

FILE COPY

THE WHITE HOUSE
WASHINGTON

September 30, 1980

MEMORANDUM FOR THE PRESIDENT

FROM: Al McDonald
Rick Hertzberg
Achsah Nesmith *AN*

SUBJECT: Presidential Remarks:
Reception for National
Association of Women
Judges

Scheduled delivery:
Fri, Oct 3, 1 p.m.
Residence

Your remarks for this reception are
attached.

Jody will write his comments on this
original before giving it to you.

Clearances

Lloyd Cutler
Pat Caddell
Jerry Rafshoon
Staff for Sarah Weddington
Staff for Louis Martin

[Salutations will be updated
no later than 10 a.m. on
Friday by Elaine Furlow x7500.]

Achsah Nesmith
A-1 9/30/80
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National Association of Women Judges

I met Judge John Dempsey Klein (President) and Judge
Vaino Spencer (President-elect) a couple of years ago in Los
Angeles. They were on the platform when I addressed the American
Bar Association. Some of them asked for equal time after that
speech. I hope all of you will not feel that way after I finish
today, now that there are so many of you.

It is a special pleasure to have you here at the White House.
You are part of a significant breakthrough in our country.

Susan B. Anthony said in 1897 that "There never will be
complete equality until women themselves help to make laws
and elect lawmakers." Radical as that statement was at the
time, it does not go far enough. She left out a crucial element
-- the interpretation of laws.

My political career began at a time of great change in this

country, especially in the South. The judiciary, and the federal judiciary in particular, played a vital role in that change, not only in matters of racial discrimination, but also in matters of political discrimination based on where people lived. The courts had outlawed the white primary in the the 1940s. In the 1950's and 1960's they insisted that dual school systems must go, that all votes must be counted alike, that discrimination of all kinds must end. No longer would it take hundreds of people in Atlanta to balance the vote of one in our smallest county, nor could the legislature decide not to reapportion Congressional and legislative districts. The courts were in the forefront of the changes that freed us from the twin fetters of undemocratic government and enforced racial discrimination.

Many of the judges involved were men of great courage and sound legal scholarship, but the phrase that became the rallying cry of political equality "One man, one vote" reminds us that there were no women on those courts, although about half of the

people of Georgia were women then. No blacks were on the district and circuit courts that made those decisions, although one-third of the people of Georgia were black.

I learned, too, the vast power that local judges had over the lives of people brought before them, especially in criminal cases. My own election to the State Senate finally rested on a court decision involving voting irregularities. Only 333 ballots had been officially issued in one precinct, but 420 ballots were in the ballot box, and 126 of those had been voted in alphabetical order. When some of the paper ballots were unfolded, there were as many as eight ballots folded inside them. Many of the people recorded as casting those ballots were dead or had moved away long ago.

You hold enormous power, whether you are a federal, state or local judge, whether the cases you consider are capital crimes or child custody, disputes over contracts or over the Constitution.

You have the power to make our system work -- to stop those who would misuse power or abuse their fellow citizens, to hold us all to the high standards set forth in our Constitution, the power to see that justice includes mercy.

Because I knew the power and importance of judges, I was determined to get the very best people possible to serve on the federal bench. I was also determined that women and minorities, whose destinies have so often depended upon the kind of justice our courts provided, should be included in those judgeships. I have found no conflict in those two aims.

Only 10 women had ever been appointed to the federal bench when I took office. I have appointed ⁴⁰~~50~~ more. I also took one away, Shirley Hufstедler, but education has always been one of my highest priorities and when I was ready to appoint the first Secretary of Education, I wanted the best. Shirley is one of only six women who have held Cabinet posts in the history of

* CONSUELA B. MARSHALL AND SUSAN GUTENBAGER WERE CONFIRMED MONDAY.

our Nation -- and I appointed three of them.

Federal judges are not only powerful, they are more or less permanent. Few things any President does have the long-term effects that the judges he or she appointed can have. When I leave this office my successor can turn out my Cabinet and other officials in the Executive branch, can reverse or dismantle my best policies and programs, can convince the Congress to repeal the best laws I have proposed or supported. But the judges I have appointed will remain.

I am concerned, as I know many of you are, that some groups around the country are attempting to set up ideological eligibility tests for judges. As long as I am President, potential judges will not be subjected to tests of religion, gender, race or personal beliefs on someone's list of right attitudes.

I know that your association is on record favoring the appointment of a woman Supreme Court justice and some of you

are hoping that I will promise today that, should the need arise

for me to fill a vacancy on the Supreme Court, I will appoint a

woman. I cannot promise ~~it~~. I can promise that women and

members of minority groups will be fully considered, but I will

not rule out anyone -- male or female -- on the basis of sex or

race or religion or national origin. To do that would violate

the principles we have fought so hard for, would violate the

sacred trust placed in me as President I know that you, whose

lives are full of critical decisions, who have experienced

discrimination and arbitrary exclusion, understand that better

than most people.

I am proud of what I have been able to do in three-and-one

half years -- and I am not through yet. We still have a full

agenda before us, including passage of the Equal Rights Amendment

so that every judge, male or female, will have a clear

Constitutional standard to go by.

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