal for amendment of the
ced either by the president
e premier or by a member
t then be passed by each
egislature and subsequently
ferendum. An alternative
ident to submit a proposal
the national legislature; in
s vote is required, but so
ry. Australia, Switzerland,
ferendums for the ratifica

TION OF THE UNITED STATES CONSTITUTIONAL LAW.

PAUL C. BARTHOLOMEW
University of Notre Dame

Biography
Constitutions and Constitution
Press 1963).
ushan, Vidya, *World Constit*
ook (Regnery 1986).
Constitution-Making: Principles
of Toronto Press 1981).
Political Constitutions: An Inve
stive Study of Their History and
1966).
Constitutional Development in a Mod
can Hist. Assn. 1985).



FACSIMILE TRANSMISSION

WASHINGTON, D.C. 20544

PROCUREMENT & PROPERTY BRANCH, CONTRACTS & SERVICES DIVISION
ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

DATE: Sept. 5, 1990
TO: Robert Simon
The White House.

FAX TELEPHONE NUMBER 456-6218

FROM: Louis E. Kahn

SENDER'S FTS TELEPHONE NUMBER 786-6157

NUMBER OF PAGES TO FOLLOW 9

CONFIDENTIAL TO ADDRESSEE? YES NO

COMMENTS Draft conference agenda
(working copy)



Fifth International Appellate Judges Conference

September 10 - 14, 1990 ★ Mayflower Hotel ★ Washington, D.C.

Draft Agenda

Thursday, September 6, 1990

3:00 pm Pre-Conference Meeting with the
Mayflower Hotel Staff - Virginia Room

Friday, September 7, 1990

Pre-Conference Walk-through Supreme
Court (time tbd)

Deliver equipment - Cabinet Room

Saturday, September 8, 1990

12:00 pm Set-up Secretariat/Security Command Post
- Cabinet Room (24 hour basis thru 9/16
noon)

Sunday, September 9, 1990

2:00 pm - 6:00 pm Early Registration - Cabinet Room

Monday, September 10, 1990

8:30 am - 8:00 pm Registration and Information Desk Open
Secretariat and Press Room Open -
Cabinet Room

10:00 am - noon Discussion Leaders Meeting - Virginia
Room

10:00 am - noon Reporters Meeting - Judicial
Administration - New Jersey Room

10:00 am - 7:00 pm Airport Greeting Services
Washington, Inc. & Washington Car &
Driver

1:00 pm - 5:00 pm U.S. Judges Meeting - Federal Courthouse

2:00 pm Pre-Conference Walk - through, Dept. of
State

Monday, September 10, 1990 con't.

6:30 pm U.S. Judges Reception - Chinese Room
 7:30 pm U.S. Judges Dinner - Chinese Room
 8:30 pm Interpreters meeting - New York Room

Tuesday, September 11, 1990

7:00 am - 6:00 pm Registration and Information Desk Open
 - Cabinet Room

7:00 am - 8:00 am Buffet Breakfast for all Conference
 Delegates & Spouses - Colonial Ballroom

8:15 am Buses Depart for Supreme Court from the
 Mayflower Hotel - De Sales Street Entrance

9:15 am - 10:15 am **Opening Ceremonies at the Supreme Court**
 The Hon. William H. Rehnquist
 Chief Justice, U.S. Supreme Court
 The Hon. Cynthia H. Hall
 U.S. Circuit Judge, U.S. Court of Appeals
 for the Ninth Circuit
 Processional and Recessional Music
 United States Marine Corps. Chamber
 Orchestra
 Col. John R. Bourgeois, Director

10:15 am - 10:30 am Official Photograph

10:15 am - 3:30 pm Spouse Program/Capitol Hill
 Tour of Capitol Hill to include behind the
 scenes at the Supreme Court, Capitol
 Building including original Supreme Court,
 Senate, and House Chambers, and visit to the
 National Archives. Lunch at the Capitol
 Hill Club. Luncheon speaker on history and
 architecture of the Capitol (tbd).

10:45 am - 11:00 am Transportation to Dept. of State

11:00 am - 12:30 pm Plenary Session
 Loy Henderson Conf. Room, Dept. of State

Tuesday, September 11, 1990 con't.

Comparative Constitutionalism

Panel Presentation

Facilitator: Arthur Miller, J.D.
Bruce Bromley Professor of Law
Harvard Law School

The Hon. Sandra Day O'Connor
Associate Justice
Supreme Court of the United States

12:30 pm - 2:00 pm

Luncheon Hosted by
Chief Justice Rehnquist
Franklin Room, Dept. of State

2:00 pm - 4:30 pm

Breakout Sessions/Constitutional Law:
Individual Rights, Judicial Review,
Constitutional Interpretation, Separation of
Powers, Judicial Independence

- Session 1 - Conf. Room 1207
- Session 2 - Conf. Room 1205
- Session 3 - Loy Henderson Conference Room
- Session 4 - Delegates Lounge
- Session 5 - Conf. Room 1406
- Session 6 - Conf. Room 1107

3:15 pm -

Coffee Break - Delegates Lounge

4:30 pm -

Return Transportation to Mayflower Hotel

6:45 pm

Transportation Departs for Supreme Court

7:00 pm

Reception hosted by the Supreme Court
- Great Hall

8:30 pm

Dinner Sponsored by the American Bar
Association, ABA Section of Litigation,
ABA Section of International Law and
Practice - East Hall, Union Station

Remarks

The Honorable Damon Keith, Chairman
Committee on the Bicentennial of the
U.S. Constitution

John J. Curtin, Jr.
President
American Bar Association

Tuesday, September 11, 1990 con't.

10:30 pm - 11:30 pm Buses depart for Mayflower and Madison
Hotels

11:00 pm Set-Up Translation Booths
Grand Ballroom, Mayflower Hotel

Wednesday, September 12, 1990

7:00 am ~ 6:00 pm Registration and Information Desk Open
- Cabinet Room

7:00 am - 9:00 am Buffet Breakfast for all Conference
Delegates & Spouses - Colonial Ballroom

8:30 am - 10:30 am Set-up for Workshops:

Massachusetts Room
New York Room
Pennsylvania Room

9:00 am - 10:30 am Plenary Session - Mayflower Hotel
- Grand Ballroom

**Modern Techniques in Judicial
Administration**

Overview of new technology. Discussion of word processors, computerized research, and trial court and appellate court computerized administration and case management. Discussion of professional judicial administrators and how they assist in developing these programs.

Introduction of Program:
The Hon. J. Clifford Wallace
Judge, U.S. Court of Appeals
for the Ninth Circuit

**Use of Word Processors in Drafting
Opinions:** The Hon. Marcello Fernan,
Chief Justice, Supreme Court of the
Philippines

**Development and Advantages of
Computerized Research:**
The Hon. Carlos del Rio, President
Supreme Court of Mexico

Wednesday, September 12, 1990 con't.

Development and Advantages of
Computerized Trial Records: The Hon. Wee
Chong Jin, Chief Justice of the Supreme
Court of Singapore

Development and Advantages of
Computerized Appellate Court Records:
Cathy Catterson, Clerk of the Court, U.S.
Court of Appeals for the Ninth Circuit

9:30 am - 2:30 pm

Spouse Program/18th Century Virginia

A Visit to 18th Century Virginia,
includes tours of Woodlawn Plantation,
Christ Church, Mt. Vernon, and Old Town
Alexandria. Lunch at the Chesapeake
Grille, Hyatt Crystal City. Balladeer,
John Hall will provide an historical
perspective on life in the 18th Century.

10:00 am - 12:30 pm

Set-up for afternoon Demonstration
Word Processing - Colonial Ballroom

10:30 am

Coffee Break - Second Floor Foyer

11:00 am - 1:00 pm

Technology Applications Demonstrations
(3) - Mayflower Hotel Technology Overview
(3 sessions, 11:00 - 11:30, 11:40 - 12:10,
12:20 - 12:50)

Computerized Research - Massachusetts Room

Trial Court Administration - New York Room
William Davis, California State Court

Appellate Court Administration -
Pennsylvania Room - Dr. Richard Fennel,
Federal Judicial Center

1:00 pm - 2:15 pm

Buffet Lunch - Grand Ballroom

2:30 pm - 5:00 pm

Hands on Technology Workshops:
(by appointment)

Word Processing - Colonial Ballroom

Computerized Trial Court Administration
Using STATSCAN - New York Room

Wednesday, September 12, 1990 con't.

Computerized Appellate Courts
Administration NEWAIMS - Pennsylvania
Room

Computerized Research (Lexis and Westlaw)
(2 sessions: 2:30 pm, and 3:45 pm)
- Offsite locations

3:30 pm - 4:00 pm

Coffee Break - Colonial Ballroom

6:45 pm

Transportation Departs for Pension
Building

7:00 pm

Dinner sponsored by the American College
of Trial Lawyers

11:30 pm

Translation Equipment Set-up

Thursday, September 13, 1990

7:00 am - 6:00 pm

Registration and Information Desk Open
- Cabinet Room

7:00 am - 8:30 am

Buffet Breakfast for all Conference
Delegates & Spouses - Colonial Ballroom

8:30 am - 10:00 am

Plenary Session
Grand Ballroom - Mayflower Hotel

Overview of Judicial Training, Judicial
Research, and Institutes of Judicial
Administration

Introduction of Program
The Hon. J. Clifford Wallace

Overview of Judicial Education and
Training - Paul Li, Director, California
Center for Judicial Education and Research

Continuing Judicial Education and
Training in Nigeria
The Honorable Mohammed Bellow, C.O.N.
Chief Justice of Nigeria

Judicial Education and Training in Korea
The Honorable Hong Ihpyo
Research Judge and Director
Judicial Research and Training Institute
Republic of Korea

Thursday, September 13, 1990 con't.

Research to Improve Judicial Administration through Institutes of Judicial Administration - The Honorable Sir Anthony Mason, Chief Justice of the High Court, Australia

9:30 am - 3:30 pm

Spouse Program/Galleries and Gardens

Buses depart for guided tours of the National Gallery of Art and National Botanical Gardens. Lunch at Sequoia Restaurant. Speaker tbd, topics may include efforts to save rain forests or other environmental issues. Final stop, grounds, museum and library at Dumbarton Oaks.

10:00 am

Coffee Break - Second Floor Foyer

10:30 am - noon

Small Group Sessions (8) Judicial Education, Judicial Administration Research, and Institutes of Judicial Administration

Session A - South Carolina Room

Session B - Massachusetts Room

Session C - Virginia Room

Session D - Rhode Island Room

Session E - New York Room

Session F - New Hampshire Room

Session G - Maryland Room

Session H - New Jersey Room

12:30 pm - 2:00 pm

Buffet Lunch - Colonial Ballroom

2:00 pm - 4:00 pm

Plenary Session
Grand Ballroom - Mayflower Hotel

Security in the Courts

Moderator: The Hon. Frank A. Kaufman
Senior District Judge, Baltimore

Thursday, September 13, 1990 con't.

Panelists:

Prefetto Domenico Sica
Ufficio dell'Alto Commissario
Rome, Italy

Dr. Achim Thiel
States Attorney Frankfurt/Main
Federal Republic of Germany

K. Michael Moore
Director
U.S. Marshal's Service (tbc)

4:00 pm - 6:00 pm

Meeting of Final Report Drafting
 Committee - Senate Room

4:30 pm - 5:30 pm

Optional Program - Federal Judicial Center

The Federal Judicial Center is the federal courts' agency for research, systems development and continuing education with a mandate to "further the development and adoption of improved judicial administration" in the courts of the United States.

evening

Dinner - Home Hospitality

Friday, September 14, 1990

7:00 am - 4:00 pm

Registration and Information Desk Open
 - Cabinet Room

7:00 am - 8:45 am

Buffet Breakfast for all Conference
 Delegates & Spouses - Colonial Ballroom

9:00 am

Buses depart for Court Visits

8:45 am - 10:30 am

Court Visits

Superior Court of the District of Columbia

U.S. Court of Appeals for the D.C. Circuit

U.S. Court of Appeals for the Federal
 Circuit

U.S. District Court for the District of
 Columbia

Friday, September 14, 1990 con't.

9:00 am - 10:30 am

Spouse Program/At Home In Washington

Today's tour will show how Georgetown residents have furnished historical and period homes representing architectural styles including Georgian, Federalist and Victorian designs. Visit one Georgetown home, have a riding tour past our international neighbors on Embassy Row, with a brief stop at Washington National Cathedral before our final stop at the White House.

10:30 am -

Buses Depart for White House

10:45 am -

Everyone arrives at the White House for Security procedures. Seating should be completed by 11:20 am.

11:30 am - 12:30 pm

White House Ceremonies and Tour - East Room

12:45 pm - 1:30 pm

**Picnic Box Lunch
U.S. Federal Courts Building Courtyard**

1:30 pm -

Buses depart for State Dept.

2:00 pm - 2:30 pm

**Presentation of Final Report, Announcement
of next Conference Host, Dean Acheson
Auditorium****Presiding****The Honorable William H. Rehnquist
Chief Justice of the Supreme Court of the
United States**

*Comey
662-1145*

THE WHITE HOUSE
WASHINGTON

*Sept. 14
11:20
EAST Rm.*

Date: July 20, 1990

TO: Joe Hagin

FROM: **KATHY SUPER** *KS*
**Deputy Director for Appointments
Office of Presidential Appointments
and Scheduling
Ext. 7560**

Judge John Walker called me Wednesday to inquire about an invitation to the President that was regretted July 2.

Fifth International Appellate Judges Conference
Sponsor: Judicial Conference of the U.S.
Chief Justice Rehnquist, Chairman
September 11-14, 1990
Audience: 200 judges (represents judicial leadership of the world - 111 foreign and 62 federal judges)

Judge Walker feels very strongly about the President meeting with this group. He is asking us to reconsider and have the group to the W.H. on Sept. 14.

You may want to have Governor Sununu look at this and call Judge Walker and/or Chief Justice Rehnquist so as to divert a direct, personal appeal to the President. Or maybe we should have the group in...

*capitol hill next steps in D.C. 11/86-6157
Hon Kahn Mon. Wed. Fri.*

THE WHITE HOUSE
WASHINGTON

MEMORANDUM

TO: C. Boyden Gray
FROM: JOSEPH W. HAGIN
SUBJECT: APPROVED PRESIDENTIAL ACTIVITY

EVENT: Meeting with the Fifth International Appalet Judges Conference
DATE: September 14, 1990
TIME: 11:30 a.m.
DURATION: 20 minutes
LOCATION: East Room
ATTIRE: Business suit
REMARKS REQUIRED: Yes
MEDIA COVERAGE: Open
FIRST LADY PARTICIPATION: Is Invited
ADDITIONAL INFORMATION: 300 People

CONTACT: _____

TELEPHONE: OFFICE _____ HOME _____

NOTE: PROJECT OFFICER, SEE ATTACHED CHECKLIST

Ed Rogers	Marlin Fitzwater	David Bates
James Cicconi	David Demarest	David Valdez
Fred McClure	Jean Lamb	USSS - PPD
Susan Porter Rose	Sig Rogich	Gary Walters
Patty Presock	John Keller	WHCA Audio/Visual
Chriss Winston	Tim McBride	WHCA Operations
Laurie Firestone	J. Bonnie Newman	C. Boyden Gray
William Kristol	Paul Bateman	John Herrick
Jackie Kennedy		

LRF 8/3/90

5th International Appellate Judges Conference

Sept. 11-14

ID# 074923

FG-01-06

INCOMING

RECEIVED

RECEIVED

DATE RECEIVED: SEPTEMBER 22, 1989

OCT 19 1989

SEP 22 1989

NAME OF CORRESPONDENT: THE HONORABLE WILLIAM H. REHNQUIST

SCHEDULING

OFFICE SCHEDULING OFFICE

SUBJECT: REQUESTS THE PRESIDENT TO RECEIVE IN THE WHITE HOUSE AND ADDRESS BRIEFLY THOSE ATTENDING THE FIFTH INTERNATIONAL APPELLATE JUDGES CONFERENCE, ON SEP (11-14) 90,

pending reply

MR KS

ACTION

DISPOSITION

ROUTE TO: OFFICE/AGENCY

(STAFF NAME)

ACT DATE TYPE C COMPLETED CODE YY/MM/DD RESP D YY/MM/DD

JOSEPH HAGIN

ORG 89/09/22 JH A 89/10/10 TR

REFERRAL NOTE:

C. BOYDEN GRAY

RSI 89/09/22 C 89/09/22

REFERRAL NOTE:

SC RAWL

A 89/10/12 JH A 90/02/02

REFERRAL NOTE:

REFERRAL NOTE:

REFERRAL NOTE:

COMMENTS:

COPY

ADDITIONAL CORRESPONDENTS:

MEDIA:L INDIVIDUAL CODES:

MI MAIL

USER CODES: (A)

(B)

(C)

*ACTION CODES: *DISPOSITION *OUTGOING *
*A-APPROPRIATE ACTION *A-ANSWERED *CORRESPONDENCE: *
*C-COMMENT/RECOM *B-NON-SPEC-REFERRAL *TYPE RESP=INITIALS *
*D-DRAFT RESPONSE *C-COMPLETED * OF SIGNER *
*F-FURNISH FACT SHEET *S-SUSPENDED * CODE = A *
I-INFO COPY/NO ACT NEC *COMPLETED = DATE OF *
*R-DIRECT REPLY W/COPY * * OUTGOING *
*S-FOR-SIGNATURE * * *
*X-INTERIM REPLY * * *

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE (ROOM 75, OEOB) EXT-2590 KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS MANAGEMENT.

10/11-7

"receive in the White House and
address ~~convention~~ those attending
the Fifth International Appellate
Judges Conference."

July 2, 1990

Dear Mr. Chief Justice:

On behalf of the President, thank you for your invitation for him to receive in the White House and address those attending the Fifth International Appellate Judges Conference.

We appreciate your extending this opportunity to the President. I regret to write that, due to the heavy demands on his schedule, he will be unable to accept your kind invitation. However, he asked me to convey to you his sincere appreciation for your thoughtfulness and to extend to you his very best wishes.

Sincerely,

JOSEPH W. HAGIN II
Deputy Assistant to the President
for Appointments and Scheduling

The Honorable William H. Rehnquist
The Chief Justice
of the United States
Washington, D.C. 20543

JWH:MHR:ba (PC-5sd7JWH)
JWH-7.pf

Scheduling
9/11-9/14/90
cc @ Snyder

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

September 19, 1989

The President
The White House
Washington, DC 20500

Dear Mr. President:

I write to ask you to receive in the White House and address briefly those attending the Fifth International Appellate Judges Conference in Washington, D.C., September 11 through 14, 1990. We would prefer that this occasion take place the afternoon of Friday, September 14.

The Fifth International Appellate Judges Conference (the first such conference to be hosted by the United States) is sponsored by the Judicial Conference of the United States, which I chair. Invited to attend are the chief justices of all our states and territories, the chief judicial officer of each foreign country with which we maintain diplomatic relations, and the members of the Judicial Conference of the United States (representing the Federal courts). We anticipate about 200 judges, some of whom will be accompanied by their spouses.

The International Appellate Judges Conference provides a forum for discussing problems of judicial administration and of the relationship of the judiciary to the governments and to the peoples of the nations involved. This particular conference will also be in celebration of the Bicentennial of our Constitution and our Federal courts, and will address comparative constitutions.

Respectfully,

William H. Rehnquist

THE WHITE HOUSE
WASHINGTON

October 2, 1989

Joe,

This looks like a good idea if it can be worked into the schedule.

Let me know if you would like to discuss it further.

A handwritten signature in cursive script, appearing to read "Bob Dole".The word "Spin" written in a cursive, handwritten style, with a long, sweeping underline that extends to the left and then curves back under the word.

October 10, 1989

Dear Mr. Chief Justice:

Thank you for your letter to the President in which you invite him to address the members of the Fifth International Appellate Judges Conference at a meeting here at the White House sometime during September 11 through 14, 1990, while they are conferring in Washington, D.C.

We appreciate the fine opportunity you have offered the President to meet with this prestigious group and assure you that every consideration will be given to your request at a time nearer the date of the conference when the President's schedule will be in final development. Although we are unable to make a firm commitment for him at this time we will be back in touch with you closer to the date about the possibility of his acceptance.

With best wishes,

Sincerely,

JOSEPH W. HAGIN II
Deputy Assistant to the President
for Appointments and Scheduling

The Honorable William H. Rehnquist
The Chief Justice
of the United States
Washington, D.C. 20543

JWH/PSH/ba

(PC-10JWH)

✓cc: and incoming to Mary Rawlins for pending file

Supreme Court of the United States
Washington, D. C. 20543

PRESIDENT HAS SEEN
Joe -
1. He needs a reply
2. I think I should
do it - a request
from Chief Justice

CHAMBERS OF
THE CHIEF JUSTICE

July 2, 1990

The President
The White House
Washington, D.C. 20500

Dear Mr. President,

Sometime ago I wrote to ask if you might receive at the White House and address briefly those attending the Fifth International Appellate Judges Conference in Washington, D.C., September 11-14, 1990. We would prefer that this occasion take place the afternoon of Friday, September 14th, but needless to say we would make every effort to accommodate our schedule to yours if it were possible to do it at a different time during that week. At that time Joseph W. Hagin, II, your Deputy Assistant for Appointments and Scheduling, replied that a firm commitment could not be made, a special note would be made of that date and I was requested to renew our request closer to the actual event.

7-12-90
S

I now take that opportunity to do so. It would mean a great deal to all of these various Chief Justices from almost every country in the world to have the opportunity to be greeted by you and hear whatever remarks you chose to make. I hope you will be able to act favorably upon this request.

Sincerely,
William A. Leung

13th Aug

Discussed with JANET BARNES 7/20 12:25, pm

- State Court angle
- trial court angle
- ind. judiciary (judicial restraint)
- our Const. tradition
- trad. protecting rights -
but not making
laws

(McNally/Simon)
Sept. 11, 1990
Draft Two (B:JUDGES)

PRESIDENTIAL REMARKS: INTERNATIONAL APPELLATE JUDGES CONFERENCE
THE EAST ROOM
FRIDAY, SEPTEMBER 14, 1990, 11:30 A.M.

Good morning. Thanks for your warm greeting.

Rarely has the White House been graced by such distinguished talent. More than 150 chief judicial officers from around the world. Chief Justices representing most of America's 50 states and territories. And practically the entire leadership of the Judicial Conference of the United States. (I heard that Judge Souter might invite some friends to Washington for his hearing, but I never imagined anything like this!) \\

Truly, it is a great honor to welcome this extraordinary assembly to Washington, and to greet you at the White House.

Your visit is historic for many reasons. Although the United States is a Pacific nation, your Washington gathering marks the first time this conference has been held outside the Asia-Pacific region.

But even more historic than the place, are the times. Your visit comes as the capstone of America's celebration of 200 years of the world's oldest constitution and continuous, independent judiciary. And with what I call the Revolution of '89 just behind us, your conference also serves to commemorate the emergence of some of the world's newest democracies.

And so I hope no one will be offended if I offer particular greetings -- and particular congratulations -- to those Justices representing the new and more independent judiciaries of Central

Europe and Central America, and yes, also our new friends from the Soviet Union.

Two hundred years ago, 55 Americans met late into the night during a sweltering hot Philadelphia summer, debating a profound, audacious, startling idea. Today we call it the Rule of Law -- the protection by the judiciary of a nation's constitutional principles through judicial review of executive and legislative actions. And truly, the U.S. Constitution stands as one of the world's great experiments in freedom and diversity -- and one of the world's great milestones in the effort to be free of tyranny, to be just, and to be civilized. \\\

The American experiment is a continuing one. And our success as a Nation that is ruled by law -- and not by men -- depends upon our continuing commitment to an independent judiciary. A judiciary that is not subject to the nation's political winds, but that will interpret the law as written in our Constitution and the statutes adopted by the elected representatives of our people.

And in the American tradition, the key to preserving a truly independent judiciary is ensuring that the role of the judiciary -- like the role of government itself -- remains limited.

The role of our judiciary is not to set policy, but to apply principles as found in the law -- as found in the Constitution. Our Supreme Court plays the role of the referee -- it does not make up the rules, but rather, applies the rules to the situa-

tions that come before it. Thus our judiciary is not a substitute for representative government -- but a limitation on it.

I mentioned the historic times, and, of course, it is also a historic week here in Washington. Even as we speak, our constitutional experiment is unfolding up the street in the United States Senate, where America is engaged in the solemn process of the confirmation of a very fine and decent judge, whom I hope and believe will become our newest Supreme Court Justice.

My old friend and neighbor -- the late and beloved Justice Potter Stewart -- was once asked to name the most important attributes in a judge. He fired back without hesitation: "Quality, and competence, and temperament, and character, and diligence."

Those attributes are exactly the qualities I believe describe Judge David Souter, my first nominee to the Supreme Court. Judge Souter has a strong, incisive, independent devotion to interpreting the Constitution. I think of what one woman said -- a respected New Hampshire lawyer who tried many cases before Judge Souter, and who is now head of the criminal defense bar up there. She said: "He was an excellent trial judge, though he was the kind of judge you knew was really going to hammer people at sentencing." And she added: "I'm a liberal, but I have tremendous respect for Judge Souter. I think he will honor the Constitution."

Of course, he was elevated from the trial court to serve on New Hampshire's Supreme Court, where he proved to be an

outstanding appellate judge with a great legal mind and an impartial quality. And I understand that, after the conference ends today, many of you are going out to observe our state supreme courts in action. They are America's judicial laboratories, the general court of last resort for most of our citizens' cases, the proving grounds for some of our most distinguished U.S. Supreme Court justices: New York's great jurist, Benjamin Cardozo. William Brennan, who has just stepped down after 34 years on the Court. And, of course, Oliver Wendell Holmes.

The Souter nomination is an important link in the constitutional tradition we celebrate today. But as we gather to talk about the rule of law this week, there's another subject that's very much on everyone's mind.

I have said many times in the past year that we have entered a new era in world affairs. And the international response to Iraq's naked aggression against a tiny neighbor proves just how true that is. As I said in Helsinki, just six days ago: "If the nations of the world -- acting together -- continue to isolate Iraq, and deny Saddam the fruits of aggression, we will set in place the cornerstone of an international order more peaceful, stable and secure than any we have known." \\\

One of the leaders of the world's last great unified alliance, before the chilly descent of the Cold War, was Dwight David Eisenhower. Ike understood the stakes very clearly. He said: "The clearest way to show what the rule of law means to us

in everyday life, is to recall what has happened when there is no rule of law."

And as we stand here today, commemorating 200 years of constitutional government in America, we look back with pride on the justice we have achieved as a nation -- and the promise that has been offered the world -- through this one, simple, magnificent idea -- the idea we know as the Rule of Law.

Because, like many of the principled nations you represent, all today who embrace the rule of law stand as a powerful force for justice at home, and as a powerful example for justice abroad.

I salute this great tradition, its rich heritage, and all the fine men and women gathered here who are dedicated to justice and the rule of law.

Thank you for coming to the White House. Congratulations on your successful conference. And Godspeed you in your service in the cause of justice around the world.

#

A COMMON SENSE, LAW AND ORDER JUDGE

- Judge Souter is a tough, anti-crime judge. Prior to his appointment to his state's Supreme Court, he served as a hands-on trial court judge, and as New Hampshire's Attorney General -- the state's chief law enforcement official. Because of this experience, he has a practical understanding of the problems that face prosecutors and police, and takes a common-sense approach to questions of criminal law and procedure.
- In society's battle against drug traffickers, he has supported the constitutional use of "pen registers," a highly effective law enforcement tool that's enabled police to track down drug kingpins by identifying the phone numbers of those who supply street-level drug dealers. (State v. Valenzuela, 536 A.2d 1252 (N.H. 1987)).
- Protecting the lives and safety of citizens who act to assist the police, he has, in appropriate circumstances, shielded the names of police informants from unnecessary disclosures. (State v. Svoleantopoulos, 543 A.2d 410 (N.H. 1988); State v. Cote, 493 A.2d 1252 (N.H. 1985)).
- Early on, Judge Souter took a common sense, constitutional stand to protect our citizens from what the President has called "one of the most deadly scourges ever to strike modern times" -- drunk driving.

He has approved the use of properly conducted police roadblocks to apprehend drunk drivers, acknowledging a police department's judgment that roadblocks are an effective means of law enforcement. In particular, Judge Souter has observed that the public interest in protecting life, health, and property on the highway is great, and is clearly "served by detecting impairment caused by intoxicants before the impairment manifests itself in the sort of behavior that would justify an individual stop." (State v. Koppal, 499 A.2d 977, 985 (N.H. 1985) (Souter, J., dissenting) (emphasis added)).
- Demonstrating the kind of common sense for which the people of New Hampshire are known, he has rejected arguments that drunk driving convictions must only be based on "high-tech" blood, urine, or breath samples.

He observed that the people's representatives in the legislature had not imposed any such requirement, and that there is nothing unfair in proving a drunk driving charge with evidence gathered through traditional methods of observation and investigation. (State v. Alcorn, 484 A.2d 1176 (N.H. 1984)).

● Judge Souter has resisted the arguments of those who would tip the scales of justice further in favor of criminal wrong-doers. He has been reluctant to impose new, judge-made requirements that would be tougher on police than they would be on criminals.

For example, Judge Souter has declined to expand the already-strict requirements of the Miranda decision (State v. Jones, 484 A.2d 1070 (N.H. 1984)), and has rejected arguments that would have prevented a jury from hearing certain relevant evidence against a criminal defendant. (State v. Brown, 517 A.2d 831 (N.H. 1986); State v. Cormier, 499 A.2d 986 (N.H. 1985) (state privilege against self-incrimination)).

● Judge Souter's approach to criminal law issues is informed both by his considerable experience as a public law enforcement officer and his deep understanding of the community's interest in combatting crime.

He has consistently demonstrated a strong willingness to defer to the decisions of legislators, prosecutors and police so long as those decisions do not infringe on the constitutional rights of criminal defendants.

"JUDICIAL AND INTELLECTUAL EXCELLENCE"

WHAT AMERICA'S LEADERS ARE SAYING ABOUT JUDGE DAVID SOUTER

Raised in Boston and on his grandparents' New Hampshire farm, Judge David Souter attended local public high schools and then went on to earn further, superb academic credentials: Phi Beta Kappa at Harvard, Rhodes Scholar at Oxford, and a graduate of Harvard Law School.

It's an education that's been matched by real world experience. During a decade of distinguished law enforcement service, he rose to succeed Senator Warren Rudman as New Hampshire's Attorney General, the state's chief law enforcement official.

In 1978 he stepped up to the bench to begin a career of exceptional judicial service, as a hands-on trial judge (Associate Justice, New Hampshire Superior Court), elevated to the state's highest court (Associate Justice, Supreme Court of New Hampshire), and unanimously approved by the United States Senate for the U.S. Court of Appeals. With 12 years on the bench, he would bring to the Supreme Court more judicial experience than all but one of the current Justices had at the time of their elevation.

Judge Souter has already won high praise from Republicans, Democrats, and his professional colleagues. A sampling of published comments on Judge Souter's nomination is included below.

DAVID SOUTER THE JUDGE:

"EXTRAORDINARILY TALENTED, IMPECCABLY FAIR"

- o New Hampshire Bar Association President John Broderick, a Democrat: He's the finest legal mind I have ever encountered. He gets to the bottom line faster than anybody I've ever seen." (Boston Globe, July 24, 1990)

Broderick adds: "He's a judge's judge, extraordinarily talented and impeccably fair.... He will not cast his lot with the conservatives on the court merely because they're conservatives. He's fiercely independent in his legal reasoning...." (Washington Times, July 25, 1990)

- o David Broder, The Washington Post: "President Bush's appointment of Judge David H. Souter to the Supreme Court has every indication of being a superb choice -- both substantively and politically. What the country should care about is that the New Hampshire jurist -- by the unanimous

testimony of those who know him -- brings a powerful, superbly trained legal intellect, disciplined work habits and genuine independence of judgment to the issues before the high court."

- o Cathy Green, president of the New Hampshire Association of Criminal Defense Lawyers, has tried numerous cases before Judge Souter. She says: "He was an excellent trial judge, though he was the kind of judge you knew was really going to hammer people at sentencing."

"I'm a liberal," Green concluded, but I have tremendous respect for Judge Souter. I think he will honor the Constitution." (Legal Times, July 30, 1990)

- o James E. Morris, a Concord (N.H.) attorney who served as an assistant attorney general under Judge Souter from 1975 to 1977: "(He is) a razor-sharp thinker" and "probably as apolitical a person as I ever knew. He's not one who aspires for publicity or breaking new ground or anything like that. He is just a sound thinker. He analyzes all aspects of the issues and reaches sound decisions." (Boston Globe, July 24, 1990)

- o Clesson Blaisdell, a Democratic state senator from New Hampshire, said: "He'll interpret the law. He won't be there representing one side or the other" (The Wall Street Journal, July 24, 1990), and added: "[Souter] is a very fair ... low-key jurist." (Chicago Tribune, July 24, 1990)

- o Tom Rath, a friend of Judge Souter's and former New Hampshire Attorney General: "(Judge Souter) believes social policy should be made in the legislature, but he believes very much the judiciary should protect the rights of individuals." (Washington Post, July 27, 1990)

- o U.S. Senator Gordon Humphrey (R-N.H.) concludes: "Everything about [Judge Souter] predicts judicial restraint." (Boston Globe, July 24, 1990)

- o Manchester (N.H.) lawyer Jack Middleton recalled one case which illustrated Judge Souter's integrity. Faced with the case of a lawyer who had stolen money from a client, Judge Souter wanted to send the lawyer to jail rather than simply have him pay the money back. "'This wasn't just a bank transaction that you can pay back,' he kept saying,"

Middleton recalled. "It really upset him. That's the kind of justice he will be."

DAVID SOUTER THE LAWYER:

"THE SINGLE MOST BRILLIANT INTELLECT I HAVE EVER MET"

- o Senator Warren B. Rudman (R-New Hampshire): "(Judge Souter is) a brilliant intellectual, a classic conservative intellectual in the deepest sense of the word. He can't be classified as an ideologue in any way, shape, or fashion." Senator Rudman further stated that Judge Souter "is the single most brilliant intellectual mind I have ever met." (Washington Post, July 24, 1990)
- o Paul McEachern, a Democrat and past president of the New Hampshire Bar Association: "My impression is that he's a first-rate scholar. He's going to ... be confirmed, and, deservedly so."
- o Representative Chuck Douglas (R-New Hampshire), a former N.H. State Supreme Court Justice and colleague of Judge Souter's: "(He is) one of the brightest individuals I have ever met." (Boston Globe, July 24, 1990)
- o J. Joseph Grandmaison, a former Democratic party chairman in New Hampshire: "(Judge Souter has) an absolutely spectacular reputation." Mr. Grandmaison further described Judge Souter as "about 135 pounds -- and about 120 pounds of brain." (New York Times, July 24, 1990)
- o New Hampshire Supreme Court Justice William Johnson, who served on the bench with Judge Souter for four years: "He's always been a very bright guy -- just plain exceptional." (USA Today, July 24, 1990)
- o Ronald Snow, president of the Concord (N.H.) law firm of Orr & Reno, where Judge Souter worked after graduating from Harvard Law School in 1966: "He's absolutely an ethically superior guy, with an intellect to match" (Washington Times, July 24, 1990), as well as "charming, witty, and warm." (Baltimore Sun, July 27, 1990)

DAVID SOUTER THE MAN:"A WARM, FRIENDLY PERSON ... EXTREMELY CONSIDERATE"

- o R. Eden Martin, a prominent Chicago lawyer and a Democrat, worked with David Souter when they were both freshman advisors at Harvard Law School in the mid-1960's. Writing in the Chicago Tribune on August 21, he talked about the human David Souter, his ready conversation, diverse friendships, and the kind of values that placed people above grades. He concluded:

"David Souter will obviously not bring an empty mind to the Supreme Court, but it will also not be a closed one. Like Justice [Oliver Wendell] Holmes, another Harvard Yankee and one of Souter's intellectual heroes, he is a judge capable of growth and change. He is not 'political' in any ideological or partisan sense of the word, and his mind and personality are too rich and complex to be assigned to a particular place on the traditional political spectrum."

- o Ellanor Stengel Fink, a Montgomery County (MD.) Democrat, community volunteer and mother of three, dated David Souter for several years during his law school days in Boston. She recently described him to the Washington Post as "a friendly, warm person ... extremely considerate ... very funny, loves to tell stories, loves Robert Frost...."

She says: "[David Souter is] very much grounded in the day-to-day. He's somebody, I think, who would be really sensitive to different opinions and different backgrounds. He's not someone who's coming from his personal opinions and then twists the law accordingly. He really reveres the law." (Washington Post, July 27, 1990)

- o William Bardel, a New York businessman, was a law school classmate of David Souter's and a fellow Rhodes Scholar during their student days. He says:

"What I remember is David ... very gentlemanly, with his hands in the pockets telling stories and especially doing imitations with his New England accent." He added: "I'm pretty sure also that he climbed in a few windows with me after midnight when they locked the college gates." (L.A. Times, July 27, 1990)

- o Judge Souter is godfather to the daughter of Jane Cetlin, a Boston lawyer who clerked for Judge Souter on the New

Hampshire Supreme Court. She says: "It's not that he's insular because of his intellect, it's that it allows him to see life more broadly." (Legal Times, July 30, 1990)

- o Steven Merrill, former New Hampshire Attorney General, said that the "New Hampshire bar is delighted that one of the best and brightest in New England, if not the whole country, was chosen." (Washington Times, July 25, 1990)

- o And Arthur Mudge, a Hanover (N.H.) lawyer, sent a letter to the New York Times saying: "As a New Hampshire lawyer, I can assure you that any poll of our bar would produce virtual unanimity, among Republicans and Democrats, males and females, that for his human, as well as his intellectual qualities, Judge Souter is New Hampshire's best candidate for the Supreme Court position," adding, "and we are just proud enough to think our best is plenty good." (New York Times, Aug. 19, 1990)

#

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

July 23, 1990

BIOGRAPHY
DAVID HACKETT SOUTER

Judge, United States Court of Appeals for the First Circuit, appointed by President Bush on April 30, 1990. Former Associate Justice, New Hampshire Supreme Court, appointed by governor to term beginning 1983. Born Melrose, Massachusetts September 17, 1939 to Joseph Alexander and Helen Adams Hackett Souter. Episcopalian. Educated at Harvard University, B.A. 1961 LL.B. 1966 and Oxford University, England 1961-63. Rhodes Scholar. Member Phi Beta Kappa. Admitted to practice New Hampshire. In legal practice Concord 1966-68. Associate Justice, New Hampshire Superior Court 1978-83.

Assistant Attorney General 1968-71, Deputy Attorney General 1971-76 and Attorney General 1976-78 New Hampshire. Member New Hampshire and American Bar Association. Republican. Trustee Concord Hospital 1973-85 (President Board of Trustees 1978-84). Board of Overseers Dartmouth Medical School since 1981. Member New Hampshire Historical Society (Trustee 1976-85, Vice President 1980-85).

#

1 One who comes to the Court must come to adore, not to protest. That's the new gloss on the 1st Amendment.

To Justice Potter Stewart on why Vietnam War veterans were arrested for peaceful protest on steps of the Supreme Court building. *The Court Years 1939-75* Random House 80

2 At the constitutional level where we work, 90 percent of any decision is emotional. The rational part of us supplies the reasons for supporting our predictions.

ib

3 The Constitution is not neutral. It was designed to take the government off the backs of people.

ib

4 It seemed to me that I had barely reached the Court when people were trying to get me off.
On attempts to impeach him. *ib*

ADRIAN G DUPLANTIER, Louisiana State Senator

5 We are about to make motherhood a crime. No civilized government in the history of mankind has ever done this.

Comment before legislators voted to make the bearing of more than one illegitimate child a criminal act. *NY Herald Tribune* 15 Jun 60

RONALD D DWORKIN, Professor of Law, NY University

6 Moral principle is the foundation of law.

Law's Empire Belknap Press/Harvard 86. quoted in *Christian Science Monitor* 20 May 86

7 Integrity is the key to understanding legal practice. . . . Law's empire is defined by attitude, not territory or power or process.

ib

MARIAN WRIGHT EDELMAN

8 We are willing to spend the least amount of money to keep a kid at home, more to put him in a foster home and the most to institutionalize him.

Quoted by Margie Casady "Society's Pushed-Out Children" *Psychology Today* Jun 75

THOMAS EHRLICH, Dean, Stanford Law School

9 [There] is an increasing sense of what can be called "legal pollution."

On courts and legislatures "too prone to take on problems that they have no business getting into." *US News & World Report* 21 Jul 75

DWIGHT D EISENHOWER, 34th US President

10 The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law.

Address on first observance of Law Day 5 May 58

11 I deplore the need or the use of troops anywhere to get American citizens to obey the orders of constituted courts.

On Arkansas's defiance of Supreme Court school desegregation ruling. 14 May 58

12 There is no person in this room whose basic rights are not involved in any successful defiance to the carrying out of court orders.

ib

AUSTIN ELLIOT

13 Whoever said "Marriage is a 50-50 proposition" laid the foundation for more divorce fees than any other short sentence in our language.

"Some Observations on the Attorney-Secretary Function" *Law Office Economics and Management* Nov 64

MARTIN ERDMANN, NYC Legal Aid Society

14 Appellate Division judges [are] the whores who became madams.

Life 12 Mar 71

SAM ERVIN, US Senator

15 I'll have you understand I am running this court, and the law hasn't got a damn thing to do with it!

Recalling an old magistrate's words to a young attorney, quoted by Thad Stem Jr and Alan Butler comps *Senator Sam Ervin's Best Stories* Moore 73

16 The rain it raineth on the just

And also on the unjust fella;

But chiefly on the just, because

The unjust steals the just's umbrella.

ib

17 [Polygraph tests] are 20th-century witchcraft.

Quoted by Susan Dentzer "Can You Pass the Job Test?" *Newsweek* 5 May 86

BENJAMIN F FAIRLESS, President, US Steel

18 What five members of the Supreme Court say the law is may be something vastly different from what Congress intended the law to be.

Address at Boston 18 May 50

19 If we persist in that kind of a system of law . . . virtually every business in America, big and small, is going to have to be run from Sing Sing, Leavenworth or Alcatraz.

ib

GEOFFREY FISHER, Archbishop of Canterbury

20 In a civilized society, all crimes are likely to be sins, but most sins are not and ought not to be treated as crimes. . . . Man's ultimate responsibility is to God alone.

Look 17 Mar 59

21 There is a sacred realm of privacy for every man and woman where he makes his choices and decisions—a realm of his own essential rights and liberties into which the law, generally speaking, must not intrude.

ib

MACKLIN FLEMING

22 Procrastination is a sin of lawyers, trial judges, reporters, appellate judges, in brief, everyone connected with the machinery of criminal law.



LA Times 24 Jul 74

ABE FORTAS, Associate Justice, US Supreme Court

23 For a justice of this ultimate tribunal, the opportunity for self-discovery and the occasion for self-revelation is usually great.

Quoted on his appointment to US Supreme Court. *Newsweek* 9 Aug 65

The Quotable Lawyer



Nearly 2,600
of the Best Quotes
on the Law from
Ancient Times to the Present



Edited by

David Shrager and Elizabeth Frost

127. SUPREME COURT

- 127.1 Like all human institutions, the Supreme Court must earn reverence through the test of truth.
Felix Frankfurter
"Mr. Justice Holmes and the Constitution," 41 *Harvard Law Review* (1927)
- 127.2 No matter whether th' constitution follows th' flag or not, th' supreme court follows th' illicion returns.
Finley Peter Dunne, 1867-1936
Edward J. Bander, ed., *Mr. Dooley on the Choice of Law*, 1963
- 127.3 . . . on a question of public policy it is no disrespect to the Supreme Court to say that the majority of the Court were mistaken. There is no reason why five gentlemen of the Supreme Court should know better what public policy demands than five gentlemen of Congress.
Louis D. Brandeis, 1856-1941
Alpheus Thomas Mason, *Brandeis: A Free Man's Life*, 1946
- 127.4 Civil liberties had their origin and must find their ultimate guaranty in the faith of the people. If that faith should be lost, five or nine men in Washington could not long supply its want.
Robert H. Jackson
Douglas v. Jeannette, 319 U.S. 157, 182 (1943)
- 127.5 This Court is forever adding new stories to the temples of constitutional law, and the temples have a way of collapsing when one story too many is added.
Robert H. Jackson
Douglas v. Jeannette, 319 U.S. 157, 181 (1943)
- 127.6 The people can change Congress but only God can change the Supreme Court.
George W. Norris, 1861-1944
Laurence J. Peter, *Peter's Quotations*, 1977
- 127.7 We want a Supreme Court which will do justice under the Constitution—not over it. In our courts we want a government of laws and not of men.
Franklin Delano Roosevelt, 1882-1945
Laurence J. Peter, *Peter's Quotations*, 1977
- 127.8 By the very nature of the functions of the Supreme Court, each member of it is subject only to his own sense of the trusteeship of what are perhaps the most revered traditions in our national system.
Felix Frankfurter
"The Administrative Side' of Chief Justice Hughes," 63 *Harvard Law Review*, 1, 2 (1949)

- 127.9 One is entitled to say without qualification that the correlation between prior judicial experience and fitness for the functions of the Supreme Court is zero.
Felix Frankfurter
"Supreme Court in the Mirror of Justice," 105 *University of Pennsylvania Law Review* (1957)
- 127.10 The difficulty in modification of the Constitution makes the Supreme Court a very powerful body in shaping the course of our civilization. In dealing with the constitutional guarantees of human dignity, it often has the application of the national conscience in its keeping. It is a sort of diplomatic priesthood.
F. D. G. Ribble
167 *Washington and Lee Law Review* (1957)
- 127.11 Whenever you put a man on the Supreme Court he ceases to be your friend.
Harry S. Truman
New York Times, 1959
- 127.12 It is nine men, nine very human men, participating in a process that can be impressive or disturbing, grave or funny. And contrary to the general impression, the process is more visible than most of what goes on in government.
Anthony Lewis
"Nine Very Human Men," *New York Times Magazine*, January 17, 1965
- 127.13 The criticism of the Court that is, perhaps, most frequently heard and that pretty well encompasses all other ones is that the Court is too political. This criticism is misguided or well-taken, depending on what is meant by it. If it means that the Court should make no decisions that can in any sense be deemed political, but should follow some certain body of rules called Constitutional Law, the answer is that The Law as so conceived is a myth, it does not exist, and hence the Court, in order to function at all, must make law rather than simply follow it. Therefore, it must make what are bound to be, in a sense, political decisions.
But if the criticism means that the Court's occasions and modes of policymaking should be different from those of the elected organs of government, then the criticism is well-taken. It means, then, not that this has been a political court but that it has in some instances been wrongly political, that it has been political after the fashion of a legislature or an executive rather than a court.
Alexander M. Bickel
"Is the Warren Court Too 'Political'?" *New York Times Magazine*, September 25, 1966
- 127.14 I have no objection to nine aging gentlemen appointed for life interpreting the law; but I would deprive them of the last word
Robert M. Hutchins, president,
Center for the Study of Democratic Institutions
Interview, *Los Angeles Times*, June 17, 1969
- 127.15 It is not likely ever, with human nature as it is, for nine men to agree always on the most important and controversial issues of life. If it ever comes to such a pass I would say that the Supreme Court will have lost its strength and will no longer

- be a real force in the affairs of our country.
Earl Warren
New York Times, June 23, 1969
- 127.16 The vision of America held and defined by the Warren Court was the noblest and most honorable of them all—a vision of justice in its ultimate form, the form of freedom. It may not have been perfect But it dared to turn from darkness to face the sun.
Archibald MacLeish
New York Post, October 14, 1969
- 127.17 . . . there are a lot of mediocre judges and people and lawyers, and they are entitled to a little representation [on the U.S. Supreme Court], aren't they? We can't have all Brandeises, Frankfurters, and Cardozos and stuff like that there.
Roman L. Hruska, American politician; U.S. senator, Nebraska
Address, U.S. Senate, reported in the *New York Times*, March 17, 1970
- 127.18 I can't get alarmed when [the Supreme Court] overrules a prior decision, especially if it is 5-4. Who is to say that five men 10 years ago were right whereas five men looking the other direction today are wrong.
Harry A. Blackmun
Interview, *Los Angeles Herald-Examiner*, April 20, 1970
- 127.19 One of the first things I was taught when I went through law school was that we should have predictability in our laws. What has happened is that the Supreme Court has too often destroyed predictability . . . because of its assumption of the legislative authority.
James L. Buckley
Washington Post, January 10, 1971
- 127.20 The Court is the creature of the litigation the lawyers bring to it.
Earl Warren
Interview, *Washington Post*, March 15, 1971
- 127.21 . . . the primary role of the Court is to decide cases. From the decision of cases, of course, some changes develop. But to try to create or substantially change civil or criminal procedure, for example, by judicial decision is the worst possible way to do it. The Supreme Court is simply not equipped to do that job properly.
Warren E. Burger
Address, American Law Institute, Washington, D.C., reported in the *National Observer*, May 24, 1971
- 127.22 I go onto the Court with deep personal misgivings whether I'll like it. In fact, I rather suppose I won't But the Supreme Court has a very special place in the life and attitude of any lawyer of my age For those of my generation, it is a revered institution, the pinnacle of our profession.
Lewis F. Powell, Jr.
Interview, *Washington Post*, October 24, 1971
- 127.23 At least, my role in presenting the foreign policy statement will have the merit which John G. Johnson found in staying at the bar instead of accepting President Cleveland's offer of a place on the Supreme Court. "I would rather talk to the damned fools," he said, "than listen to them."
Dean Acheson, 1893-1971
Among Friends: Letters of Dean Acheson, 1980

- 127.24 I feel about the future of the United States whenever the president starts out on his travels the way the marshal of the Supreme Court feels about the law when he opens a session of the court. You will recall that he ends up his liturgy by saying, "God save the United States for the Court is now sitting."
Dean Acheson, 1893-1971
Among Friends: Letters of Dean Acheson, 1980
- 127.25 The Supreme Court is becoming a wholly owned subsidiary of the rich and powerful, instead of the impartial and compassionate tribunal it has been.
Arthur M. Schlesinger, Jr.
New York Times, October 24, 1972
- 127.26 A man might be a very great liberal in political life and he might be equally as conservative in judicial process because they are entirely different. You see, in the political process, the legislative bodies have the oversight, within Constitutional limits, of everything in their jurisdiction But the Court is not a self-starter in that respect. It can never reach out and grab any issue and bring it into court and decide it, no matter how strongly it may feel about the condition it's confronted with.
Earl Warren
New York Times, December 20, 1972
- 127.27 We [on the Supreme Court] never have the hours and the moments to put our feet on the window sills and reflect a bit.
Harry A. Blackmun
San Francisco Examiner, February 13, 1973
- 127.28 The first opinion the Court ever filed had a dissenting opinion. Dissent is a tradition of this court When someone is writing for the Court, he is hoping to get eight others to agree with him, so many of the majority opinions are rather stultified.
William O. Douglas
Interview, *New York Times*, October 29, 1973
- 127.29 The Court's great power is its ability to educate, to provide moral leadership.
William O. Douglas
Interview, *Time*, November 12, 1973
- 127.30 I think it's so easy, because of the pressures here [on the Court] and the demands on our time, for us [justices] to stay in our ivory tower and not get out. I think we are too confined at times. It doesn't seem to me that we should hit the political circuit, but it's good to hear the voices of America from a different podium than the rostrum before us.
Harry A. Blackmun
Interview, *New York Times*, July 14, 1975
- 127.31 The history of the U.S. Supreme Court clearly demonstrates that the justices of the Court invariably decide cases on the basis of their own values—their own prejudices, their own economics, their own sociology, their own morals, their own theology, their own philosophy When a majority of the Court was pro-business, it struck down laws fixing minimum wages. When a majority of the Court was pro-labor, it struck down laws restricting picketing and boycotting. When a majority of the Court was libertarian, it

struck down anti-pornography laws. When a majority of the Court embraced anti-Negro and anti-Japanese prejudices, it ruled against black and yellow people.

Professor Virgil C. Blum, American educator; professor, Marquette University
Speech, *Vital Speeches*, December 15, 1975

127.32 I have been told that there is no precedent for admitting a woman to practice in the Supreme Court of the United States. The glory of each generation is to make its own precedents. As there was none for Eve in the Garden of Eden, so there need be none for her daughters on entering the colleges, the church, or the courts:

Belva Lockwood, American lawyer and feminist
Mary Virginia Fox, *Lady for the Defense*, 1975

127.33 Taft, when he became solicitor general, wrote a letter back to his father in Cincinnati saying rather plaintively that when he rose in the Supreme Court to make a speech, "[the judges] . . . think that is a good chance to read all the letters that have been waiting for some time, to eat lunch . . . and to devote their attention to correcting proof and other matters However, I expect to get a good deal of practice addressing a lot of mummies."

Archibald Cox
The Role of the Supreme Court in American Government, 1976

127.34 The Court is . . . perhaps one of the last citadels of jealously preserved individualism. For the most

part, we function as nine, small independent law firms.

Lewis F. Powell, Jr.
Los Angeles Times, July 9, 1978

127.35 I do not believe it is the function of the judiciary to step in and change the law because the times have changed. I do well understand the difference between legislating and judging. As a judge, it is not my function to develop public policy.

Sandra Day O'Connor
Washington Post, September 10, 1981

127.36 The vast majority of the filings [before the U.S. Supreme Court] are from lawyers who have never been there. They have no intuitive sense of what's worthy, and no one to tell them. So they go to the big court There's also an ego factor. A lawyer wants a moment of glory.

A. E. Howard, American educator; professor, University of Virginia
Washington Post, September 24, 1982

127.37 . . . the proper role of the judiciary is one of interpreting and applying the law, not making it. . . .



Sandra Day O'Connor, at her confirmation hearing
New York Times, February 23, 1984

127.38 The Court's only armor is the cloak of public trust; its sole ammunition, the collective hopes of our society.


Irving R. Kaufman, American jurist
"Keeping Politics Out of the Court,"
New York Times December 9, 1984

(continued from front flap)

The Quotable Lawyer



Nearly 2,600
of the Best Quotes
on the Law from
Ancient Times to the Present



Edited by
David Shrager and Elizabeth Frost

68. JUDGES

- 68.1 The judge is nothing but the law speaking.
Aphorism
Benjamin Whichcote, *Moral and Religious Aphorisms*, 1753
- 68.2 It is the duty of a judge to administer the law, not to make it.
Latin legal phrase
W. Gurney Benham, *Putnam's Complete Book of Quotations, Proverbs and Household Words*, 1927
- 68.3 It is the duty of a judge to judge according to what things are alleged and what things are proved.
Latin legal phrase
W. Gurney Benham, *Putnam's Complete Book of Quotations, Proverbs and Household Words*, 1927
- 68.4 The best law leaves the least discretion to the judge.
Latin proverb
H. L. Mencken, *A New Dictionary of Quotations*, 1946
- 68.5 A good judge conceives quickly, judges slowly.
Proverb
Rosalind Fergusson, *The Facts On File Dictionary of Proverbs*, 1983
- 68.6 A judge knows nothing unless it has been explained to him three times.
Proverb
Rosalind Fergusson, *The Facts On File Dictionary of Proverbs*, 1983
- 68.7 A judge and a stomach do their asking in silence.
Russian proverb
H. L. Mencken, *A New Dictionary of Quotations*, 1946
- 68.8 Tell God the truth but give the judge money.
Russian proverb
H. L. Mencken, *A New Dictionary of Quotations*, 1946
- 68.9 A judge who accepts bribes brings terror into the world.
Talmud, *Bava Batra*
- 68.10 Woe to the generation that judges its judges.
Talmud, *Bava Batra*

- 68.11 A habitual borrower is unfit to be a judge.
Talmud, *Ketubot*
- 68.12 A judge is disqualified for a case involving one he loves or hates.
Talmud, *Ketubot*
- 68.13 As Rabbi Samuel was boarding a ferry, a man rushed up to help him; the rabbi asked why he was so attentive, and the man said, "Because I have a lawsuit that will come up in your court." To which Rabbi Samuel replied, "Then I am forbidden to be your judge."
Talmud, *Ketubot*
- 68.14 When a court has pronounced a sentence of death, its members [judges] should taste nothing for the rest of that day.
Talmud, *Sanhedrin*
- 68.15 When a judge sits in judgment over a fellow man, he should feel as if a sword is pointed at his own heart.
Talmud, *Sanhedrin*
- 68.16 Disaster comes because of the kind of judges we have.
Talmud, *Shabbat*
- 68.17 I cannot try the case of one of my students, because I love him as myself, and no one can see a fault in himself.
Talmud, *Shabbat*
- 68.18 Four things belong to a judge: to hear courteously, to answer wisely, to consider soberly, and to decide impartially.
Socrates, 470-399 B.C.
Franklin Pierce Adams, *F.P.A. Book of Quotations*, 1952
- 68.19 A judge should be old.
Plato
The Republic, c.370 B.C.
- 68.20 The Judge should not be young; he should have learned to know evil, not from his own soul, but from late and long observance of the nature of evil in others: knowledge should be his guide, not personal experience.
Plato
The Republic, c.370 B.C.
- 68.21 Ye judges who give judgments by law, ought to be obedient to the laws.
Cicero, 106-43 B.C.
W. Gurney Benham, *Putnam's Complete Book of Quotations, Proverbs and Household Words*, 1927
- 68.22 He makes speed to repentance who judges hastily.
Publilius Syrus, Latin writer, 1st century B.C.
In Judicando
- 68.23 First he [Radamanthus, the judge of Hell] punished before he heard, and when he had heard his denial, he compelled the party accused by torture to confess.
Virgil
Aeneid, c.19 B.C.
- 68.24 A good and faithful judge prefers what is right to what is expedient.
Horace
Carmina, c.13 B.C.
- 68.25 It is the duty of a judge to enquire not only into the matter but into the circumstances of the matter.
Ovid
Tristia, c.9-17

- 68.26 A judge is unjust who hears but one side of a case, even though he decide it justly.
Seneca, 4 B.C.-A.D. 65
Medea
- 68.27 No one is ever innocent when his opponent is the judge.
Lucan, Roman poet, 39-65
Pharsalia
- 68.28 A judge must bear in mind that when he tries a case he is himself on trial.
Philo
Special Laws, 1st century
- 68.29 Judges are best in the beginning; they deteriorate as time passes.
Tacitus
Annals, c.110
- 68.30 There must always be a goodly number of judges, for few will always do the will of the few.
Machiavelli
Discorsi, 1531
- 68.31 Portia: To offend, and judge, are distinct offices,
And of opposed natures.
Shakespeare
The Merchant of Venice, II, 9, 1596-1597
- 68.32 Shylock: A Daniel come to judgment!
Yea, a Daniel!
O, wise young judge, how I do honor thee!
Shakespeare
The Merchant of Venice, IV, 1, 1596-1597
- 68.33 Jacques: And then the justice
In fair round belly with good capon lined.
Shakespeare
As You Like It, II, 7, 1599-1600
- 68.34 Angelo: Thieves for their robbery have authority.
When judges steal themselves.
Shakespeare
Measure for Measure, II, 2, 1604-1605
- 68.35 Look with thine ears: see how yond justice rails upon yond simple thief. Hark, in thine ear: change places; and, handy-dandy, which is the justice, which is the thief.
Shakespeare
King Lear, IV, 3, 1605-1606
- 68.36 . . . a corrupt judge offendeth not so highly as a facile.
Francis Bacon
The Advancement of Learning, 1605
- 68.37 He who has the judge for his father goes into court with an easy mind.
Cervantes
Don Quixote, 1615
- 68.38 When a judge departs from the letter of the law he becomes a law-breaker.
Francis Bacon
De Argumentis Scientiarum, 1623
- 68.39 Judges must beware of hard constructions and strained influences; for there is no worse torture than the torture of laws: specially in the case of laws penal, they ought to have care, that that which was meant for terror be not turned into rigor.
Francis Bacon
"Of Judicature," *Essays*, 1625
- 68.40 You should be a light to jurors to open their eyes, but not a guide to lead them by their noses.
Lord Bacon's advice to Justice Hutton
Marshall Brown, *Wit and Humor of Bench and Bar*, 1899

- 68.41 When he [a judge] put on his robes, he put off his relation to any; and . . . becomes without pedigree.
Thomas Fuller
Holy State, 1642
- 68.42 When by a pardon'd murd'rer blood is spilt,
The judge that pardon'd hath the greatest guilt.
Sir John Denham, English poet,
1615-1669
On Justice
- 68.43 The most just man in the world may still not act as judge in his own case.
Pascal
Pensées, 1670
- 68.44 A popular judge is a deformed thing, and plaudits are fitter for players than for magistrates.
George Savile, 1st marquess of Halifax, English politician,
1633-1695
W. H. Auden and Louis Kronenberger, *The Viking Book of Aphorisms*, 1962
- 68.45 The duty of a judge is to render justice; his art is to delay it.
Jean de La Bruyère, 1645-1696
- 68.46 'Tis but half a judge's task to know.
Alexander Pope
Essay on Criticism, 1711
- 68.47 God forbid that Judges upon their oath should make resolutions to enlarge jurisdiction.
William Cowper, English jurist; lord chancellor
Reeves v. Buttler (1715), Gilbert, Eq. Ca. 196
- 68.48 Judges . . . are picked out from the most dexterous lawyers, who are grown old or lazy, and having been
- biased all their lives against truth and equity, are under such a fatal necessity of favoring fraud, perjury, and oppression, that I have known several of them refuse a large bribe from the side where justice lay, rather than injure the faculty by doing any thing unbecoming their nature or their office.
Jonathan Swift
Gulliver's Travels, 1726
- 68.49 Laws should be made by legislators, not by judges.
Cesare Beccaria
Trattato dei delitti e delle pene, 1764
- 68.50 Set the sternest of judges to plead in his own case and then see how he expounds the law!
P. A. C. de Beaumarchais
Marriage of Figaro, 1784
- 68.51 Next to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support.
Alexander Hamilton
The Federalist, 1788
- 68.52 To vindicate the policy of the law is no necessary part of the office of a judge.
Gustavus Scott, American jurist
Evans v. Evans, 1790
- 68.53 The cold neutrality of an impartial judge.
Edmund Burke, 1729-1797
Works
- 68.54 Knowing that religion does not furnish grosser bigots than law, I expect little from old judges.
Thomas Jefferson
Letter to Thomas Cooper, 1810

JUDGES

- 68.55 It is the judges . . . that make the common law. . . . When your dog does anything you want to break him of, you wait till he does it, and then beat him for it. This is the way you make laws for your dog: and this is the way the judges make law for you and me.
Jeremy Bentham
Truth v. Ashhurst (1823), 5 Works 233, 235
- 68.56 That part of the law of every country which was made by judges has been far better made than the part which consists of statutes enacted by the legislature.
John Austin
Austin's Jurisprudence, 1832
- 68.57 The acme of judicial distinction means the ability to look a lawyer straight in the eyes for two hours and not to hear a damned word he says.
John Marshall, 1755-1835
Albert J. Beveridge, *The Life of John Marshall*, 1919
- 68.58 It is the duty of a Judge to make it disagreeable to counsel to talk nonsense.
John Singleton Copley, the younger, 1st Baron Lyndhurst, English jurist; lord chancellor
John Campbell, *Lives of Lord Chancellors*, 1849
- 68.59 Judges, like *Caesar's* wife, should be above suspicion.
Charles Bowen, English jurist
Leeson v. General Council of Medical Education and Registration (1889), L.R. 43 C.D. 385
- 68.60 Credulity is not esteemed a paramount virtue of the judicial mind.
Joseph Waldo Huston, American lawyer
Rankin v. Jauman, 4 Idaho, 394, 401 (1895)
- 68.61 There is a story of a Vermont justice of the peace before whom a suit was brought by one farmer against another for breaking a churn. The justice took time to consider, and then said that he had looked through the statutes and could find nothing about churns, and gave judgment for the defendant. The same state of mind is shown in all our common digests and textbooks.
Oliver Wendell Holmes
"The Path of the Law" (address), 1897
- 68.62 "If I had me job to pick out," said Mr. Dooley, "I'd be a judge. I've looked over all th' others an that's the on'y wan that suits. I have th' judicyal timperamint. I hate wurruk."
Finley Peter Dunne
Observations by Mr. Dooley: The Law's Delays, 1906
- 68.63 Judges are apt to be naif, simple-minded men, and they need something of Mephistopheles. We too need education in the obvious—to learn to transcend our own convictions and to leave room for much that we hold dear to be done away with short of revolution by the orderly change of law.
Oliver Wendell Holmes
"Law and the Court," 1913, *Collected Legal Papers*, 1920
- 68.64 But even judges sometimes progress.
Emma Goldman
"The Social Aspects of Birth Control," *Mother Earth*, April 1916
- 68.65 There are no more reactionary people in the world than judges.
Lenin
Political Parties and the Proletariat, 1917

- 68.66 . . . a judge of the United States is expected to be a man of ordinary firmness of character.
Oliver Wendell Holmes
Toledo Newspaper Co. v. United States, 247 U.S. 402, 424 (1918)
- 68.67 The great tides and currents which engulf the rest of men do not turn aside in their course, and pass the judges by.
Benjamin N. Cardozo
The Nature of the Judicial Process, 1921
- 68.68 Judges commonly are elderly men, and are more likely to hate at sight any analysis to which they are not accustomed, and which disturbs repose of mind, than to fall in love with novelties.
Oliver Wendell Holmes
Law in Science—Science in Law, 1921
- 68.69 We rate the judge who is only a lawyer higher than the judge who is only a philosopher.
Cuthbert W. Pound, American jurist
"Defective Law—Its Cause and Remedy," *New York State Bar Bulletin*, 1929
- 68.70 I venture to believe that it is important to a judge called upon to pass on a question of Constitutional law, to have at least a bowing acquaintance with Acton and Maitland, with Thucydides, Gibbon and Carlyle, with Homer, Dante, Shakespeare and Milton, with Machiavelli, Montaigne and Rabelais, with Plato, Bacon, Hume and Kant. . . . Men do not gather figs of thistles, nor supple institutions from judges whose outlook is limited by parish or class.
Learned Hand
"Sources of Tolerance," 79 *University of Pennsylvania Law Review* 1, 12 (1930)
- 68.71 I could carve out of a banana a judge with more backbone than that.
Oliver Wendell Holmes, 1841-1935
New York Times, February 23, 1984
- 68.72 . . . one's final judge and only rival is oneself.
Oliver Wendell Holmes, 1841-1935
Catherine Drinker Bowen, *Yankee from Olympus*, 1944
- 68.73 No judge writes on a wholly clean slate.
Felix Frankfurter
The Commerce Clause, 1937
- 68.74 A judge rarely performs his functions adequately unless the case before him is adequately presented.
Louis D. Brandeis, 1856-1941
B. Donovan James, *Strangers on a Bridge*, 1964
- 68.75 The position of a judge has been likened to that of an oyster anchored in one place, unable to take the initiative, unable to go out after things, restricted to working on and digesting that which the fortuitous eddies and currents of litigation may bring his way.
Louis D. Brandeis, 1856-1941
Felix Frankfurter, *Mr. Justice Brandeis*, 1932
- 68.76 I do not know whether it is the view of the Court that a judge must be thick-skinned or just thickheaded, but nothing in my experience or observation confirms the idea that he is insensitive to publicity. Who does not prefer good to ill report of his work? And if fame—a good public name—is, as Milton said, the "last infirmity of noble mind," it is frequently the first infirmity of a mediocre one.
Robert H. Jackson
Craig v. Harney, 331 U.S. 367, 396 (1947)

- 68.77 It has not been unknown that judges persist in error to avoid giving the appearance of weakness and vacillation.
Felix Frankfurter
Craig v. Harney, 331 U.S. 367, 392 (1947)
- 68.78 When my father became a Judge I said to him, "Be kind to the *young lawyers*." When I became a Judge, he said to me, "Be kind to the *old lawyers*."
Claude McColloch, American jurist
Notes of a District Judge, 1948
- 68.79 After all is said and done, we cannot deny the fact that a judge is almost of necessity surrounded by people who keep telling him what a wonderful fellow he is. And if he once begins to believe it, he is a lost soul.
Harold R. Medina, American jurist
"Some Reflections on the Judicial Function: A Personal Viewpoint," 38 *American Bar Association Journal* 107, 108 (1952)
- 68.80 What becomes decisive to a Justice's functioning on the Court . . . is his general attitude toward law, the habits of mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called dominating humility.
Felix Frankfurter
Forward, *Columbia Law Review*, April 1955
- 68.81 One of Judge Jerome Frank's [1889-1957] law clerks objected to the length of one of his opinions. He spent all of a week and finally cut it down from 65 pages to one-half page. He left both on Judge Frank's desk without comment. The following morning Judge Frank rushed into his clerk's office and shouted: "Bully for you," displaying the clerk's work, "we'll add it to the end."
Anonymous
Kenneth Redden, *Modern Legal Glossary*, 1983
- 68.82 A society whose judges have taught it to expect complaisance will exact complaisance; and complaisance under the pretense of interpretation is rottenness. If judges are to kill this thing they love, let them do it, not like cowards with a kiss, but like brave men with a sword.
Learned Hand
Irving Dilliard, *The Spirit of Liberty*, 1960
- 68.83 . . . a Judge who is both stupid and industrious is without question an unqualified disaster.
Dana Porter, Canadian jurist; chief justice, Province of Ontario
"What Once the Fleeting Hour Has Brought," 33 *New York State Bar Journal* 4 (August 1961)
- 68.84 I'm important in the County
I'm a Justice of the Peace
And I disbelieve Defendants
When they contradict the P'lice.
John A. Nordberg
"Farewell to Illinois J.P.'s—A Lesson from History," 44 *Chicago Bar Record* 10 (September 1963)
- 68.85 You see a court of appeals judge has a sort of intermediate status. It is the duty of a judge of a district court to be quick, courteous and wrong, but it must not be supposed from

- that that the court of appeals must be slow, crapulous and right, for that would be to usurp the functions of the supreme court.
Editorial comment
Yearbook of the Canadian Bar Association, 1963
- 68.86 I found the compliments very disturbing; when a judge compliments you, it usually means you have lost.
James B. Donovan
Strangers on a Bridge, 1964
- 68.87 The judge who does not agonize before passing a sentence is a criminal.
John Ciardi
Saturday Review, February 13, 1965
- 68.88 It is upon their seats that judges shine most.
Sir Gerald Dodson, recorder, Old Bailey Criminal Court, 1884-1966
New York Times, November 5, 1966
- 68.89 Our chief justices have probably had more profound and lasting influence on their times and on the direction of the nation than most presidents have had.
Richard M. Nixon
Television broadcast, May 21, 1969
- 68.90 When we put our judges in an ivory tower, you put justice in an ivory tower.
Bernard G. Segal, American lawyer; president, American Bar Association
Speech, American Bar Association, August 15, 1969
- 68.91 Like generals who have [had] no wars for a generation are out of practice, we judges have perhaps been sluggish in responding to the new ways of trying legal and factual issues. But in time we do respond . . . It would be foolhardy not to be concerned about the turmoil and strife and violence we witness, much of it mindless and devoid of constructive ends. But concern must not give way to panic.
Warren E. Burger
Speech, American Law Institute, Washington, D.C., as reported in the *Washington Observer*, May 25, 1970
- 68.92 What a judge does with his time while he is not on the bench is of great interest to the public. It is absolutely necessary that the clear light of day should illuminate any off-the-bench activity by a judge—and particularly any money he makes off of it.
Roger J. Traynor, American jurist; chief justice, California Supreme Court
New York Times, August 9, 1970
- 68.93 It's easier to be cynical than to be correct. I know that from the judging business. It's easier to write a stinging dissent than a persuasive majority opinion.
Harry A. Blackmun
San Francisco Examiner, July 12, 1971
- 68.94 A great intellectual doesn't make a great trial judge. A man who's been a trial lawyer is a better judge of human nature than Professor X at Harvard, who's probably never been in the well of a courtroom. . . . The important question is whether a judge is honest and does he have the courage of his convictions to do what is right at the moment.
John J. Sirica
New York Times Magazine, November 4, 1973
- 68.95 Old magistrate
"Young man, quit

- saying 'I object. You are not proceeding according to law.' I'll have you understand I am running this court, and the law hasn't got a damn thing to do with it!"
 Sam Ervin
 Thad Stem, Jr. and Alan Butler, *Sam Ervin's Best Stories*, 1973
- 68.96 There is always a tendency to judicialize everything that goes wrong in our criminal justice system. The judge has one pill in his little black bag: it is called judicialization. The trouble with that is that solutions are stuck into these problems, but no one ever examines why the problems arose in the first place.
 Donald Cressey, American educator; professor, University of California, Santa Barbara
Center Magazine, November-December, 1975
- 68.97 If the judiciary is to be the primary agency for social reform, shouldn't we be more concerned about the quality of the people we choose for judges? For the most part, judges are narrow-minded lawyers with little background for making social judgments.
 Philip B. Kurland, American educator; professor, University of Chicago Law School
U.S. News & World Report, January 19, 1976
- 68.98 Positivism holds that there is never a single correct answer to novel, hard questions of law. I disagree. An able judge may properly think he can find the right answer by considering written law—the Constitution, statutes and previous court decisions—plus all other considerations assumed in a society that has respect for other people's rights.
 Ronald Dworkin, professor, Oxford University
Time, September 5, 1977
- 68.99 Judges are the weakest link in our system of justice, and they are also the most protected.
 Alan Dershowitz
Newsweek, February 20, 1978
- 68.100 The more the courts are asked to handle political issues, the more their fragility is exposed. To some extent, the questioning of the courts is simply part of the increased attention that has been paid to all our institutions over the past several years. What concerns me is that the focus of this questioning of the courts seems to be not on matters of substance but rather on points of prejudice and personal pique. A judge's integrity, fairness, temperament, and knowledge of the law are all pertinent areas for public inquiry. However, what is happening instead is that judges are being perceived as easy targets and are being portrayed in a manner calculated to create prejudice in the public mind.
 Rose E. Bird, American jurist; chief justice, California State Supreme Court
San Francisco Examiner & Chronicle, October 22, 1978
- 68.101 The most important [judicial qualities are]: quality and competence and temperament and character and diligence.
 Potter Stewart
Washington Post, June 20, 1981
- 68.102 We must never forget that the only real source of power that we as

judges can tap is the respect of the people.

Thurgood Marshall
Chicago Tribune, August 15, 1981

- 68.103 . . . has the judiciary's perception of right and wrong gone so far out of the mainstream of that society that people are concerned and alarmed? If they are, they should be

able to express it through the ballot box. They [justices] cannot become some kind of priesthood beyond the reach of people in a democratic society.

Gideon Kanner, American educator; professor, Loyola University
Christian Science Monitor, October 13, 1982

69. JUDGMENT

- 69.1 If a wicked man and a pious man are before you in court, do not say: I will turn judgment against the wicked.
Anonymous
Joseph L. Baron, *A Treasury of Jewish Quotations*, 1956
- 69.2 Only judge when you have heard all.
Greek proverb
Robert and Mary Collison, *The Dictionary of Foreign Quotations*, 1980
- 69.3 Before you start up a ladder, count the rungs.
Jewish folk saying
Joseph L. Baron, *A Treasury of Jewish Quotations*, 1956
- 69.4 Don't try to fill a sack that's full of holes.
Jewish folk saying
Joseph L. Baron, *A Treasury of Jewish Quotations*, 1956
- 69.5 Usage is the best interpreter of things.
Legal maxim
- 69.6 Give every man the benefit of the doubt.
Sayings of the Fathers
Joseph L. Baron, *A Treasury of Jewish Quotations*, 1956
- 69.7 Just as you listen to the poor man, listen to the rich man, for it is written, "Ye shall not favor persons in judgment."
Rabbi Nathan
Midrash, *Aboth de Rabbi Nathan*
- 69.8 He who passes judgment on fools is himself judged a fool.
Midrash
- 69.9 Judgment delayed is judgment voided.
Talmud, *Sanhedrin*