

APPOINTMENT OF CHIEF JUSTICE REHNQUIST,  
APPOINTMENT OF JUSTICE SCALIA, AND  
RETIREMENT OF CHIEF JUSTICE BURGER

SUPREME COURT OF THE UNITED STATES

FRIDAY, SEPTEMBER 26, 1986

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Present: CHIEF JUSTICE BURGER, JUSTICE BRENNAN,  
JUSTICE WHITE, JUSTICE MARSHALL, JUSTICE BLACKMUN,  
JUSTICE POWELL, JUSTICE REHNQUIST, JUSTICE STEVENS,  
and JUSTICE O'CONNOR.

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THE CHIEF JUSTICE said:

Today's special sitting of the Court is held to receive the commissions of the newly appointed Chief Justice of the United States, William H. Rehnquist, and the newly appointed Associate Justice, Antonin Scalia.

This year, on the eve of the 200th anniversary of our Constitution, it is natural that we take a look back. Just one year ago in this Chamber, we took note that for a half century the Court has held its hearings and has conducted all of its judicial business in this magnificent building, designed by Cass Gilbert under the direction of Chief Justice Taft. Chief Justice Taft sought to underscore the separation of powers and the independence of the judiciary by having this building become, as it is today, a symbol of that Constitutional division of powers and the symbol of the supremacy of the rule of law.

As we know, Chief Justice Taft died before the Court first sat here. Chief Justice Hughes succeeded him and was the

first Chief Justice to preside over the Court on this bench. In the 50 years since then, three others have held the office following Chief Justice Hughes. Chief Justice Stone, Chief Justice Vinson and Chief Justice Warren.

In these past 50 years, the Court has dealt with changing conditions and a growing and complex society; more and more people seek to have more and more issues resolved by the courts.

Since the Court first sat on February 1, 1790, it has been called on to respond to new, different and changing questions. The Court's responses to those questions during the 196 years since the first sitting reflect, in a sense, the spirit of the common law from which our law derives. Changes in the Court do not alter the basic continuity of the spirit that activates the Court as an institution under the Constitution.

Many times each year the meaning of that great document is debated at this very lectern, and this confirms John Marshall's description of the Constitution as a living document whose meaning reasonable persons can and do disagree about while sharing common ideals. The history of this Court is one of continuity with change—change and continuity.

Seventeen years ago, on an occasion like this, Chief Justice Warren, my distinguished predecessor, expressed thoughts all Justices shared then, and I am sure we share today. He said this:

“We do not always agree (and) it is not likely ever, with human nature as it is, for nine (Justices) always to agree . . . If that ever comes to pass,” he said, “I would say that the Court will have lost its strength and will no longer be a real force in the affairs of our country.”

I have no doubt whatever that Chief Justice Warren on that day, and all of us who heard him here on June 23, 1969, were thinking of those countries and the millions of people who are not allowed to dissent and where freedom does not, as our freedoms do, flow from “we the people.”

Today, I have the honor, and the great personal privilege as well, to welcome our friend and colleague of 15 years, JUS-

TICE WILLIAM H. REHNQUIST, as the 16th Chief Justice of the United States. I wish him and I know I speak for all of my colleagues, I wish him and our new colleague, Judge Scalia, good health, long life and Godspeed.

Now, I recognize the Attorney General of the United States.

The Attorney General said:

MR. CHIEF JUSTICE and may it please the Court. I have the commission which has been issued to the Honorable William H. Rehnquist as Chief Justice of the United States. The commission has been duly signed by the President of the United States and attested by me as the Attorney General of the United States. I move that the Clerk read the commission and that it be made a part of the permanent records of this Court.

THE CHIEF JUSTICE said:

Thank you Mr. Attorney General. Mr. Clerk, will you please read the commission?

The Clerk then read the commission as follows:

RONALD REAGAN,

PRESIDENT OF THE UNITED STATES OF AMERICA.

*To all who shall see these Presents, Greeting:*

KNOW YE; That reposing special trust and confidence in the Wisdom, Uprightness, and Learning of William H. Rehnquist, of Virginia, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Chief Justice of the United States and do authorize and empower him to execute and fulfill the duties of that Office according to the Constitution and Laws of the said United States, and to have and to hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining, unto Him, the said William H. Rehnquist, during his good behavior.

In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Done at the City of Washington, this twenty-fifth day of September, in the year of our Lord one thousand nine hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

[SEAL]

RONALD REAGAN

By the President:

EDWIN MEESE, III,  
*Attorney General*

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THE CHIEF JUSTICE said:

Mr. Attorney General, your motion will be granted and the commission will be made part of the permanent records of this Court. Now you have another commission.

The Attorney General said:

CHIEF JUSTICE, I also have the commission which has been issued to the Honorable Antonin Scalia as an Associate Justice of this Court. The commission has been duly signed by the President of the United States and attested by me as the Attorney General of the United States. I move that the Clerk read the commission and that it be made part of the permanent records of this Court.

The Clerk then read the commission as follows:

RONALD REAGAN,

PRESIDENT OF THE UNITED STATES OF AMERICA.

*To all who shall see these Presents, Greeting:*

KNOW YE; That reposing special trust and confidence in the Wisdom, Uprightness, and Learning of Antonin Scalia, of Virginia, I have nominated, and, by and with the advice and

consent of the Senate, do appoint him as Associate Justice of the Supreme Court of the United States and do authorize and empower him to execute and fulfill the duties of that Office according to the Constitution and Laws of the said United States, and to have and to hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining, unto Him, the said Antonin Scalia, during his good behavior.

In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Done at the City of Washington, this twenty-fifth day of September, in the year of our Lord one thousand nine hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

[SEAL]

RONALD REAGAN

By the President:

EDWIN MEESE, III,  
*Attorney General*

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THE CHIEF JUSTICE said:

Mr. Attorney General, your motion will be granted and this commission will likewise be made a part of the permanent records of the Court.

I now ask the Deputy Marshal of the Court to escort JUSTICE REHNQUIST to the center of the bench.

THE CHIEF JUSTICE said:

JUSTICE REHNQUIST, are you prepared to take the oath of office?

JUSTICE REHNQUIST said:

I am, CHIEF JUSTICE.

The oath of office was then administered by THE CHIEF JUSTICE in the following words:

I, William H. Rehnquist, do solemnly swear that I will administer justice without respect to persons, and do equal

right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as the Chief Justice of the United States according to the best of my abilities and understanding, agreeable to the Constitution and laws of the United States.

So help me God.

THE CHIEF JUSTICE said:

It is my privilege to present the new Chief Justice of the United States.

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CHIEF JUSTICE REHNQUIST said:

I now ask the Chief Deputy Clerk to escort Judge Scalia to the center of the bench.

THE CHIEF JUSTICE said:

Judge Scalia, are you prepared to take the oath?

Judge Scalia said:

I am.

The oath of office was then administered by THE CHIEF JUSTICE in the following words:

I, Antonin Scalia, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as an Associate Justice of the Supreme Court of the United States according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.

So help me God.

THE CHIEF JUSTICE said:

JUSTICE SCALIA, on behalf of all the members of the Court and Chief Justice Burger, it is a pleasure to extend to you a very warm welcome as an Associate Justice of this Court and

to wish for you a very long life and a long and happy career in our common calling.

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Adjourned to the time and place appointed by law.

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It was ordered by the Court that the accompanying correspondence between members of the Court and Chief Justice Burger upon his retirement as Chief Justice of the United States be this day spread upon the minutes and that it also be printed in the reports of the Court.

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SUPREME COURT OF THE UNITED STATES,

*Washington, D. C., September 17, 1986.*

Dear Chief:

Your decision to retire stirs in each of us a deep sense of loss that our association as colleagues on the Court must come to an end. Your zest for life and the extreme kindness and compassion you have always shown each of us has enriched our relationship beyond measure.

You have believed that it is wrong to live life without some deep abiding social commitment, and have devoted your entire professional life to pursuit of the elusive goals of freedom. The many noteworthy opinions you have authored covering the broad spectrum of issues that erupted in your seventeen years as Chief Justice constitute a major contribution to America's constitutional jurisprudence. The impact of these opinions will be lasting upon the problem areas fundamental in our constitutional democracy—the permutations and changing shapes of authority, justice, privacy, responsibility, participation, diversity, property and freedom.

It is with great reluctance that we reconcile ourselves to your retirement, and do so with our assurance of the great

regard and affection in which we hold you. Our hope for the future is that you enjoy the best of health and many opportunities to devote yourself to projects that you enjoy.

Sincerely,

William J. Brennan, Jr.  
Byron R. White  
Thurgood Marshall  
Harry A. Blackmun  
Lewis F. Powell, Jr.  
William H. Rehnquist  
John Paul Stevens  
Sandra D. O'Connor

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SUPREME COURT OF THE UNITED STATES,

*Washington, D. C., September 18, 1986.*

Dear Justices:

Your generous message concerning my retirement as Chief Justice so as to devote full time to the Commission on the Bicentennial of the United States Constitution gives me great satisfaction. To serve with you, and earlier with such splendid men as Hugo Black, Bill Douglas, John Harlan and Potter Stewart, has been a major satisfaction in my life. To leave this seat with such a warm message from you gives added satisfaction.

As the Court's burdens in these seventeen Terms have so greatly increased in volume and complexity, yours in the years ahead will continue to enlarge. I wish for each of you good health and the rewards of satisfaction due for the burdens you have carried and will carry in the service of our country and the great mandate set forth at Philadelphia 199 years ago.

Sincerely,

Warren E. Burger