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HON. WILLIAM H. REHNQUIST 1924–2005

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WILLIAM H. REHNQUIST

CHIEF JUSTICE OF THE UNITED STATES

MEMORIAL TRIBUTES

IN THE

CONGRESS OF THE UNITED STATES

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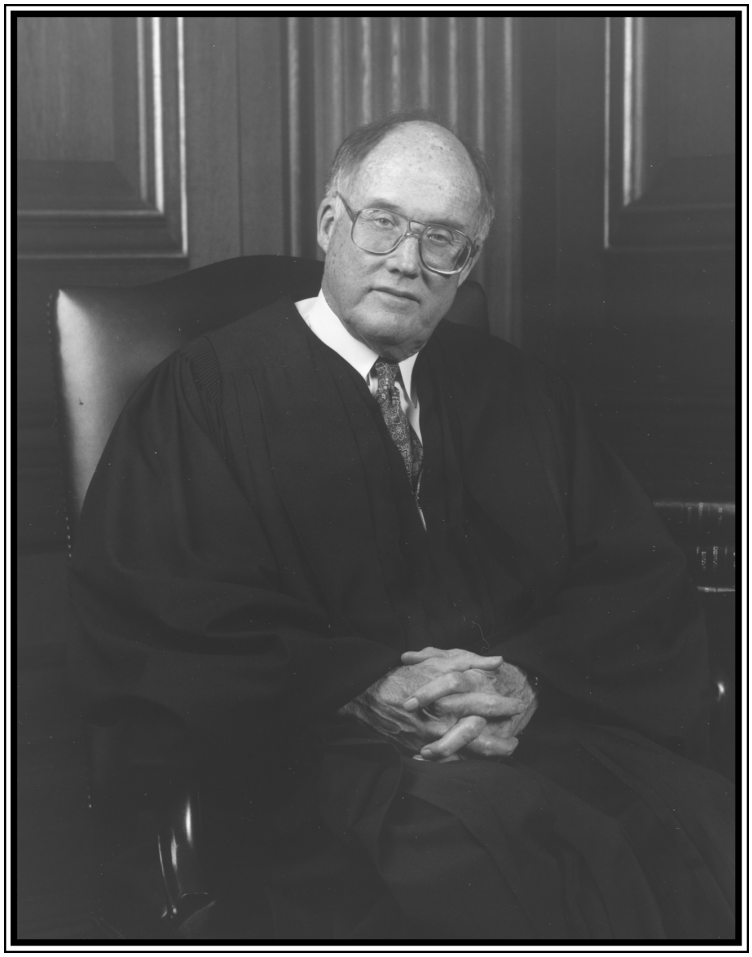

Photograph by Dane Penland, Smithsonian Institution
Courtesy the Supreme Court of the United States

William H. Rehnquist

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WILLIAM H. REHNQUIST

CHIEF JUSTICE OF THE UNITED STATES

MEMORIAL TRIBUTES

IN THE

CONGRESS OF THE UNITED STATES

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2006

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Compiled under the direction
of the
Joint Committee on Printing
Trent Lott, Chairman

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Order for Printing

Mr. FRIST. Mr. President, I ask unanimous consent that Senators be permitted to submit tributes to Chief Justice REHNQUIST for the *Record* until September 30, 2005, and that all tributes be printed as a Senate document.

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FOREWORD

For more than 33 years on the Supreme Court of the United States, WILLIAM H. REHNQUIST stood his ground, insisting on both institutional vigor and constitutional rigor. Echoing Alexander Hamilton's call for the "complete independence of the courts," Chief Justice REHNQUIST consistently and directly defended judicial independence as the "crown jewel" and the "touchstone" of our constitutional system of government.

Yet Chief Justice REHNQUIST did not see judicial independence merely as an end in itself, as a license for judges to do as they wished, but as a means to an end. In his 19th and final annual report assessing the state of the judiciary, he wrote: "The Constitution protects judicial independence not to benefit judges, but to promote the rule of law." Thankfully, he stood for the judiciary using its independence properly to fulfill its limited, but essential, role in our system of government.

Indeed, Chief Justice REHNQUIST stood for a judiciary that would do only what it was supposed to do. Like the legislative and executive branches, the judiciary is, after all, part of a system of government and can only be understood as such. In one dissenting opinion, Chief Justice REHNQUIST described the judiciary's role in that system this way: "The Court's role as a final expositor of the Constitution is well established, but its role as a Platonic guardian admonishing those responsible to public opinion as if they were truant schoolchildren has no similar place in our system of government."

One of Chief Justice REHNQUIST's many former law clerks who now populate law school faculties recently wrote in tribute that "[r]unning through his opinions on any number of issues . . . is a commitment to the notion that our Constitution leaves the hard questions, generally speaking, to the people." When judges stick to judging, in other words, legislators must do the legislating. I think Chief Justice REHNQUIST would say that is as it should be.

Chief Justice REHNQUIST's legacy will live on in many ways. The James E. Rogers College of Law at the University

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of Arizona has already established the William H. Rehnquist Center on the Constitutional Structures of Government. Not surprisingly, one of its three primary themes will be judicial independence.

First as Associate and then as Chief Justice, WILLIAM H. REHNQUIST touched the judiciary, the country, and the law. But as a human being, he also touched many lives. In his 2000 commencement address at George Washington University Law School, he painted a picture for the talented and ambitious graduates of a life that includes "pastimes and occupations that many can enjoy simultaneously—love for another, being a good parent to a child, service to your community." Such choices, he said, "will determine how well spent you think your life is when you look back at it."

The tributes contained in this book come from Members of the Senate and House, from both political parties. They testify to the profound impact that WILLIAM H. REHNQUIST's choices have had on the law and on the life of our Nation.

THE HONORABLE ORRIN G. HATCH,
Member, Senate Committee on the Judiciary

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BIOGRAPHY

WILLIAM HUBBS REHNQUIST was born October 1, 1924, in Milwaukee, WI, the son of Margery Peck and William Benjamin Rehnquist. He married Natalie Cornell of San Diego, CA, and they had three children: James, born 1955; Janet, born 1957; and Nancy, born 1959.

Justice REHNQUIST attended public elementary and high schools in Shorewood, WI, a suburb of Milwaukee. He received bachelor's and master's degrees from Stanford University, where he was Phi Beta Kappa; a master's from Harvard University, Order of the Coif; and his LL.B. from Stanford University.

He served in the U.S. Army Air Force in this country and overseas from 1943 to 1946 and was discharged with the rank of sergeant.

From February 1952 to June 1953, he was clerk to the Honorable Robert H. Jackson, Associate Justice of the Supreme Court. He practiced law in Phoenix, AZ, from 1953 to 1969. He was engaged in a general practice of law with primary emphasis on civil litigation. In January 1969 President Nixon appointed him to be Assistant Attorney General in the Office of Legal Counsel. In 1972 he became an Associate Justice of the Supreme Court. In 1986 President Reagan nominated him to be Chief Justice.

He contributed many articles on legal subjects to various periodicals. He authored four books: "The Supreme Court: How It Was, How It Is"; "Grand Inquests"; "All The Laws But One"; and "Centennial Crisis: The Disputed Election of 1876."

Chief Justice REHNQUIST served on the Supreme Court with distinction for 33 years.

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MEMORIAL TRIBUTES

FOR

CHIEF JUSTICE WILLIAM H. REHNQUIST

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Proceedings in the Senate

TUESDAY, *September 6, 2005*

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, You rule the Earth, sea, and sky. As we deal with Hurricane Katrina's wake-up call and the death of our 16th Supreme Court Chief Justice, steady this great land. Make us grateful for the acts of generosity and altruism we have seen in this Nation and around the world.

Help us to remember Your sovereignty as You lead us away from the dead-end streets of pointing fingers to the productive paths of self-examination.

Like the canary in the mine, may these difficult days warn us of the dangers of ignoring extreme disparities in economic and social conditions. Forgive us when we cry pathology in order to justify our own indifference. Help us to build on this opportunity to work toward liberty and justice for all.

Use our Senators as agents of Your will. Give them wisdom to know what is right and the courage to do it. As we labor to strengthen freedom in other nations, open our eyes to the invisible people on life's margins in America. Hasten the day when justice will roll down like waters and righteousness like a mighty stream.

We pray in Your Holy Name. Amen.

Mr. FRIST. . . . Tomorrow, I will have more to say about Chief Justice REHNQUIST and the nomination of Judge Roberts for Chief Justice.

Today, let me briefly say the Senate and the Nation mourn the loss of the Chief, as he was affectionately known by so many of us and known on the Supreme Court. We will all miss Chief Justice REHNQUIST—from his brilliant legal mind to his efficient and effective administration of the Supreme Court.

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We look forward with confidence as the President's new nominee for Chief Justice, Judge Roberts, is considered. Judge Roberts learned from the best. He was, in fact, a clerk, as we all know, for then-Associate Justice REHNQUIST. There is no doubt in my mind that Judge Roberts has the temperament, has the skill, and has the mind to lead the Supreme Court for decades to come.

With that, we have a lot to do. I know the Democratic leader has a statement. Then we will have time this afternoon after lunch for people to come back and make statements as well.

Mr. REID. Mr. President, much has happened in the weeks since we adjourned for the August recess. In just the last few days, we have seen tragedy strike the gulf coast and learned that our friend, WILLIAM REHNQUIST, Chief Justice of the United States, had passed. Our thoughts and our prayers are with those struggling to pick up the pieces on the gulf coast following the hurricane. And, of course, our thoughts and prayers are with the Chief Justice's family.

I had the good fortune of working with the Chief on several occasions, the first when I was head of the Democratic Policy Committee. I told my Democratic Senators I was going to ask the Chief Justice to come and talk to us. They said he would never do that. I called him, and he was happy to come. At that lunch, he displayed a great command of the law, of course, a strong commitment to judicial independence, and something that we didn't know existed—a sharp sense of humor. Just a short time later, I got to know him better when he presided over the impeachment trial here in the Senate.

I am grateful to have worked with him, and in addition have spoken to him on the telephone on several occasions at his office and at his home.

As I have indicated, my condolences are with his family. He will be missed. . . .

Mr. FRIST. Mr. President, tomorrow the Senate will pay its respects to the late Chief Justice WILLIAM REHNQUIST. Senators will be able and are encouraged to make statements tomorrow morning relating to the passing of Chief Justice REHNQUIST.

We will be voting at noon tomorrow on a resolution which expresses the sense of the Senate. The Senate will recess during the funeral ceremonies as a further mark of respect. As I mentioned earlier, we will begin consideration of the

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Commerce, Justice and Science appropriations bill on Thursday this week.

Mr. CORZINE. Mr. President, I rise today to offer my sincere condolences to the family of Chief Justice WILLIAM H. REHNQUIST and to recognize his achievements during a lifetime of public service.

Throughout his life, WILLIAM H. REHNQUIST served this Nation with dignity and integrity, first in the Army Air Corps during World War II and later as an Associate and then Chief Justice on the U.S. Supreme Court. For 33 years, Chief Justice REHNQUIST was a fixture on the Court, and he demonstrated both a love and a respect for the institution. He led the Judicial Conference of the United States with distinction, advocating for judicial independence during his 18-year tenure as Chief Justice. And even as his health declined in recent years, Chief Justice REHNQUIST continued to lead the Court, a testament to his tenacity and character.

Although I did not always agree with his legal decisions, I have deep respect for Chief Justice REHNQUIST's service to our Nation, and I join my colleagues in honoring him today.

NOTIFICATION OF THE DEATH OF THE HONORABLE WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

The PRESIDING OFFICER. The Chair lays before the Senate a communication from the Associate Justice of the Supreme Court of the United States, the Honorable Antonin Scalia, notifying the Senate of the death of the Chief Justice of the United States, the late Honorable WILLIAM H. REHNQUIST.

The message is as follows:

SUPREME COURT OF THE UNITED STATES,
Washington, DC, September 6, 2005.

Hon. RICHARD B. CHENEY,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: This is to notify the Senate, through you, that the Chief Justice of the United States died in Arlington, Virginia, on Saturday, September 3, 2005.

Very truly yours,

ANTONIN SCALIA,
Associate Justice.

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WEDNESDAY, *September 7, 2005*

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, King of kings and Lord of lords, we thank You today for the gift of exemplary living, particularly as we remember our Supreme Court's 16th Chief Justice, WILLIAM REHNQUIST. We received inspiration from his commitment to public service and from his desire to invest his life in things that flourish beyond his lifetime. We were challenged by his willingness to choose duty over personal comfort.

As many mourn his death, remind us that one day we must all stand before Your judgment seat, for You are the Chief Judge of the universe. May the reality of our accountability to You prompt us to live our lives for Your glory.

Empower each Senator to listen to the whisper of conscience as he or she labors for liberty. May his or her first priority be to live for Your honor. Give all of us the power to rule our spirits so that we may fulfill Your purpose for our lives.

We pray in Your powerful Name. Amen.

Mr. FRIST. Mr. President, just a short while ago, the Senate proceeded as a body to the U.S. Supreme Court to pay final respect to the late Chief Justice WILLIAM REHNQUIST. We continue this morning with tributes to the Chief Justice. Senators will be able to come to the Senate floor until 12 noon to make those statements.

ORDER OF PROCEDURE

I ask unanimous consent that at 12 noon today, the Senate proceed to a vote on the adoption of a resolution honoring the life of Chief Justice REHNQUIST.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, Senators should be aware that the next vote will occur at noon today. The Senate will also recess early this afternoon during the funeral for Chief Justice REHNQUIST as a further mark of respect. . . .

Mr. FRIST. Mr. President, last Saturday, in the wake of one terrible loss, our Nation suffered another loss, a quiet loss but one that was also deeply felt across the land. We

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learned that WILLIAM H. REHNQUIST, the 16th Chief Justice of the United States, had passed away. Karen and I and the entire Senate family extend our deepest sympathies to his family and to his friends. Our Nation mourns the loss of a great leader.

WILLIAM REHNQUIST was an American hero—a World War II veteran, a lifelong public servant, a brilliant legal mind, and a jurist of historic consequence. He was an inspiration to all who knew him. This was especially true in his final months as he stoically fought the cancer that would eventually claim his life.

Since October 2004, when the Chief Justice announced he had thyroid cancer, his chin remained up and his mind focused and devoted. Today, that optimism, that determination, that strength of spirit in purpose remain an encouragement to us all.

I feel privileged to have had the opportunity to get to know WILLIAM REHNQUIST during my tenure in the Senate. I am honored to call him a friend. But even more, perhaps the most one can say of any leader, I simply feel blessed to have lived in his time and in the country that so benefited from his wisdom.

WILLIAM REHNQUIST was born on October 1, 1924, in Milwaukee, WI. The son of William Benjamin Rehnquist, a paper salesman, and Margery Peck Rehnquist, a multilingual translator, he spent his childhood in the Milwaukee suburb of Shorewood, WI, where he attended public schools. Even as a young student, WILLIAM REHNQUIST expressed interest in public service, telling others he wanted to "change the government." Well, he did exactly that.

WILLIAM REHNQUIST grew up in an era marked by grave challenges and extraordinary triumphs. He saw our Nation rise from the depths of the Great Depression to defeat the threat of Nazi Germany and Imperial Japan.

On December 7, 1941, when Pearl Harbor was bombed, WILLIAM REHNQUIST was 17 years old. Shortly thereafter, he signed up to fight, joining the Army Air Corps, serving at home and abroad from 1943 to 1946.

After the Armed Forces, with the help of the GI bill, WILLIAM REHNQUIST went on to college. At Stanford, he earned bachelor's and master's degrees in political science and graduated Phi Beta Kappa. But his academic journey was far from over.

He took a brief hiatus from Stanford, heading east to Harvard for a second master's degree, this time in government.

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In 1950, he returned to Stanford ready for law school and the defining point in his life. From Stanford, WILLIAM REHNQUIST would graduate first in his class that included none other than his future colleague on the High Court, Sandra Day O'Connor.

As a law student, he was known for his astute ability to defend conservatism and for his bright legal mind. One of his professors described WILLIAM REHNQUIST as "the outstanding student of his law school generation." This same professor would later introduce him to Supreme Court Justice Robert Jackson. In a private interview, WILLIAM REHNQUIST convinced Justice Jackson to award him with a coveted clerkship with the Supreme Court, despite REHNQUIST's initial thoughts that he had been "written [off] as a total loss" by Justice Jackson.

After completing his clerkship, he married Natalie Cornell. The couple settled in Phoenix, where they raised three children—James, Janet, and Nancy—and where Justice REHNQUIST would practice law for 16 years.

As a young lawyer, WILLIAM REHNQUIST was known to wear loud shirts and ties, prompting even President Nixon to refer to him as "the guy [who] dressed like a clown." But clearly, Nixon was impressed by what he saw on the inside of the young lawyer from Phoenix. President Nixon selected REHNQUIST to serve as the Assistant Attorney General for the Department of Justice's Office of Legal Counsel.

In 1971, President Nixon nominated WILLIAM REHNQUIST again, this time to replace Justice John Marshall Harlan as an Associate Justice on the Supreme Court. WILLIAM REHNQUIST was overwhelmingly confirmed by a Democratic Senate by a vote of 68 yeas and 26 nays.

In 1986, President Reagan nominated WILLIAM REHNQUIST as Chief Justice, and the Senate, by a wide margin once again, confirmed him to serve as the 16th Chief Justice of the highest court in the land. Today I echo what my good friend and former colleague, Senator Bob Dole said of the Chief Justice during that confirmation debate two decades ago. He was a man of "unquestioned integrity, incorruptibility, fairness, and courage."

During my tenure in the Senate, I had the privilege of getting to know the Chief Justice, or "the Chief" as the law clerks called him. And since our first introduction, I found WILLIAM REHNQUIST to be thoughtful, intelligent, and, I must say, quite humorous.

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A skilled writer and avid historian, Chief Justice REHNQUIST is the author of a number of books on Supreme Court history and the American legal system. Many articles have been written about WILLIAM REHNQUIST and his successes as Chief Justice of the United States, and in almost every one of these articles, he is praised for his superb ability to efficiently manage the Court.

Speaking to this point, Supreme Court Justice Byron R. White once said:

> I have never ceased to marvel how one person could possibly carry out all of the tasks given the Chief Justice and yet also decide cases and write opinions as the rest of us do. Yet Chief Justices do them with regularity and, of the three Chief Justices with whom I have served, the man who now sits in the center chair in the courtroom . . . seems to me to be the least stressed by his responsibilities and to be the most efficient manager of his complicated schedule.

A former adviser to the Chief Justice said that Justice White's comments mirrored his own observations. He said that WILLIAM REHNQUIST's rigorous work ethic and dedication to efficiency is reflected on his staff, which he, in fact, reduced when he became Chief Justice, relying on only three clerks, although he was authorized to have four.

The former adviser described WILLIAM REHNQUIST as a man who could do twice the work of the average judge in half the time. Having worked alongside WILLIAM REHNQUIST on the Smithsonian's Board of Regents, I couldn't agree more. I treasure the days we spent together on this Board of Regents. In his capacity as the chancellor of the Smithsonian, he served as chairman of the Smithsonian's Board of Regents. I, in that capacity, saw firsthand the Chief Justice's commitment to that institution, the Smithsonian, attending every meeting despite his very busy day job at the Court. He even hosted planning meetings for board staff and liaisons of the Supreme Court in the Natalie Cornell Rehnquist Dining Room, named after his late wife of 38 years. Recently, he brought the entire Court to the Smithsonian's American History Museum to see the *Brown* v. *Board of Education* exhibit.

As he did on the Court, since the Chief Justice became chancellor, he emphasized the importance of efficient management in the Smithsonian's affairs, and he brought a certain sense of distinction to our work for the Smithsonian. Moreover, he inspired me to always be mindful of our duty to history, our place in preserving the strength of this Nation we serve.

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In recent months, while the ongoing debate in the Senate regarding judicial nominations was occurring, I thought a lot about our Federal courts and our judges. I have often wondered what are the most important qualities to look for in an individual who is being considered for a lifetime appointment on the courts. I have looked to the Chief, and I have seen those qualities embodied in his approach to the law—commitment to judicial restraint, fairness, integrity, impartiality, even temperament, openmindedness, and respect for the Constitution and the rule of law.

What is more, WILLIAM REHNQUIST was a man not only of high intellect but common sense—a unique combination reflected in the clarity of his opinions.

I witnessed firsthand WILLIAM REHNQUIST's intelligence, his temperament, and his commitment to equal justice under the law when he became only the second Chief Justice to preside over a Presidential impeachment in the trial of President Bill Clinton.

A friend of mine and a former administrative assistant to the Chief Justice said:

> What impressed me most about the manner in which he presided over the impeachment trial was his astute and facile recognition of and respect for the traditions and rules of the Senate. I knew he would provide impartial leadership but he also adjusted his superb management skills appropriately to the Senate's traditions. At the conclusion of the trial he was praised by the Leaders of both parties. It was another demonstration of the rare combination of high intellect and common sense that he possesses.

To this day, my colleagues on both sides of the aisle continue to remember the Chief Justice for his efficient managerial skills and his steadfast respect for the Senate during the impeachment trial. In an atmosphere of partisanship, the Chief Justice was a constant reminder of the solemn legal duties our Constitution requires of the Senate.

The Chief loved the Court. He held a deep respect for the law and its traditions, and in turn his colleagues, even those with different judicial philosophies, held a deep respect for him.

A former colleague who often decided cases differently than the Chief Justice, Justice Harry Blackmun praised WILLIAM REHNQUIST as a "splendid administrator" and often testified to his fairness and commitment to the coherence and cohesion of the Court.

Once the Court's leading liberal, Justice William Brennan called Chief Justice REHNQUIST "the most all-around successful" Chief that he had known and described him as "meticulously fair."

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Another liberal on the Court, Justice Thurgood Marshall, described him as "a great Chief Justice."

In his 19 years as Chief Justice of the highest court in the land, Chief Justice REHNQUIST never placed himself on a higher plane than his colleagues. To fellow Justices, his law clerks and secretaries, he was sensitive, humble, and ever respectful.

I am confident that the President's nominee to the Chief Justice's seat, Judge John Roberts, will bring the same dignity to the job and earn the same level of respect from his colleagues. Judge Roberts, after all, learned from the best. From 1980 to 1981, he was clerk to then-Associate Justice REHNQUIST.

Having come to know John Roberts these last few weeks, there is no doubt in my mind that he has the skill, the mind, the philosophy, and the temperament to lead the Supreme Court.

With the passing over the weekend of Chief Justice REHNQUIST, the Supreme Court loses one of the most prolific scholars and brilliant legal minds ever to sit on the Federal bench. His passing marks a sad day for America, but it is also a day to reflect on our great fortune to have had WILLIAM REHNQUIST in the service of our Nation.

For over 33 years, Chief Justice REHNQUIST generously offered America his brilliant mind, his unwavering leadership, and his fair and impartial judgment. He was the embodiment of all of the ideal qualities of a judge, and his humility, wisdom, and superb managerial skills allowed him to become one of the most memorable, influential, and well-respected Supreme Court Justices in our history.

Many feel that history will remember the Chief for presiding over the Senate during the impeachment trial, for his participation in landmark decisions, for his perseverance in fulfilling his duties through ailing health. I believe WILLIAM REHNQUIST will be most remembered for his magnificent leadership and management, his ability to build consensus, his compassion and respect for others, and his fair and impartial review of each and every case that came before the Court. The imprint of WILLIAM REHNQUIST's gavel will not fade fast. No, it is indelibly stamped upon the face of American history and the legacy of the law we uphold. America was blessed to have WILLIAM REHNQUIST as Chief Justice and today he enters the history books as one of the greatest Chief Justices ever to serve on the Supreme Court of the United States.

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May God bless WILLIAM REHNQUIST and may God bless the United States of America.

Mr. REID. Mr. President, I was a high school student in a place called Basic High School in Henderson, NV. I was a boy about 16 years old, and Mrs. Robinson came into the classroom. She was a part-time counselor and a full-time government teacher. She pulled me out of the class and she said, I have looked at all of your reports and you should go to law school.

I had never met a lawyer, had never even seen a courthouse, let alone been in one, but I accepted Mrs. Robinson's word that I should go to law school. From that day forward, that is what I set my mind to do. I came back here to go to law school. I was a full-time student at George Washington University, went to school in the daytime and worked as a Capitol policeman in the nighttime.

Still having never been in a courthouse, as a law student in an appellate practice course I was taking, the students were invited to go into the Supreme Court to listen to a Supreme Court argument. I can remember going there. The case the professor chose was not one that sounds very exciting. It certainly did not sound very exciting to me at the time. It did not involve some spectacular criminal case. It involved a case called *Baker* v. *Carr*. The first time I was ever in a courthouse I listened to one of the most important, significant Supreme Court arguments in the history of the country because those lawyers debating this case, these issues of law, were there to talk about the one man-one vote doctrine, which the U.S. Supreme Court a few months later, after having heard these arguments, decided that we in the United States would be bound by one man, one vote.

As a result of that, reapportionment took place in State legislatures and, of course, in the United States through the Federal courts. In the States where the legislature did not follow the one man-one vote rule, the courts took over.

As I look back, I was so fortunate to be able to have my first exposure to the law in the place where I later became a member of the Supreme Court bar. Having heard that case is something I will always remember.

I was a trial lawyer, and I have argued cases before the Nevada Supreme Court and the Ninth Circuit, but I never argued a case before the U.S. Supreme Court. I wish I had had that opportunity.

Having heard *Baker* v. *Carr* those many years ago, I have never forgotten it. That is why it has been so pleasant for

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me to develop a personal relationship with some of the Supreme Court Justices, one of whom was the man whose funeral I will go to today at 2, WILLIAM REHNQUIST.

I said earlier and I will say again, I had a tour of duty as chairman of the Democratic Policy Committee and every Thursday there is an off-the-record discussion that takes place in the Senate with Democratic Senators, and we always try to come up with things that will interest the Senators. I said to a number of my colleagues I wanted to invite WILLIAM REHNQUIST to come to the Democratic Policy luncheon and they said, no, he is a dyed-in-the-wool Republican, he is partisan, and he will not come anyway.

I picked up the telephone and in a matter of a minute or two he was on the line. I said, Mr. Justice, would you come to this policy luncheon? You will talk for 5 or 10 minutes, and we will ask questions.

Yes, I would like to do that.

He came over to the LBJ Room and it was one of the best luncheons we ever had. He answered all the questions. As I reflect on Chief Justice REHNQUIST coming to that Democratic Policy luncheon, the thing I remember more than anything else is how funny he was. He was a man physically large in stature with a biting sense of humor.

I felt so comfortable having him preside over the impeachment trial. That was also kind of an awkward time for me. I had just been selected as the assistant Democratic leader. I had this seat right here. I had never sat so close to what was going on before and I felt so uncomfortable sitting here. My first tour of duty in the Senate in that seat was as a Senator as part of the impeachment trial of President Clinton.

Of course, I visited with him, talked to him when he kept getting up. He had a bad back and he suffered a lot from physical pain for many years as a result of his back. He would get up every 20 minutes or so and stand and walk around his chair. I had a number of very nice, warm conversations with him at that time.

The conversation I will remember beyond all other conversations with the Chief Justice, there was so much speculation in the newspapers about how he was sick and was he going to step down and would it be this Monday or the next Monday or when was it going to be. So in that I felt comfortable and had spoken to him on the telephone a number of occasions, I called him at his home and I said, I am sorry to bother you at home. He was not well. I said, the simple reason I have called you is to say, do not resign.

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He said, I am not going to.

I am not going to talk about all that was said during the call, but I would say he told me he was not going to resign. I will always remember that telephone conversation with the Chief Justice of the United States. I am confident I did the right thing in calling him. I did not tell any of my colleagues. I did not tell my family. I did not tell anybody, but I picked up the telephone and I called him, and I am glad I did.

So I join with the distinguished majority leader in spreading on the record of this Senate the accolades for this good man. He was very politically conservative, so I understand. He served as a lawyer for 16 years after he graduated first in his class at Stanford Law School, and I have a great amount of affection for that law school. One of my boys went to Stanford. It was a wonderful place to go to school. He served in the Army Air Corps. He was Phi Beta Kappa. That was not enough education for him. He got a second master's degree at Harvard University after having gotten a master's degree at Stanford.

I am sorry that he is not going to be on the Court any more because I thought he was an outstanding administrator. He spoke for the Federal judges with strength and clarity. When we kept piling stuff on Federal judges to give them jurisdiction to do things, he complained about it. He said they work too hard, they have too much to do. So we are going to miss his voice.

Mr. McCONNELL. Madam President, it is my privilege to join others in discussing the life and career of the late Chief Justice WILLIAM REHNQUIST. Chief Justice REHNQUIST was only the 16th Chief Justice in American history. John Jay was the first, sworn in on October 1789. Many of us had an opportunity to go over and pay our respects, over in the Supreme Court a few moments ago, and had a chance to look at the busts of those Chief Justices.

Chief Justice REHNQUIST filled the role defined for him by our Founding Fathers with wisdom and with dignity. Millions of Americans honor him for his legacy of achievement. When I went home last night, I noticed a long line of people waiting to file past the casket and pay their respects to this wonderful man.

I first met the Chief Justice in 1969 here in Washington. At the time, he was Assistant Attorney General for the Office of Legal Counsel. I was a young legislative aide to a Senator named Marlow Cook, who represented the Commonwealth of Kentucky. Senator Cook was on the Judiciary

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Committee and this was a period in which there were a couple of highly contentious Supreme Court nominations. Judge Clement Haynsworth of the Fourth Circuit, who was subsequently defeated, and District Judge Harold Carswell from Florida, who was also defeated. So President Nixon had not only one but two nominations at the Supreme Court defeated.

BILL REHNQUIST, which is what I called him in those days, was the guy who sort of crafted the speeches and helped us, helped the Republicans and as many Democrats who were interested in supporting those two nominees—helped us craft the speeches and did the important work of helping us express ourselves. My boss ended up supporting Haynsworth and opposing Carswell, so I was not working with BILL REHNQUIST on the second nomination.

He was an extraordinary person: Dedicated, hard working, the smartest lawyer I had ever been around at that point, and even after all these years I would still say he was the smartest lawyer I had ever been around; a keen intellect with a very sharp mind. He was also, as others have pointed out and will point out this morning, a kind and personable man, which he remained even while rising to the foremost position in American jurisprudence.

After working for Senator Cook, I returned to Kentucky in January 1971, thinking I was sort of through with Washington. Toward the end of the year, to my surprise and pleasure, President Nixon nominated BILL REHNQUIST to be on the Supreme Court. So, on my own nickel, I came back to Washington for a month and worked on his confirmation—just as a volunteer, and did odd jobs and helped do whatever was thought to be appropriate by those who were officially in charge of his confirmation. But it was a thrill to see him confirmed to the Supreme Court.

Later, in 1986, when President Reagan elevated Justice REHNQUIST to the Chief Justice position, by then I was a Member of this body and, in fact, a member of the Judiciary Committee. So that was my second opportunity to work on a WILLIAM REHNQUIST nomination to the Supreme Court. Of course, I was proud to be involved in that and very proud to vote to confirm him.

The Chief Justice served our country with his characteristic wisdom and grace. After leading the Court for 19 years, he was the longest serving Chief Justice since 1910. He was only the fifth Chief Justice in our Nation's history to have previously served as an Associate Justice. He exem-

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plified the highest virtue for a Justice: He entered each case with an open mind, free of bias, never prejudging the case before the decision was made. In fact, some of his decisions over the years surprised observers and proved that he was willing to rethink opinions he may have once held. Actually, that is a good thing.

He reminded us that judges should be like umpires—never taking sides, just fairly applying the rules.

He leaves behind him a legacy that will be studied for generations. I would submit that a chief component of that legacy will be his steering the Supreme Court back toward the principle of federalism, which, alongside separation of powers, stands as one of the two structural principles undergirding our Constitution. Chief Justice REHNQUIST expressed that view in dissent after dissent in the early years when he was on the Court until, with time, his dissenting views became majority ones. Because of his clear understanding of the underlying purpose of federalism, he worked to establish a jurisprudence that guards against untrammeled Federal power and helps ensure that decisions that are purely local in nature will remain in the hands of the citizens who must, of course, abide by them.

The Chief Justice earned a reputation for being a fair and even-handed leader of the High Court. Former Justice William Brennan, who was frequently on the opposite side in cases, said Chief Justice REHNQUIST was "meticulously fair in assigning opinions." He went on to say that since REHNQUIST's ascension to the Chief Justice position, "I can't begin to tell you how much better all of us feel . . . and how fond all of us are of him personally." That was Justice Brennan, with whom Justice REHNQUIST rarely agreed.

In this recent age of many 5-to-4 decisions, it is all the more extraordinary that the Chief Justice created such a harmonious court. The late Justice Thurgood Marshall, who served with the Chief Justice from 1972 to 1991, said simply that WILLIAM REHNQUIST is "a great Chief Justice."

As Chief Justice, WILLIAM REHNQUIST was the same honest and upright man I had observed when I first met him back in 1969. In his final months as Chief, he reminded us all once again what it means to serve with dignity and honor, as he persevered through his fight with cancer. Who was not moved to see the concept of "duty" personified on January 20, 2005, when, under extraordinary physical duress, he administered the oath of office to the President of the United States?

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This Nation owes Chief Justice REHNQUIST a debt that can never be fully repaid. He served his country in combat with the Army Air Corps during World War II, as a law clerk to Associate Justice Robert Jackson, as an Assistant Attorney General, as Associate Justice, and finally as Chief Justice of the United States. Throughout it all he stood for the rule of law and the upholding of the principles that this Republic holds dear. In my opinion, he was the most consequential Chief Justice since John Marshall. I repeat: the most consequential Chief Justice since John Marshall.

Elaine and I extend our sympathies to his family, his daughters Janet and Nancy, his son James, his sister Jean, and his nine grandchildren.

As miraculous a document as it is, the Constitution is only words on paper. It requires men and women of principle to see its meaning and spirit made real. WILLIAM REHNQUIST was one of those persons. Our grateful Nation will always remember his heroic service and his devotion to duty until the very end.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, let me thank the distinguished Democratic whip for letting me precede him in making this statement.

It was with great sadness that I learned of Chief Justice REHNQUIST's passing, and even sadder when I joined the Senate to pay our last respects to him this morning.

I first met BILL REHNQUIST in 1952. We were both young lawyers here in Washington, DC. We each had taken jobs here in Washington after finishing law school and in the course of many months became very good friends. In fact, my first date with my first wife was double-dating with BILL REHNQUIST.

We had both served in the Army Air Corps during World War II, and we were comrades in the deepest sense of the word. I respected BILL personally then and professionally. He was a law clerk to Supreme Court Justice Jackson.

He took his responsibilities to the Court and to the American people very seriously. BILL REHNQUIST was devoted to the rule of law and to our democratic system.

In many of our Nation's most turbulent moments, we relied upon Chief Justice REHNQUIST's commitment to the law to steer us toward calmer waters. History will remember his evenhandedness and his impartiality in the face of tough de-

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cisions. During the impeachment process, which he chaired in the Senate, the Chief demonstrated his fairness and his commitment to follow precisely our Constitution and the precedents of the past. It was during that time that I once again had the privilege of sharing lunches and coffees and just talking off the floor with my great friend of the past.

BILL REHNQUIST was a humble and gracious man, as we all know. Among his clerks and among his friends, he was known just as "the Chief," and he was guided by the belief that no man is more important than the nation or the institution he serves. It was this belief that guided his efforts to narrow the concept of judicial activism and restore our system to its constitutional roots.

I didn't always agree with BILL REHNQUIST. As a matter of fact, as young lawyers, we had a lot of arguments. But I knew he was a brilliant man, and he proved to be a great administrator for our Supreme Court. Those of us who knew the Chief respected his commitment to law and valued his advice and counsel. His friends were from all walks of life. He counted law clerks, Senators, Congressmen, and Presidents among his friends.

He embodied the lines in the Rudyard Kipling poem, "If." BILL REHNQUIST could "walk with kings" without losing "the common touch."

Those of you who knew him will miss the Chief's wry sense of humor. As a matter of fact, inspired by a costume from his favorite Gilbert and Sullivan operetta, he is the only Justice who added four gold stripes to each sleeve of his black Supreme Court robe.

He also loved a practical joke. One of my favorite stories is an April Fools' prank played on Chief Justice Warren Burger, with whom I also served at the Department of Justice. BILL put a life-size photo of Warren Burger on the front steps of the Supreme Court Building with a sign asking tourists to pay $1 to get a picture with the Chief Justice. Remember, it was April Fools' Day. He then drove the Chief Justice by those steps so he could see his reaction to this prank.

But he said once to me, "The Chief Justice brings to the office no one but himself." This may be true, but this Chief Justice leaves office with the gratitude of our entire Nation. You can see it today in those long lines over by the Supreme Court. The Supreme Court has lost a great legal mind, the country has lost a devoted public servant, and I have lost another good friend.

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Catherine and I extend our deepest sympathies to BILL's family and friends. He will be missed by all—greatly by me.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, very much. I will try to be brief and to the point.

Chief Justice REHNQUIST was a person I probably disagreed with in most political arguments. I read his opinions, and I realized that we just looked at the world in a different way. Yet I liked him. I liked him a lot.

I had two direct contacts with him as a U.S. Senator. The first time was as a new Member of the Senate and as a member of the Senate Judiciary Committee, and I received an invitation to come across the street, which is unusual, from the Senate to the Supreme Court for lunch. It was with a Federal judicial council. I was flattered and accepted the invitation. I then started asking the staff: Who are these people? They said: They are Federal judges from all across the United States. They gather together infrequently across the street for lunch in the Supreme Court, in a large chamber with the Chief Justice. They have invited you to come and speak to them.

Reflecting on my storied legal career as a small-town lawyer in Springfield, IL, and the fact that I didn't set the world on fire in law school, I wondered why they would ever invite me. Then it dawned on me. I was the ranking member on the Court Administrations Subcommittee of the Judiciary Committee which had responsibility for determining the salaries of Federal judges. So they were going to entertain me for lunch and pay close attention to all of my views in the hopes that I would listen carefully when they recommended increases in judicial salaries. That is exactly what happened. But the circumstances of that meeting were amazing.

It was a large room and a huge table. There were two chairs empty as I walked into the room with all of these Federal judges in every direction. I sat in one of them. Then we waited quietly, and the door of the back room opened and everyone stood as Chief Justice REHNQUIST came in to sit next to me. As he sat down, I thought to myself: There isn't a single law professor I ever had in school who would ever dream I would be sitting next to the Chief Justice, but I am certain my mother looking down from Heaven thought it was entirely appropriate that her son was sitting next to the Chief Justice of the United States.

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The second time was the impeachment trial in the Senate, which was presided over by Chief Justice REHNQUIST. There is a small room called the President's Room. It is a historic chamber, and people often go in there for quick meetings off the floor. It became the Chief Justice's office when he was here for the impeachment trial. It was a curious setup because as you walked by there, he had a desk that was literally smack dab in the center of the room with the chair behind it, and I do not recall that there was any other furniture in the room. He just kind of sat there isolated, like this little island. I would walk by and glance in there from time to time.

Finally, I got the courage to walk in and talk to him. He dropped what he was doing and started talking right away. I was impressed. The man was entirely approachable, personable, and funny. He had a ton of questions about the Senate because he had been for over 30 years at the Supreme Court and the Senate was brand new to him. He asked basic questions and joked about the rollcalls. He said, "I love it when we have a rollcall, and it will be Bayh 'aye' and Snowe 'no.'" He said, "I just love to listen as you call the roll here in the Senate."

We had a great conversation. He gave me a book he had written about the impeachment process. He agreed to autograph a few things. I really liked him a lot personally.

I can understand why those who disagreed with him politically still thought the world of Chief Justice WILLIAM REHNQUIST. He was a man dedicated to public service. I respected him so much for that.

As others have said, when he showed up in frail health at the second inauguration of President George W. Bush on a blustery, cold day to administer the oath, it was a great gesture on his part. It showed his personal commitment to his job as Chief Justice, his love of his Nation, and his responsibility. We are going to miss him. Very few men and women ever get the chance to serve as Chief Justice.

The Rehnquist court was a court which because of his leadership will be remembered for many years to come.

Mr. SESSIONS. Madam President, I will share a few personal thoughts about Chief Justice REHNQUIST. I came to appreciate Justice REHNQUIST as a young prosecutor. I was an assistant U.S. attorney, and tried a lot of cases and was involved in a lot of cases and had to read Supreme Court opinions on criminal law. I was impressed with his writings. It touched me in many ways. I felt he was speaking the truth

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when other Justices were missing and not understanding the reality of law enforcement in America.

This was in the mid-1970s, when our crime was increasing at an exponential rate. We had double-digit percentage increases in crime in the 1960s and 1970s. In the 1950s, we did not lock the door of our house, and we left our keys in the car. People did not worry about crime. It became a growing problem. At the same time crime was surging, the Warren court handcuffed the police and their ability to deal with it.

Justice REHNQUIST, during the Warren court years, would often write dissents. Sometimes he would be the lone dissenter. I distinctly remember being in the U.S. Attorney's Office in Mobile, AL, reading an opinion and calling my colleagues to say: Look at this. At least one Justice understands the reality of crime and law enforcement in America.

He helped create a different approach to law and order in America. Instead of ruling on emotion and politics, he made his decisions based on the law and facts. In fact, before he left office, cases he was dissenting 8 to 1, he was winning a number of them 5 to 4 and 6 to 3. What an accomplishment to see that happen over a lifetime. I never would have thought it possible. I thought the trends were against that. Being young, I never thought we would see the pendulum swing back, but it did, and he played a key role in that.

From my observations as a member of the Department of Justice for nearly 15 years, as a member, now, of the Senate Judiciary Committee for 8 years, where I currently chair the Subcommittee on Administrative Oversight and the Courts, my humble opinion is Chief Justice REHNQUIST is one of the greatest Chief Justices ever to serve. Senator McConnell said after John Marshall, but I don't know. I am not sure any have served more ably.

He was also a great Associate Justice. He wrote clean, succinct opinions that made sense. They were consistent with the law of our country and our heritage.

He came to the Court when the Warren court was in full bloom and judicial activism was at its apex. In case after case, he was the lone member of that Court to sound the alarm about the dangers that arise when a court detaches itself from a principled and honest commitment to the Constitution of the United States of America and the laws we passed. He saw the dangers in that, and he dissented many times—he joined with the majority many times, but he dis-

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sented many times—on matters of great principle in an intelligent and effective way.

He played a key role in the demise of judicial activism as a dominant view of the Court. By "judicial activism"—I will paraphrase Senator Hatch's definition of it—it means when a judge allows their personal or political views about what is good policy or bad policy to affect their rulings in a case. It is not faithful to the Constitution when you twist the words of the Constitution or of a statute so they come out to mean what you would like them to in order to achieve the result that you prefer in a given case. Justice REHNQUIST loved our Constitution, the one that we have, the good parts of it and the parts he may not agree with. He loved every section and respected each one of them. He followed them and was faithful to them.

He understood liberty in America is dependent on order. Look what is happening, so sadly, in New Orleans: police are threatened, doctors and nurses could not get out to help or rescue people because order broke down. The Founders of our Republic never doubted the Government and the law enforcement of the United States of America. The States and counties and cities had to have certain authority to maintain order or we would never have liberty. This extreme commitment to libertarian views can undermine the basic order necessary to allow liberty to flourish in our individual capability first. He understood that very critically.

An example of the dangers he saw on the Court would be in death penalty cases. Chief Justice REHNQUIST, as Associate Justice and as Chief, fully understood the Constitution makes at least eight references to capital crimes, to not being able to take someone's life without due process; at least eight references were made in that great document to the death penalty. How could the Constitution declare the death penalty was unconstitutional when it absolutely approved it?

Two Justices dissented in every single death penalty case, saying they thought it was cruel and unusual punishment. What a weird, unprincipled dangerous interpretation of the Constitution. Justice REHNQUIST stood against that tide, often as a lone Associate Justice.

Until now, people have come to realize that the Constitution and laws of this country allow a State or the Federal Government to have a death penalty, if they choose to have it. If you do not like that, take it to your legislative branch.

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The Constitution does not prohibit it, for Heaven's sake. The Constitution explicitly authorizes it.

He had a good understanding of church and state. I remember Senator Reid, the distinguished majority leader now, when he was the assistant leader under Thomas Daschle during that year when they were in the majority, and the Ninth Circuit struck down the Pledge of Allegiance, he criticized the Ninth Circuit. I have been a big critic of the Ninth Circuit, but I remember making remarks at that time saying as big a critic of the Ninth Circuit and as much of a critic of their striking down the Pledge of Allegiance, I have to say many Supreme Court rulings on separation of church and state are so extreme that could well be justified under language of the U.S. Supreme Court. The Supreme Court has given us a very confused jurisprudence on what is a legitimate separation of church and state in America.

We got to the point in one case, the *Jaffree* case from Alabama, the Supreme Court, by a 6 to 3 majority, struck down a moment of silence in a classroom. Justice REHNQUIST dissented in that case, as he consistently dissented against some of the confused thinking that was there.

If this court had followed Justice REHNQUIST's thoughts and opinions on the question of separation of church and state, we would not have the confusion we have today. We would not have one case where the Ten Commandments in Texas are OK and another case in Alabama where the Ten Commandments are not OK. What kind of jurisprudence is that? We need to get that straight. The Court has failed, in my view, in establishment clause jurisprudence. But Chief Justice REHNQUIST has been a consistent and sound and reasonable voice on how to strike the proper balance. We need to go back and continue to read those opinions and see if we cannot make them correct.

He also was a student of America. He wrote a number of books, grand inquests about impeachments, before we had the Clinton impeachment case in this body. He wrote a book, "All The Laws But One," that deals with the rule of law in America in a time of crisis, and dealt with the Civil War and other times in our country. He was a historian who understood America, understood our exceptional nature, our commitment to law and the Constitution. He understood that deeply. Every day when he went to work, every opinion he ever wrote was consistent with his view and respect for America, her heritage, her rule of law, and her Constitution.

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He understood that States have certain powers in our country. He understood that the Federal Government, through the commerce clause, has broad power, but there are limits to the reach of the commerce clause. It does not cover every single matter the U.S. Senate may desire to legislate on, to the extent that the Federal Government controls even simple, discrete actions within a State. He reestablished a respect for State law and State sovereignty through a number of his federalism opinions.

Madam President, we have lost one of the Nation's great Justices, a man who respected our Constitution, gave his life to his country, his whole professional career. All of us should be proud of that service and honor his memory.

Mrs. BOXER. Madam President, I rise today with a heavy heart. We have all watched in horror as the Gulf Coast has been struck by what could be called the worst natural disaster in our history.

Over the weekend, Chief Justice REHNQUIST, who served our Court and country with such distinction for 33 years, and showed such bravery in the last months of his life, passed away.

We have now lost nearly 2,000 young men and women in Iraq, and we still do not have, in my opinion, a credible plan, a mission, a timetable to achieve success and bring our troops home. Gas prices are putting horrible strains on most Americans.

There is a tremendous amount of anxiety in America today. I feel it when I go home to California. We must confront it immediately in the Senate, in the House, and, yes, at the White House. . . .

Mr. HATCH. Mr. President, I want to pay tribute to a good man whom I knew well, who was a great judge, the late Chief Justice WILLIAM REHNQUIST.

His service and leadership on the Supreme Court, the principles he consistently followed, and the steady hand with which he guided the judiciary make him one of the judiciary's very best.

WILLIAM HUBBS REHNQUIST served on the Supreme Court of the United States for 33 years and almost 8 months.

He was the 8th longest serving of the Court's 108 members, having recently surpassed the tenure of the legendary Justice Joseph Story.

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He was the 4th longest serving of the Court's 16 Chief Justices, and 1 of just 5 individuals to have served as both Associate and Chief Justice.

WILLIAM REHNQUIST's service was a powerful mixture of the personal and the professional.

He brought a kind of dignified practicality, or perhaps it was practical dignity, to what is one of the most formal and respected posts in the Federal Government.

WILLIAM REHNQUIST was the historian who could play a practical joke, the defender of the judicial institution who played poker with his colleagues.

We will miss this scholar and author, who also led an annual Christmas carol sing-along for the Court's employees.

Yesterday his former clerks surrounded his casket and carried it past his former colleagues into the Court where he lay in repose in a plain white pine casket. It was so touching.

We were all touched by Justice Sandra Day O'Connor weeping at the loss of a man who had been a fellow law student more than 50 years ago and was a fellow Justice for the past 24. He was No. 1 in his class; she was No. 3. They were close friends.

The respected legal analyst Stuart Taylor writes that one attribute of greatness is being esteemed by one's colleagues. Whether his fellow Justices voted with him or against him on the cases before the Court, they all cherished and esteemed him.

Liberal icons such as Justice William Brennan called Chief Justice REHNQUIST a breath of fresh air.

Justice Thurgood Marshall called him a great Chief Justice.

Justice Lewis Powell said he had a good sense of humor and was both generous and principled.

When President Nixon nominated WILLIAM REHNQUIST to be an Associate Justice in 1971, Attorney General John Mitchell said he expected Justice REHNQUIST to be independent.

Before the Judiciary Committee, the nominee pledged as his fundamental commitment to totally disregard his own personal beliefs when interpreting and applying the law.

Democratic Senator John McClellan of Arkansas, a member of the Judiciary Committee, explained in the pages of the *New York Times* why he supported what he called a distinguished nominee.

He said that WILLIAM REHNQUIST would not contribute to the trend of pursuing abstract goals driven by ideology rath-

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er than law. As both Associate and Chief Justice, WILLIAM REHNQUIST confirmed Senator McClellan's judgment.

Chief Justice REHNQUIST strongly defended the prerogatives of the judicial branch. This alone might give pause to those who believe the judiciary was already too strong.

But he coupled that commitment to institutional vigor with a fidelity to constitutional rigor.

While insisting that the Court was the primary interpreter of the Constitution, he did not join those who said the Constitution's meaning ebbed and flowed with the latest cultural and political fad.

Chief Justice REHNQUIST understood that we entrust interpretation of our laws to unelected judges only because, as he had, they promise to keep their own moral and political viewpoints on the sideline.

Over time, by example and leadership, this principle helped him move the Court toward its traditionally modest role within our system of government.

Commentators and reporters discussing the Chief Justice's legacy almost reflexively use the moniker "Lone Ranger" to describe the new Associate Justice REHNQUIST.

He was sometimes a lonely dissenter on a Court that saw itself as the vanguard of social change.

In that role, however, he reminded us of the fundamental principles that should guide the judiciary.

Judges may not exercise judicial review based on their personal opinions, preferences, or agendas. They must take the Constitution as they find it and apply it as it is.

As new Justices joined the Court, and Chief Justice REHNQUIST continued articulating and applying such traditional principles, he found himself with more company.

While some talk of Chief Justices as able to bring colleagues together in a particular case, Chief Justice REHNQUIST did so, patiently and steadily, over the long haul of his entire tenure.

In a 1996 address at American University's Washington College of Law, Chief Justice REHNQUIST called judicial independence the "crown jewel" of the American judicial system.

He took this seriously on a personal as well as a judicial level.

In this last year or so, WILLIAM HUBBS REHNQUIST lived and finished life on this Earth in his own independent way.

He shared what he wanted to share, when and how he chose to share it.

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He carried himself with dignity, in a way protecting his privacy publicly, if such a thing is possible.

He was a good man and a good judge.

Our lives, individually as citizens and collectively as a Nation, are much better for him having been among us.

I knew him personally. I know what a great man he was, as far as I am concerned. I know what a supreme intellect he was on that Court. I know what a decent, honorable, honest person he was on that Court. I can remember one lunch I had with Chief Justice REHNQUIST, Justice Scalia, and Justice Kennedy. It was a terrific luncheon, filled with intellectual repartee. It was a luncheon that I will never forget. I can remember his smiling from time to time as his colleagues made some of their points. He had this wry sense of humor that I suppose came from the people that he was born and raised with in his own State. This is a man of tremendous, inestimable talent, intellect, and ability. But he was warm. He was kind. He was decent. The only time I saw any flare for the unusual was the stripes on his black robe. That was done tongue in cheek, to just kind of lampoon some of the overseriousness some of us sometimes have with regard to the Supreme Court.

WILLIAM REHNQUIST was a good father. His daughter Janet worked with us on my staff for a short time. I think the world of her. She is a good person. The other offspring of Chief Justice REHNQUIST are also good people. I knew Chief Justice REHNQUIST's wife who preceded him in death. She was a beautiful, lovely human being, to whom he gave great deference. This was a man who counted. This was a Chief Justice who made a difference. This is a person whom I respect and whom I care for.

I yield the floor.

Mr. CONRAD. Mr. President, today we remember the life and dedication of one of the most influential leaders of the U.S. Supreme Court.

WILLIAM H. REHNQUIST, 16th Chief Justice of the United States, passed away on Saturday, September 3, 2005. A midwesterner, REHNQUIST's service to our country dates back to March 1943 when he was drafted into the U.S. Army Air Corps, the equivalent of today's U.S. Air Force. He served in World War II until 1946.

After his time in the military, REHNQUIST began his academic journey under the GI bill at Stanford University, where he earned a bachelor's degree, a master's degree, and ultimately graduated first in his class at the Stanford Law

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School. After clerking for Justice Robert H. Jackson, REHNQUIST spent the next 16 years in private practice in Arizona.

In 1971, President Nixon nominated WILLIAM REHNQUIST to be an Associate Justice on the Supreme Court. As Associate Justice, REHNQUIST was nicknamed the "Lone Ranger" for his many lone dissents on the nine-member Court.

In 1986, President Ronald Reagan elevated WILLIAM REHNQUIST to Chief Justice of the United States. In that role, REHNQUIST became known for his ability to foster and retain collegiality among Associate Justices with widely differing views on the issues before the Court. He was an outstanding leader of the judicial branch of our Government.

Those of us in the Senate probably remember him best for his service during the impeachment trial for President Clinton. He presided over that historic event with dignity and decorum.

Over the past year, as he battled cancer, Chief Justice REHNQUIST was as determined and sharp as ever, doing his job faithfully until the day that he passed away.

Today, we remember the Chief Justice's passion, dedication, and brilliance. And we also remember his great sense of humor. BILL REHNQUIST will be sorely missed by his family, his friends, and his country.

Mrs. HUTCHISON. Mr. President, I rise today to recognize and honor one of our country's greatest judicial leaders, a noble public servant, the 16th Chief Justice of the United States, WILLIAM HUBBS REHNQUIST. For the past 33 years, the last 19 of which as its leader, Chief Justice REHNQUIST served the Supreme Court with honor, wisdom, and keen judgment. His record will be remembered as one of ideological dedication and devotion in a court of consensus and collegiality.

A native of Milwaukee, WI, WILLIAM REHNQUIST first answered his country's call to service in World War II by serving in the Army Air Corps as a weather observer in North Africa from 1943 to 1946. Upon his return, he earned his bachelor's and master's degrees in political science from Stanford University in 1948, and a master's degree in government from Harvard University in 1950. He earned his L.L.B. from Stanford in 1952, graduating first in his class, a class that included his future Supreme Court colleague Sandra Day O'Connor.

Chief Justice REHNQUIST's first experience with the Supreme Court came when he clerked for Associate Supreme

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Court Justice Robert Jackson. REHNQUIST observed during this time at the Court what he would later describe as the "expansion of federal power at the expense of State power."

After his clerkship, REHNQUIST moved to Phoenix, AZ, where he practiced law in the private sector for more than 15 years. During this time, he became involved in politics; and when President Nixon was elected in 1968, REHNQUIST was asked to serve as Assistant Attorney General for the Justice Department's Office of Legal Counsel. Three years later, in 1971, President Nixon nominated REHNQUIST to replace Justice John Marshall Harlan on the U.S. Supreme Court.

From his early years as an Associate Justice through his years as the Court's leader, Chief Justice REHNQUIST chartered a course to reestablish the important principle of federalism, an integral part of our Nation's constitutional structure. In cases such as *National League of Cities* v. *Usery* in 1976 through *U.S.* v. *Lopez* in 1995, his opinions aimed to protect the role of the States within the Federal system by recognizing that our government is one of enumerated rights and dual sovereignty.

Though a strong and vigorous advocate for his beliefs, Chief Justice REHNQUIST was always respectful of his colleagues and committed to the rule of law, never allowing politics or infighting to threaten his Court. All of us in the Senate got to know Chief Justice REHNQUIST when he presided over the impeachment trial of President William Clinton. He was a decisive, but not intrusive arbiter. His insightful observations about the operation of the Senate were both serious and humorous. A profound defender of the Constitution and a staunch protector of liberty, Chief Justice REHNQUIST has left behind a legacy of thoughtfulness and quiet intellect, and will be remembered as one of our Nation's greatest judicial leaders.

Mr. ENZI. Mr. President, I was sad to hear of Chief Justice REHNQUIST's passing, but I want to share my gratitude for his service. He exceeded all but seven Justices by the length of his 33 years on the Supreme Court Bench. President Nixon nominated him to be the 100th Supreme Court Justice in 1971. Fourteen years later, President Reagan nominated him to serve as Chief Justice. In his tenure as Chief Justice, he oversaw benchmark cases and events that helped to shape the Supreme Court and the country as we know it today. His efficient management of the Court and

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careful interpretation of the Constitution provide a good example for future Chief Justices.

He was a very learned man, interested in a wide range of topics and pleasant to be around. In 1952, he graduated first in his law school class at Stanford. In addition to his law degree, he held master's degrees in political science from Stanford and Harvard.

He left law school and moved to Washington, DC, to clerk at the Supreme Court, a place where he would eventually spend over a third of his life.

At times our lives intersected. During the impeachment trial of President Clinton, I presided on the Senate floor just before Chief Justice REHNQUIST took the presiding officer's chair—and then I took over each day as he left the chair. I also presided when he was escorted out of the Chamber following the end of the trial. I enjoyed reading his book about civil liberties in wartime and his book about the history of impeachments, which I was fortunate enough to get him to sign for me.

Now in the wake of his death and one of the worst natural disasters in U.S. history, the Senate will soon move to fill the vacancies on the Court. People are going through some hard times in our country. Chief Justice REHNQUIST knew about hard times.

He returned to the bench after being diagnosed and treated for cancer. He fought bravely to finish his job and spurned the rumors of retirement this summer. He stated that he would continue as long as his health permits. And he did. I admire him for it.

We also must continue to do our job by holding hearings and then voting on the President's nominees to the court. If we keep the political posturing to a minimum, we should have plenty of time to fill the spot of the man who held it for so long and so well.

Mr. FEINGOLD. Mr. President, today we mourn Chief Justice WILLIAM H. REHNQUIST, who faithfully served the Supreme Court and our Nation for 33 years—19 of them as Chief Justice. That tenure made him the fourth longest serving Chief Justice in the history of our Nation, surpassed only by Chief Justices Melville Weston Fuller, Roger B. Taney, and John Marshall. He was also the fifth longest serving Justice in our history. Walter Dellinger, former acting Solicitor General in the Clinton administration, has suggested that Chief Justice REHNQUIST will be judged by history as one of the three most influential Chief Justices, together

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with Marshall and Chief Justice Earl Warren. We have truly lost a historic figure.

It is with pride, then, that we in Wisconsin claim Chief Justice REHNQUIST as a native son. He was born in our State, and Wisconsin was his first home. He grew up in Shorewood, a suburb of Milwaukee, and graduated from Shorewood High School in 1942. Wisconsin must have provided a good foundation for his future; he went on to graduate first in his class from Stanford Law School and to clerk for former Supreme Court Justice Robert H. Jackson, another of the great jurists of the 20th century.

I have deep respect for this son of Wisconsin, although I did not always agree with his substantive legal views. Indeed, we are hearing praise for Chief Justice REHNQUIST from across the political and legal spectrum. To be admired and respected despite philosophical differences is one of the marks of a truly great man.

Justice John Paul Stevens, perhaps REHNQUIST's most ideologically distant colleague on the current Court, paid tribute to him on behalf of the entire Court on the occasion of Chief Justice REHNQUIST's 30th anniversary on the bench. Justice Stevens praised him for his efficiency, good humor, and absolute impartiality when presiding over Court conferences. That Chief Justice REHNQUIST possessed sufficient intellectual strength and personal skill to preside over discussions among nine of the finest legal minds in the Nation and to earn their respect is no small feat, particularly considering the difficulties and dissension that have marked discussions and conferences in other eras. All acknowledge that Chief Justice REHNQUIST was a devoted and skilled Court administrator, not just for his own highest court but also in his role as guardian of our entire third branch of government, the Federal judiciary.

In addition to his accomplishments on the Court, Chief Justice REHNQUIST deserves our greatest respect for the dignity and fortitude with which he conducted himself in the last year. Despite the fact that he was clearly suffering from a serious illness, he continued to serve the public and the Court. He was an inspiration to all who encounter physical obstacles in carrying out their duties, to all who face the challenges of illness or disability but still want to contribute to their country or their communities.

History will judge whether Chief Justice REHNQUIST led the Court in a direction that was good for the country. For now, it is appropriate to recognize his intellect and his serv-

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ice. I have deep respect for Chief Justice REHNQUIST's integrity, his personal fortitude and his devotion to the Court and the entire judicial branch. Wisconsin will miss our distinguished son.

Mr. HAGEL. Mr. President, I rise today to honor the late Chief Justice WILLIAM H. REHNQUIST. The Chief Justice leaves behind a legacy as one of the longest serving and most influential members of America's highest court. America is a better and stronger nation because of his distinguished service on the U.S. Supreme Court.

As many from his generation did, Chief Justice REHNQUIST served in the military during World War II. He relied on the GI bill to attend college after the war and graduated from Stanford Law School at the top of his class. In 1951 and 1952, Justice REHNQUIST served as a U.S. Supreme Court law clerk to Justice Robert Jackson, and then went on to a distinguished career in private legal practice.

In 1971, President Nixon nominated REHNQUIST to replace John Marshall Harlan on the Supreme Court, beginning one of the longest terms of service in the history of the U.S. Supreme Court. In 1986, President Ronald Reagan nominated Justice REHNQUIST to be Chief Justice. He served in that capacity for over 18 years.

Only 16 individuals have served as Chief Justice of the United States. Legal scholars identify periods of evolution in American jurisprudence by the name of the Chief Justice presiding during each era. The Rehnquist court will go down in American history as one of the most important.

As an Associate Justice, REHNQUIST began coaxing the Court back into the role our Founders envisioned. As Chief Justice, REHNQUIST continued to gradually pull the Court away from promoting particular social policies and back toward the principles of federalism enshrined in our Constitution. By the time he was through, REHNQUIST had patiently helped reshape the relationships between our branches of government and the States.

Chief Justice REHNQUIST deserves enormous credit for returning the Court to its role of analyzing and interpreting the Constitution and our laws. History will judge Chief Justice REHNQUIST well for the way in which he shaped and guided the Supreme Court during his service to our Nation.

America will miss him.

Mr. CORNYN. Mr. President, today I rise to pay tribute to one of the greatest legal minds of our day: Chief Justice WIL-

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LIAM HUBBS REHNQUIST, who passed away late Saturday night. His death is a tremendous loss to our entire Nation. I join my fellow Americans in both mourning his passing and honoring his profound contribution to our country.

Chief Justice REHNQUIST faithfully served the American people on their Supreme Court for 33 years. Without question, our country owes him a debt of great gratitude.

The individual who occupies the center seat on the Supreme Court is not the Chief Justice of the Supreme Court, but the Chief Justice of the United States—the one person who embodies our national commitment to constitutional democracy and to the rule of law. Throughout his life, WILLIAM HUBBS REHNQUIST revered the Supreme Court and the rule of law as few people have—not only as our Nation's Chief Justice for 19 years, as Associate Justice for 14 years, and as a High Court law clerk, but also a student and a scholar of the Supreme Court. REHNQUIST has written numerous books on legal history and the Supreme Court—including: "The Supreme Court: How It Was, How It Is"; "Grand Inquests: The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson"; "All the Laws But One: Civil Liberties in Wartime"; and "Centennial Crisis: The Disputed Election of 1876."

WILLIAM HUBBS REHNQUIST was born October 1, 1924, in Milwaukee, WI. He entered the U.S. Army Air Force and served in World War II from 1943 to 1946. REHNQUIST obtained his undergraduate degree from Stanford University and two master's degrees from Stanford and Harvard Universities. He received his law degree from Stanford, graduating first in his class. REHNQUIST served as a law clerk for Justice Robert H. Jackson, then practiced law in Phoenix, AZ. President Richard Nixon appointed REHNQUIST to serve, first as Assistant Attorney General in charge of the Office of Legal Counsel at the U.S. Department of Justice, and then as Associate Justice in 1972. President Ronald Reagan nominated him as Chief Justice in 1986.

The Supreme Court enjoyed renewed admiration under REHNQUIST's leadership. Guided by REHNQUIST's steady hand, the U.S. Senate weathered one of the most difficult and controversial moments in our Nation's modern history—the impeachment trial of a sitting U.S. President.

REHNQUIST believed that the best judiciary was a restrained judiciary—one that would adhere to the letter of the law—not to the personal policy preferences of its members.

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Two areas in particular stand out in my mind as perhaps the most lasting examples of this legacy.

The Rehnquist court may perhaps best be remembered for the restoration of common sense to our criminal justice system. Many Americans perhaps do not remember the days of the Supreme Court under Chief Justice Earl Warren. The 16 years under Warren, from 1953 to 1969, were nothing short of a heyday for criminals in America. Many Americans probably are familiar with the notion of letting a criminal off on the basis of a "technicality." This notion originated in the years of the Warren court. The Supreme Court let countless criminals go free because police officers did not say precisely what the Court wanted them to say when they arrested criminals, or because warrants did not say precisely what the Court wanted them to say when the police searched criminals. It is no exaggeration to assert that, at that time, the rights of criminals were placed before the rights of victims—not to mention before the well-being of society in general.

This period ended when President Reagan elevated WILLIAM REHNQUIST to Chief Justice. Chief Justice REHNQUIST did his level best to return our Constitution to its original understanding, an understanding that gives law enforcement officials the freedom they need to protect society from criminals. Over the last decade, we have witnessed a historic decline in violent crime all across America. This is due, in no small part, to the efforts of Chief Justice REHNQUIST.

The second area, one equally, if not more important than the first, was the effort to restore the Federal-State partnership known as "federalism" envisioned by our Founding Fathers. Our Founding Fathers believed that States and the Federal Government should be equal partners. Indeed, it was the view of our Founding Fathers that the Federal Government should have limited and enumerated powers, and, in fact, the primary authority to legislate should be left to State governments. I know this might come as a surprise to some, but not all wisdom emanates from Washington, DC. State governments, after all, are closer to the people than the Federal Government is. Our Founding Fathers realized this fact.

Unfortunately, many Supreme Court Justices did not. Over the years, many of these Justices had interpreted the Constitution to give the Federal Government unlimited powers. These Justices characterized everything the Federal

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Government wanted to do as a regulation of "interstate commerce."

This was a fiction, of course, but over the years the Federal Government grew bigger and more powerful, the State governments grew smaller and less powerful, and the American people became less free.

Chief Justice REHNQUIST did his part to stem this tide. He tried to stand for our Constitution and the founding vision that not everything should be left to the Federal Government. Although this project is still unfinished, Chief Justice REHNQUIST made impressive strides, and there is no question that our Nation is better off today for his efforts.

Chief Justice REHNQUIST's passing also reminds us that Supreme Court Justices are, after all, human beings—and that they should be treated with civility and respect, not as political pawns. Thus, perhaps the best way that we in the Senate might pay tribute to Chief Justice REHNQUIST's legacy is to put partisanship aside in the judicial confirmation process.

President Bush has now fittingly nominated one of REHNQUIST's former law clerks, Judge John Roberts, to replace him as Chief Justice. We should do the right thing by Chief Justice REHNQUIST and vote on Judge Roberts' nomination as expeditiously as possible—and without some of the political posturing that has greeted other well-qualified nominees.

My thoughts and prayers are with Chief Justice REHNQUIST's family. The Nation suffered a profound loss on Saturday night. I am confident, however, that we in the Senate will do our part to proceed in a manner that honors the memory of our late Chief Justice and in a manner that would make him proud.

Mr. KYL. Mr. President, the death of WILLIAM HUBBS REHNQUIST leaves us saddened but also grateful for his more than three decades of service to his country as a Justice of the U.S. Supreme Court, including 19 years as its Chief Justice.

I first met Chief Justice REHNQUIST when he was a lawyer in Phoenix. He spent most of the 1950s and 1960s practicing law in our State, and raising a family there with his wife, Natalie, who passed away in 1991. He made an annual return to Arizona from 1994 until last year, to teach a course on Supreme Court history at the University of Arizona College of Law, my alma mater.

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Appointed to his seat by President Nixon in 1972, and elevated to Chief Justice by President Reagan in 1986, he provided steady leadership at the Court through turbulent decades. He showed that one man of integrity really can make a difference.

He was a conservative whose philosophy did not always carry the day, especially in his early years on the Court. More recently, there has been greater acceptance of his notion of balance between the authority of States and the Federal Government. His decisions helped prevent the rights of criminal suspects from being overemphasized to the point that law enforcement was hampered in doing its job. They curbed the government's use of racial quotas, deemed by most Americans to be a squandering of the moral authority of the civil rights movement. They reaffirmed the religious freedom clause of the first amendment. They upheld restrictions on the practice of abortion, again in keeping with the views of most Americans.

On a personal level, WILLIAM REHNQUIST had a quick, dry wit and a manner that was warm and courteous. He was a straight shooter, devoid of pretentiousness, yet deeply learned in the law and many other things. The legacy he leaves includes the histories he wrote, namely his four books on the Court and the American legal system: "The Supreme Court: How It Was, How It Is," 1987; "Grand Inquests: The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson," 1992; "All the Laws But One: Civil Liberties in Wartime," 1998; and "Centennial Crisis: The Disputed Election of 1876," 2004.

Notice those titles. We had, during his tenure as Chief Justice, a Presidential impeachment—over which he presided with a dignity and good sense that were reassuring to all, in and out of the Senate Chamber. We had a disputed election—in which he led the Court in delivering the U.S. Government and the country from a nightmare of litigation and partisan combat.

His death has left mourners even among those who disagreed with him. The liberal law professor Laurence H. Tribe offered words of praise for his brilliance, his honesty, and his calm leadership. He called Chief Justice REHNQUIST "a master" at enabling the Court to "earn the respect of all who take part in its proceedings or are affected by its rulings." Justice Ruth Bader Ginsburg said he "was the fairest, most efficient boss I have ever had."

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The admiration he inspired in people all across the political spectrum is due also to the superb job he did as the Federal judiciary's top administrator, which is part of the role of Chief Justice. He staunchly asserted the independence of the Federal court system and fought to see that those who worked in it were adequately compensated.

WILLIAM REHNQUIST loved his family; he loved the law; he loved America and its history; and he loved the Supreme Court as an institution. The courage and tenacity he showed, despite suffering from thyroid cancer, were typical of him. He presided over oral arguments in the spring and continued his work on that group of cases until just last month.

> It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit.

So said the Massachusetts Constitution of 1780, which influenced the writing of the U.S. Constitution. WILLIAM REHNQUIST was a free, impartial, and independent judge. His combination of strong-mindedness and meticulous fairness made him perfect for the position he held. He makes Americans, and especially Arizonans, very proud. We mourn his loss.

Mr. McCAIN. Mr. President, while the Nation's attention is rightly focused on the ongoing tragedy in the South, I would also like to say a few words about the passing of a great American. After a long and extraordinary life, WILLIAM REHNQUIST died this past weekend. The 16th Chief Justice of the United States leaves us with an unmatched legacy of service to our Nation.

Born 80 years ago in Milwaukee, WI, WILLIAM REHNQUIST lived a truly remarkable life. Like many in his generation, he served in World War II and was stationed in North Africa. With the support of scholarship money from the GI bill, Chief Justice REHNQUIST attended college at Stanford University. He then went on to earn his law degree from Stanford Law School. At law school, the Chief Justice began to establish his reputation as a brilliant legal thinker and an able scholar. He graduated at the top of his class, just ahead of Sandra Day O'Connor.

After clerking for Supreme Court Justice Robert Jackson, REHNQUIST married his late wife Natalie Cornell and moved to Phoenix, AZ. There, Chief Justice REHNQUIST and Nan raised their three children—James, Janet, and Nancy—while he built a long career as one of Arizona's leading attorneys.

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In 1969, Chief Justice REHNQUIST became a public servant as an Assistant U.S. Attorney General. Two years later, he was nominated by President Nixon to the Supreme Court. After being confirmed by the Senate, he took his seat as an Associate Justice of the Court—at 47, he was the Court's youngest member. In 1986, President Reagan nominated and the Senate confirmed Justice REHNQUIST as the Chief Justice of the United States.

During his 33 years on the Court, Chief Justice REHNQUIST gained respect for his sharp intellect, his strong sense of fairness, and his profound devotion to the Court and to public service.

The Chief Justice's extraordinary legal career was surpassed only by the courage that he showed in his final year of life. During that time, he battled bravely against thyroid cancer. Through radiation and chemotherapy treatments, he continued to serve on the Court and stated that he would continue to perform his duties as Chief Justice as long as his health permitted. He did just that, with the dignity and dedication that characterized his tenure on the Court.

WILLIAM REHNQUIST truly was first among equals. May he rest in peace.

Mr. OBAMA. Mr. President, today I speak in honor of Chief Justice WILLIAM REHNQUIST. The Chief Justice served this Nation's highest court with distinction and honor for more than three decades, and his career in public service started years earlier. Even as he battled cancer over the past year, he continued to be an example of personal strength, dignity, and fortitude. I join my colleagues in mourning his passing and offering my prayers to his family.

The Chief Justice was a staunch defender of the Supreme Court and an active, independent judiciary. He was admired as a warm and helpful colleague, a thoughtful mentor, and an extremely effective administrator of the Federal court system. The courts were well cared for under his distinguished leadership.

Chief Justice REHNQUIST also engaged directly with many of the toughest constitutional controversies of the 20th century. Although I often disagreed with his decisions, Chief Justice REHNQUIST's opinions have been the source of important scholarship and litigation. Like the Chief Justice he followed, the late Earl Warren, Chief Justice REHNQUIST will be remembered as an important historical figure whose legacy will impact generations of Americans.

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I knew the Chief Justice only at a distance. As a lawyer and a constitutional law instructor, I was required to wrestle intellectually with his ideas and arguments, and to press my students to divine his judicial instincts and motivations. My regret is that I never got to know him personally, or even to join one of his legendary walks around the Capitol or monthly poker games. I know that his warmth and humor have touched many of my colleagues, and he will be missed.

Of course the strength of our constitutional structure is that it is greater than any individual. Each of us plays but a small role in designing or building or repairing that structure. It is greater and more important than any of us. We mourn the passing of Chief Justice REHNQUIST and now look to the future and the important work to be done.

Mr. JEFFORDS. Mr. President, I rise today to honor Chief Justice WILLIAM REHNQUIST, who was a brilliant jurist, a devoted public servant, and a person who shared my love of Vermont.

Though most Americans knew Chief Justice REHNQUIST for his years of service on the Supreme Court, many Vermonters knew him as a neighbor and a friend. Like most who visit our great State, Chief Justice REHNQUIST fell in love with Vermont's natural beauty and rural character and purchased a home in Greensboro in 1974.

For over 30 years, Chief Justice REHNQUIST escaped the humidity and stress of Washington every summer in favor of the picturesque surroundings and quiet charm of Caspian Lake. Whether it was playing cards, visiting Willey's Store, or worshipping at the Greensboro United Church of Christ, Chief Justice REHNQUIST immersed himself in the community with a remarkable subtlety and modesty for a man of his stature and prominence. The Chief Justice would also share his knowledge of history, politics, and the law with community members in a lecture that became a much anticipated summer tradition in Vermont's Northeast Kingdom.

Each year, before the State of the Union, I would usually have a chance to chat with the Chief Justice about his time in Vermont. Amidst the chaos and cameras of the Capitol on such a busy night, Chief Justice REHNQUIST always found time to reminisce about the summer months he spent in our State. I always enjoyed these brief discussions with such a kind and engaging man who valued life's simple pleasures so dearly.

On September 5, the *Burlington Free Press*, describing the reaction in Greensboro to the Chief Justice's passing, wrote:

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It wasn't a dignitary that was mourned; it was a guy who liked to walk everywhere and call people by their first names (and expected them to return the favor). It was a guy who had an affinity for Hershey's Special Dark Chocolate bars and Donna Gerow's homemade pumpkin bread.

As millions of Americans mourn the loss of one of the most influential people of our time, Vermonters in Greensboro, and around Caspian Lake, mourn a good neighbor, a great friend, and a fellow Vermonter.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on the resolution honoring the life of Chief Justice WILLIAM REHNQUIST, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 234), relative to the death of WILLIAM H. REHNQUIST, Chief Justice of the United States.

The result was announced—yeas 95, nays 0.

The resolution (S. Res. 234) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 234

Whereas WILLIAM H. REHNQUIST, the late Chief Justice of the United States, was born in Milwaukee, Wisconsin, to William Benjamin Rehnquist and Margery Peck Rehnquist and raised in Shorewood, Wisconsin;

Whereas a young WILLIAM H. REHNQUIST served our Nation during the Second World War in the United States Army Air Force at home and abroad from 1943 to 1946;

Whereas WILLIAM H. REHNQUIST enrolled in Stanford University, where he earned a bachelor's and master's degree in political science and was elected to Phi Beta Kappa;

Whereas WILLIAM H. REHNQUIST earned a second master's degree in government from Harvard University;

Whereas WILLIAM H. REHNQUIST graduated first in a very impressive class, including his future Supreme Court colleague, Sandra Day O'Connor, from Stanford University's School of Law;

Whereas WILLIAM H. REHNQUIST began his legal career by serving as a law clerk to Supreme Court Justice Robert Jackson;

Whereas WILLIAM H. REHNQUIST married the late Natalie Cornell, and they raised 3 children, James, Janet, and Nancy;

Whereas WILLIAM H. REHNQUIST was an accomplished attorney, having practiced law for 16 years in Phoenix, Arizona;

Whereas President Richard Nixon selected WILLIAM H. REHNQUIST to serve as Assistant Attorney General for the Office of Legal Counsel of the Department of Justice;

Whereas President Richard Nixon also nominated WILLIAM H. REHNQUIST to serve as an Associate Justice on the Supreme Court of the United States;

Whereas President Ronald Reagan nominated WILLIAM H. REHNQUIST to serve as the sixteenth Chief Justice of the United States;

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Whereas WILLIAM H. REHNQUIST had a profound love for history and respect for the arts and served as Chancellor of the Smithsonian Institution for 19 years;

Whereas WILLIAM H. REHNQUIST was a skilled writer and avid historian and authored several books on Supreme Court history and the American legal system;

Whereas WILLIAM H. REHNQUIST was a man of enormous intellect and great common sense, a combination that was reflected in the clarity of his opinions;

Whereas WILLIAM H. REHNQUIST's record illustrates his unwavering commitment to judicial restraint, judicial independence, and the rule of law;

Whereas, under his firm leadership and superb managerial skills, WILLIAM H. REHNQUIST efficiently managed the Supreme Court of the United States for 19 years;

Whereas leaders of both political parties agree that WILLIAM H. REHNQUIST served with honor and integrity in his role as the second Chief Justice of the United States to preside over a presidential impeachment trial, respecting the institutional domain of the Senate and its processes, procedures, and traditions;

Whereas, as the leader of the Supreme Court, WILLIAM H. REHNQUIST was highly regarded by all of his colleagues, including those with differing judicial philosophies;

Whereas his former colleagues have described WILLIAM H. REHNQUIST as a "splendid administrator", "the most efficient manager", "a great Chief Justice", "meticulously fair", and the "most all-around successful" Chief Justice;

Whereas WILLIAM H. REHNQUIST served with distinction on the Supreme Court of the United States for over 14 years as an Associate Justice and 19 years as the Chief Justice, more than 33 years in all;

Whereas WILLIAM H. REHNQUIST was the fourth longest serving Chief Justice of the United States;

Whereas WILLIAM H. REHNQUIST was 1 of our Nation's most influential and memorable Chief Justices;

Whereas WILLIAM H. REHNQUIST was the embodiment of the ideal qualities of a judge, fair, impartial, open minded, and above all committed to the Constitution and the rule of law;

Whereas WILLIAM H. REHNQUIST will be remembered as 1 of the greatest Chief Justices of the United States;

Whereas WILLIAM H. REHNQUIST passed away on September 3, 2005, surrounded by his loving family; and

Whereas our Nation is deeply indebted to WILLIAM H. REHNQUIST, a truly distinguished American: Now, therefore, be it

Resolved, That the Senate—

(1) extends its heartfelt sympathy to the family and friends of WILLIAM H. REHNQUIST;

(2) acknowledges WILLIAM H. REHNQUIST's life-long service to the United States of America as a World War II veteran, a talented attorney, a dedicated public servant, a brilliant jurist, and one of our Nation's greatest Chief Justices; and

(3) commends WILLIAM H. REHNQUIST for his 33 year tenure on the Supreme Court of the United States and his many accomplishments as Chief Justice of the United States.

Mr. FRIST. I ask unanimous consent the time until 1:30 be equally divided, and at 1:30 the Senate stand in recess

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until 3:30 today as a further mark of respect to Chief Justice REHNQUIST, provided further that when the Senate reconvenes at 3:30 there be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I would like to take the next 10 minutes to talk about a couple of different items.

Not far from where we are today, the body of our late Chief Justice has lain in repose, and a number of us were privileged to go there earlier today just to say goodbye and to thank him for his service to our country—33 years. That is a long time, more than three decades that he has served us. His love for our country, his love for the law and the integrity of our Nation's judiciary system was only surpassed by his love for his family and for those with whom he worked.

During his time on the Court, he fostered, among other things, real congeniality among the Justices—something that is not easy to do in that forum or, frankly, in this one. In return, he was held in high esteem by his colleagues who had called him, among other things, "brilliant," "principled," "generous," with "a good sense of humor," something we can never have too much of.

He demonstrated great personal strength and courage in leading the Court and this country through difficult and contentious times, continuing his work in the face of ever-daunting health problems that would have set most of us on our backs and far out of the courtroom.

There are many judicial hallmarks of his time on the Court. Throughout his tenure on the Court, he staunchly supported the independence of the Federal judiciary and our overall governmental system of checks and balances. We will miss him, but we are grateful that he was here to serve us for as long as he has.

Mr. CRAIG. Mr. President, I come to the floor this afternoon to speak for three very important reasons. Of course, first is to recognize our Chief Justice who has just passed, WILLIAM REHNQUIST.

Today the Senate paid its respects to the late Chief Justice REHNQUIST, filing through the halls of the Supreme Court where he served this Nation with distinction for more than 33 years.

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I could not help but remember a conversation I had with Chief Justice REHNQUIST a couple of years ago. I was walking to work and happened to run into him on one of his legendary strolls around the Court. We talked a bit about what was happening in the judicial nomination process in the Senate. But the specifics of that conversation are probably less important than the style of the conversation. He was informal, approachable, genteel, but certainly direct. And regardless of his physical frailty, he had lost none of his interest or his ability to give a shrewd analysis of the events of the day. If you spent any time at all with this very important man, you would feel the force of his great personality.

Much has already been written about the legal legacy of Chief Justice REHNQUIST because he was one of the most influential jurists of our time. He anchored and presided over a shift to conservative principles, underscoring in particular the importance of federalism and limitations on government. I know some in the conservative community were disappointed that the Supreme Court, on his watch, did not reverse more prior left-leaning precedents, but his strong hand was certainly obvious in a long series of history-making decisions. WILLIAM REHNQUIST's impact on jurisprudence was profound and will be felt for many years to come.

In his personal life, I know this engaging man had many friends, and to all of them, as well as his family, I extend my deepest condolences. The Court has lost a brilliant and fair leader. America has lost a great public servant. I consider myself fortunate to have had the chance to know and be inspired by WILLIAM REHNQUIST.

I thank the leader for this opportunity to add one more voice to the chorus of tributes from a grateful Nation.

Mr. GREGG. Mr. President, I wish to join with all my colleagues and with America in expressing our condolences to the Rehnquist family and, obviously, our great appreciation for his extraordinary service to this Nation. I hope at a later date to put in a more extensive statement. He was a man whose commitment to the law was exceptional, but his commitment to the country was even higher. We are very fortunate to have had him as our Chief Justice and as a Justice on the Supreme Court for so long.

Mr. BROWNBACK. Mr. President, I rise to pay tribute to WILLIAM REHNQUIST, 16th Chief Justice of the United States. That is the title, Chief Justice of the United States. While the ceremony honoring him goes forward I think it is

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appropriate that we in this body recognize his incredible service to the Nation. His biography, where he came from and what he did, has been spoken of a great deal. What I wanted to speak about is not only that, but also his personal impact on me, one that he wouldn't have known or known about.

As a young law student in the early 1980s at the University of Kansas, I can remember studying constitutional law and other areas where his opinions came forth. Frequently in those days he was in the minority opinion role.

Many of my law school professors would say: Can you believe what this guy wrote? I remember reading his opinions and thinking his opinion seemed very logical. It seems to me he believed in holding with the great traditions of being a Nation of the rule of law, not the rule of man. The Constitution is a textural document. Chief Justice REHNQUIST had a big impact on me in his writings and what he believed we stood for as a nation. He has had a big impact on this Nation, and he will be sorely missed.

He was genteel in all of his dealings. Even when he presided in the Senate over the impeachment trial for President Clinton, he did so in a very stately, gentle fashion. Just his presence was one of a man at peace with himself, who knew what he was about, and knew his role and his duty. He fulfilled his duty to the best of his abilities as Chief Justice, Associate Justice on the Supreme Court, as presiding over an impeachment trial, and working with clerks.

I think one of the most telling things for an individual is what the people say who worked for you, and particularly those who worked for you perhaps in a lower capacity. It seems unanimous that the clerks for Chief Justice REHNQUIST admired the man while they worked for him. It is a tribute to him how well they worked together and how he helped form them. There is a great symmetry about this in John Roberts being nominated now, as a former clerk of Chief Justice REHNQUIST, and now nominated to fill the vacancy on the Supreme Court left by his former boss. John Roberts is an outstanding nomination to the Chief Justice position. I hope we can move forward in an expeditious fashion, certainly thorough, but in an expeditious fashion.

That is not what we are here today to talk about. Today it is to talk about and to reflect upon an amazing American in WILLIAM REHNQUIST. He grew up in the suburbs of Milwaukee, WI. His father was the son of Swedish immigrants, and worked as a paper salesman. His mother was a multi-

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lingual professional translator. Shortly after graduation from high school, Chief Justice REHNQUIST enlisted in the Air Force and during World War II served as a weather observer in North Africa. On completion of his service in the Air Force, the Chief Justice began his undergraduate work at Stanford University. Yes, he did it on the GI bill.

In 1952, REHNQUIST graduated first in his class from Stanford Law School, certainly a monumental accomplishment, an accomplishment of great discipline. Following law school, he clerked for former Supreme Court Justice Robert Jackson. In 1953, he began work at a law firm in Phoenix, and his brilliance was noted by the Nixon Deputy Attorney General at that time, Richard Kleindienst. On October 22, 1971, President Richard Nixon nominated him to serve as an Associate Justice on the Supreme Court. He was confirmed less than 2 months later, which would be record speed for this body by today's standard.

During his time on the Supreme Court, Chief Justice REHNQUIST has defended the original text of the Constitution. To a number of people that may seem like a simple task. After all, it is the Constitution. It is the basic law of the land. What is there to defend? The law speaks for itself. It is a set of plain words on a clear document that has such a significant historical place in our hearts and minds. Yet he comes along on a Court at a point in time when a number of people are saying: It is a living document, it can move with the culture, and we can interpret the words more broadly. We can interpret it not by what it says, but by what we would like it to say.

Chief Justice REHNQUIST fought against that and fought for the original text of the Constitution and said it is as it is. This is a textural document. If we want to change it, that is fine, but it is changed by two-thirds of the House and two-thirds of the Senate and three-fourths of the States, not by five people on the Court. Those are not his words, but they are the principles he stood for.

The role of a Justice on the Supreme Court is to look at the plain meaning and the original text of the Constitution, not at your own cultural bias of the moment and what you believe America may need and therefore may be willing to move to.

The problem with a living document is that you don't have the rule of law. You are more of a rule of man. So he defended this proposition of the original text of the Constitution, the intent of the Framers.

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Certainly he was a promoter of life. It was in the 1973 dissent in *Roe* v. *Wade* that then-Associate Justice REHNQUIST wrote:

> To reach its result, the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment.

These are Associate Justice REHNQUIST's words. In his early years of lonely dissents in cases like *Roe*, REHNQUIST made his mark by standing for constitutional principle over the political preferences of an unelected judiciary. With the retirement of Chief Justice Warren Burger in 1986, President Reagan then elevated Associate Justice REHNQUIST to the Court's top post where he served with distinction until his death.

The last 19 years have shown that Chief Justice REHNQUIST was a terrific choice to lead the Supreme Court. He authored countless landmark decisions and thought-provoking dissents. In carefully reasoned opinions, he insisted that the principle of federalism is an integral part of our Nation's constitutional structure. He recognized that our government is one of enumerated rights and dual sovereignty, with certain functions and powers properly left to the States.

One example of Chief Justice REHNQUIST's commitment to the laws is his opinion in *Dickerson* v. *United States*. Although a long-time critic of *Miranda* v. *Arizona*, REHNQUIST nevertheless placed his past position aside and wrote the opinion in *Dickerson*, effectively affirming the holding of *Miranda*. He served well. He served nobly, and he served with courage. I might note that even during his recent sickness, he found the strength to do his duty and to serve in office. He found the strength to administer the oath of office to President Bush, to consider the challenging cases that came before the Court.

Peggy Noonan wrote of President Bush's inauguration:

> [T]he most poignant moment was the manful WILLIAM REHNQUIST, unable to wear a tie and making his way down the long marble steps to swear in the president. The continuation of democracy is made possible by such gallantry.

While some of his colleagues on the Court disagreed with him at times, there can be no doubt that they admired his strong leadership, his likable personality, and his ability to build consensus. That is the noteworthy quality of a gentleman. He served with distinction. He served us well. He carried his course out, and he is now at rest.

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I yield the floor.

Mr. MARTINEZ. Mr. President, I would be remiss if I did not take a moment to say what a great loss our country has experienced with the passing of our Chief Justice WILLIAM REHNQUIST. WILLIAM REHNQUIST was a man of deep integrity and honor, a true public servant. He served our country well, always keeping an eye toward tradition and working to bring constitutional reason to the complex questions of our Nation. Our country is better for the guiding hand he placed on the Court. His resolute spirit will be missed.

Chief Justice REHNQUIST's leadership brought the Court through three decades of very tumultuous times. September 17 of this year would mark the 19th year of his tenure as Chief Justice.

He led the judiciary with resolve and a steady hand. He will be greatly missed by his family, his colleagues, the Court, and by a grateful Nation.

As we turn our attention in the coming weeks to the confirmation process to consider the President's nominee to serve as the next Chief Justice, it would be appropriate to pause and reflect on the service to our country provided by this man of exceptional intellect who served his Nation long and faithfully.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I join with my colleague, the distinguished Senator from Florida, in expressing my personal condolences and those of my fellow Minnesotans to the family and friends of the former Chief Justice, and I share the sentiments in regard to his distinguished service to our Nation.

THURSDAY, *September 8, 2005*

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 422. Resolution expressing the profound sorrow of the House of Representatives on the death of the Honorable WILLIAM H. REHNQUIST, Chief Justice of the United States.

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The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 52. Concurrent resolution providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable WILLIAM H. REHNQUIST, Chief Justice of the United States.

Mr. FRIST. Mr. President, I ask unanimous consent that Senators be permitted to submit tributes to Chief Justice REHNQUIST for the *Record* until September 30, 2005, and that all tributes be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRIDAY, *September 9, 2005*

Mr. COLEMAN. Mr. President, on behalf of the people of Minnesota I have taken the floor today to express our condolences to the Rehnquist family for their loss and gratitude and admiration for his extraordinary life of service.

The Midwest, where WILLIAM REHNQUIST was born, does not have the high mountains or the pounding ocean surf of other parts of the country. We learn from our geography the value of moderation and dependability. WILLIAM REHNQUIST was a solid human being whose consistency and resolve as a member of the Supreme Court benefited the whole country in turbulent times.

The historian Whitehead has written that the essence of leadership is maintaining order in the midst of change, and change in the midst of order. WILLIAM REHNQUIST lived out the principle that both change and order are necessary in the law and he knew when we needed each.

Chief Justice WILLIAM H. REHNQUIST served America with great distinction on the Supreme Court for 33 years. His profound respect for the Constitution and his collegial relationships throughout the judiciary will be a standard for future Justices. He knew that his role was more than deciding cases: it was to raise the knowledge of and respect for the rule of law.

Mr. REHNQUIST took his seat as an Associate Supreme Court Justice in 1972 after being appointed by President Richard Nixon, and became Chief Justice in 1986, during the Reagan administration.

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His opinions reflected a staunch adherence to the constitutional principle of States rights. He also displayed an untiring willingness to work with his colleagues to find a compromise without minimizing his position. Chief Justice REHNQUIST will be remembered as one of our most influential Chief Justices in history.

As the Court's most junior Justice, REHNQUIST made State sovereignty his central principle of American constitutional law. At times, especially in those early years in 1973, he stood alone in his support of State sovereignty but continued this fight to the end of his time on the bench.

Chief Justice REHNQUIST succeeded in shifting the balance of power between States and the Federal Government. The control and limitation of Federal control will always be a legacy of Chief Justice REHNQUIST. He protected the Constitution in his application of the law and took great pride in his protection of civil liberties and the importance of freedom and the democratic spirit in our Constitution.

As Chief Justice, Mr. REHNQUIST made his mark on the Court with grace in an environment where Justices of varying opinions could express themselves free from personal attacks and/or ideological stalemates. His was a Court of strong personalities who operated in profound respect for each other and the country gained from their wisdom and discourse. He was a great leader and effective administrator of the Supreme Court.

I was personally touched by Chief Justice REHNQUIST's determination and heroic passion to serve while battling cancer. As we often hear, we are a government of law and not men and women, and that is true. But our constitutional principles are not self-enforcing. We depend on men and women of good hearts and sharp minds to steer us through difficult moments when the issues of the day collide with our Constitution of over 200 years of age.

He was to the end a midwesterner: strong, reliable and devoted to the idea of leaving things better than he found them. The whole Nation, and future generations of Americans should be deeply grateful for the legacy he has left.

MONDAY, *September 12, 2005*

Mrs. MURRAY. . . . Last week, this Chamber mourned the passing of Chief Justice REHNQUIST who served on our Nation's highest court for over three decades. The great range

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of issues on which the Supreme Court ruled during Justice REHNQUIST's tenure—from *Roe* v. *Wade* to capital punishment to Miranda rights to the conclusion of a Presidential election—shows the American public just how closely the Court touches each of our daily lives. My home State of Washington is 3,000 miles away from the Nation's Capital, but the issues the Supreme Court takes up, whether it be title IX or eminent domain or a woman's right to choose, hits home for them as well.

WEDNESDAY, *September 14, 2005*

Mr. BAUCUS. Mr. President, I join in acknowledging the life and service of Chief Justice WILLIAM REHNQUIST.

His was a life of public service. During the Supreme Court's 1951 and 1952 terms, he served as a law clerk for Justice Robert Jackson. From 1969 to 1971, he served as Assistant Attorney General in the Justice Department's Office of Legal Counsel. And from January 7, 1972, to his passing Saturday, he served on the Supreme Court. Through his life of service, Justice REHNQUIST has left an indelible mark on this Nation.

In 1969, on appointing Judge Burger as Chief Justice of the Supreme Court, President Nixon had said: Our Chief Justices have probably had more profound and lasting influence on their times and on the direction of the Nation than most Presidents.

President Nixon was right. And the service of Chief Justice REHNQUIST was proof.

In 1971, President Nixon nominated Justice REHNQUIST to the Supreme Court as an Associate Justice. And in 1986, President Reagan elevated him to the position of Chief Justice. In the history of this Nation, only 16 men have held this high office. Justice REHNQUIST presided over the court as Chief Justice for 19 years. Only three men served longer as Chief Justice: Melville Weston Fuller, Roger Taney, and John Marshall.

I felt a tie with Justice REHNQUIST, as he had attended Stanford University and Stanford Law School, a few years ahead of me at both schools. In another one of those quirks of history, he attended the same Stanford Law School class with Sandra Day O'Connor, who would later join him on the Supreme Court.

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I was also able to observe Chief Justice REHNQUIST at close range, in 1999, when he presided over the Senate sitting in on the impeachment trial of President Clinton. Chief Justice REHNQUIST had written a book on impeachments. But more important, his presence brought dignity and a much-needed sense of humor to those difficult proceedings.

At one point he noted that a Senate rule forbids both sides in the impeachment trial from objecting to a question.

From the presiding officer's chair, the Chief Justice wryly observed: The Parliamentarian says they can only object to an answer and not to a question, which is kind of an unusual thing.

The Chief Justice chuckled, and Senators laughed with him.

At another point, Majority Leader Lott asked how much time each side had used. The Chief Justice checked with the Parliamentarian and first announced that the House managers had taken 54 minutes and the White House had taken 57 minutes. But then the Chief Justice said that he needed to correct himself, saying that the House managers had actually used up 64 minutes, not just 54 minutes.

House Manager Rogan, who was scheduled to speak next, inquired: I trust that doesn't mean I have to sit down, Mr. Chief Justice.

The Chief Justice quipped in response: It's not retroactive.

Mr. President, Chief Justice REHNQUIST wrote many opinions with which I do not agree. He was a very conservative Justice.

But I will miss Chief Justice REHNQUIST. He was a great figure of our times. We will not forget him.

MONDAY, *September 26, 2005*

Mr. SPECTER. Mr. President, this afternoon, the Senate begins the debate on the confirmation of Judge John G. Roberts, Jr., to be Chief Justice of the United States. It is not an overstatement to note this is a historic debate. At the age of 50, Judge Roberts, if confirmed, has the potential to serve as Chief Justice until the year 2040 or beyond.

Today, Justice John Paul Stevens, at the age of 85, continues to serve. If you project Judge Roberts ahead 35 years, it would be to the year 2040. Obviously, by that time it will be a very different world. There will be very different issues which will confront the Court with the advances in tech-

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nology, with the advances in brain scanning, key questions as to how far the privilege against self-incrimination goes to scan someone's brain. Will it be like a blood test and fingerprints or will it be viewed as invasive and a violation of a right to privacy? Those are the kinds of issues which Judge Roberts will confront if confirmed as Chief Justice.

He also has the potential to project a new image on the Supreme Court. That Court has been buffeted by a whole series of 5-to-4 decisions. Candidly, some of them are inexplicable, where you have, this year, the Supreme Court of the United States saying that Texas could display the Ten Commandments outdoors, but Kentucky could not display the Ten Commandments indoors. There are some minor differences, but it is hard to understand how the Ten Commandments can be shown in Texas but not in Kentucky by a 5-to-4 vote.

Under the very important legislation of the Americans With Disabilities Act, the Supreme Court had two 5-to-4 decisions 3 years apart. One, in a case captioned *Garrett* v. *University of Alabama*, in 2001, the Supreme Court declared the title unconstitutional which dealt with discrimination against the disabled in employment.

Three years later, in *Tennessee* v. *Lane*, the Supreme Court upheld the constitutionality of another title of the Americans with Disabilities Act which dealt with access to public accommodations. We have seen a proliferation of opinions with multiple concurrences, making them very hard to understand. Earlier this year, the Judiciary Committee took up the issue of what was happening in Guantanamo, and a study was undertaken on three opinions handed down by the Supreme Court in June of last year. On one case, they couldn't get a majority, a plurality of four, so there was no holding. In the other two cases, there were concurrences and dissents. You have a pattern which exists where Justice A will write a concurring opinion, joined by Justice B, and Justice B will write a separate concurring opinion, joined by Justice A and Justice C.

This is an issue which was considered during the course of Judge Roberts' hearings. It is one where a new judge, a new Chief Justice at the age of 50, will have an opportunity to make some very systemic changes in the way the Court functions. When Judge Roberts was questioned about his ability to handle this matter—first during the informal meeting in my office and later in the hearings—he said he thought he could handle it because, in his many appearances

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before the Supreme Court, some 39 in number, it was a dialog among equals. I was impressed by his concept of a dialog among equals, that he considered himself as a lawyer arguing before the Court to be dealing with equals. I have had occasion three times to appear before the Supreme Court, and it didn't seem to me like a dialog among equals. But when you have been there 39 times and you know the Justices as well as he does—and the word is that the Justices very much applaud his nomination to be Chief Justice—he has the potential almost from a running start to bring a new day and a new era to the Supreme Court. That is a very attractive feature about his projection as Chief Justice.

We know the famous historical story about Earl Warren's becoming Chief Justice in 1953. The Court was then faced with *Brown* v. *Board of Education*, the desegregation case. There were many disputes in the Court at that time. They had to carry the case over. Chief Justice Warren was able to get a unanimous Court, which was important, so that contentious issue was one where nine Justices agreed and came down with an opinion which was obviously difficult to implement but had a great deal more stature because of its unanimity. So here is an extra bonus for the Court, an extra bonus for America, if confirmed as Chief Justice: the potential that Judge Roberts has to promote a new day and a new era for the Court administratively.

On his qualifications, Judge Roberts was rated "well qualified" by the American Bar Association. It is understandable, since he was a summa cum laude graduate of Harvard College, magna cum laude graduate of Harvard Law School; had a very distinguished career as assistant to Attorney General William French Smith, after serving as a clerk to a distinguished Second Circuit judge, Henry Friendly; then served as clerk to then-Associate Justice WILLIAM REHNQUIST; then, following his work with Attorney General William French Smith, became Associate White House Counsel; practiced with the prestigious law firm of Hogan & Hartson—Hogan & Hartson was prestigious before Judge Roberts got there but a lot more so after he was there and, frankly, after he left—then his status as a premier appellate lawyer; then the Supreme Court with some 39 cases.

It was my view that Judge Roberts has a broad, expansive understanding of the application of the Constitution. He said:

They

—referring to the Framers—

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were crafting a document that they intended to apply in a meaningful way down through the ages.

While he would not quite accept my characterization of agreement with Justice John Marshall Harlan on the document being a living thing, he did say that the core principles of liberty and due process had broad meaning as applied to evolving societal conditions. He is not an originalist. He is not looking to original intent. But he sees the Constitution for the ages and adaptable to evolving societal conditions.

On the issue of how many questions he answered before the Judiciary Committee, I believe he answered more than most but, candidly, did not answer as many questions as I would like to have had him answer. I will detail that in the course of this brief presentation.

I have observed, in the 10 Supreme Court nominations where I have had the privilege to participate on the Judiciary Committee, that nominees answer about as many questions as they believe they have to in order to be confirmed. But it has become an evolving process. A view of some of the history of Supreme Court nominations is relevant to see what has happened, what is in the course of happening, and what the next nominee may face.

The Senate Judiciary Committee has conducted hearings on nominees only since 1916—that is, for the Supreme Court—with the nomination of Louis Brandeis by President Woodrow Wilson. Justice Brandeis did not appear. The first time a nominee appeared before the committee was in 1925. The nominee was Harlan Fiske Stone. An issue had arisen as to whether there was a political motivation in the controversial investigation into the conduct of Judge Burton Wheeler. Justice Stone asked to appear to respond to the allegations. He did so, and he was confirmed.

In 1939, President Roosevelt nominated Felix Frankfurter, who initially refused to appear personally, but after being attacked for his foreign birth, his religious beliefs, and his associations, Frankfurter decided to appear. He read from a prepared statement, refused to discuss his personal views on issues before the Supreme Court. His hearing lasted only an hour and a half in duration and did not set a precedent for future nominees.

In 1949, Sherman Minton, who had been a U.S. Senator, became the only Supreme Court nominee to refuse to testify before the Judiciary Committee. Minton wrote to the committee:

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> I feel the personal participation by the nominee in the committee proceedings related to his nomination presents a serious question of propriety, particularly when I might be required to express my views on highly controversial and litigious issues affecting the Court.

Notwithstanding Minton's refusal, the committee conducted its hearing in Minton's absence and confirmed him. It wasn't until 1955, with the nomination of Justice John Marshall Harlan, that nominees have appeared regularly before the Judiciary Committee. Only since 1981, following my own election in 1980, have the hearings taken on a little different approach as to what the nominees will answer. Justice O'Connor declined to answer many questions. The next nomination hearing was that for Chief Justice REHNQUIST, who was a sitting Associate Justice. Initially Justice REHNQUIST declined to appear, then was advised that if he wanted to be confirmed, he would have to appear. It was a contentious hearing. As the record shows, Chief Justice REHNQUIST was confirmed by a vote of 65 to 33. He did answer a great many questions, although he did not answer a great many questions.

I asked him a bedrock question as to whether Congress had the authority to take away the jurisdiction of the Supreme Court of the United States on the first amendment. He declined to answer. Overnight a Senate staffer brought me an article which had been written by a young Arizona lawyer in 1958 by the name of WILLIAM H. REHNQUIST which appeared in the *Harvard Law Record*. The young Arizona lawyer, WILLIAM H. REHNQUIST, was very tough on the Senate Judiciary Committee for the way it conducted its hearings for Charles Whittaker. Charles Whittaker was from Kansas City. There are two Kansas Cities—one in Kansas and one in Missouri. Justice Whittaker lived in one and practiced law in the other. A big to-do was made about the fact that it would be an honor to two States if he was confirmed, where he worked and where he lived.

This young lawyer from Arizona, BILL REHNQUIST, didn't think that amounted to a whole lot. He chastised the Senate Judiciary Committee for not asking about due process and other constitutional issues. So in the face of his declination to answer my questions on taking jurisdiction away from the Supreme Court on the first amendment, I asked him if he was that WILLIAM H. REHNQUIST from Arizona. He said, Yes, that was true, he was.

I said: Did you write this article?

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He said: Yes, I did. Then he added quickly: And I was wrong.

So that didn't end the issue because having the authority of this young lawyer from Arizona, pretty good reasoning, I pursued the questions. Finally, he answered the question on could the Congress take away the jurisdiction of the Court on the first amendment. He said, No, the Congress could not do that.

So naturally I then asked about the fourth amendment, search and seizure. Could the Congress take away the jurisdiction from the Supreme Court on search and seizure. He declined to answer that. I went to amendment five on privilege against self-incrimination. Again he declined. And then six, on right to counsel, and seven, and eight on cruel and unusual punishment. Then I asked him a follow-up question: Why would he answer on the first amendment but not on any of the others? As you may suspect, he refused to answer that question as well.

It was my judgment that Chief Justice REHNQUIST passed muster. It was a battle. And then Justice Scalia came before the Senate following Chief Justice REHNQUIST. Justice Scalia would not answer any questions. As I have said—and really too apocryphal—Justice Scalia wouldn't even give his serial number. He would only give his name and rank. Prisoners of war are compelled to answer questions, but only three—name, rank, and serial number. But as I have said, and I have said this to Justice Scalia in interpersonal banter, he wouldn't even give us his serial number. But it was perhaps an exhausted Senate following the confirmation of Chief Justice REHNQUIST or perhaps it was Justice Scalia's superb academic and professional record, he would not even answer the question as to whether he would uphold *Marbury* v. *Madison*, a decision of the Supreme Court of the United States in 1803 where the Court undertook the authority to interpret the Constitution and to interpret the law and to be the final arbiter of the Constitution. Then in 1987 the Judiciary Committee considered the nomination of Judge Bork from the District of Columbia Court of Appeals. Judge Bork had very extensive writings in law reviews and books, many speeches, had a very extensive paper trail, a controversial paper trail. Judge Bork had written that absent original intent there was no judicial legitimacy, and absent judicial legitimacy, there could not be judicial review. Understandably, the committee had many questions for Judge Bork, and in

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that context Judge Bork felt compelled to answer the questions.

Mr. HATCH. ... I was impressed at the REHNQUIST funeral to see some 95 former clerks paying respect to their Chief Justice REHNQUIST, some of whom were from Utah. ...

Mr. ALLEN. Mr. President, I am pleased today to honor the birth of one of Virginia's and America's true citizen soldiers, statesmen, and most important jurists, the former Chief Justice of the United States, John Marshall.

The 250th commemoration of his birth over the weekend takes on special significance this week as the Senate prepares to confirm John Roberts as the 17th Chief Justice of the United States. He will replace Chief Justice WILLIAM REHNQUIST, whose decent, dedicated and principled leadership will be difficult to replace. I am confident that Judge Roberts will follow in the tradition of honorable service that was so evident in the work of former Chief Justices REHNQUIST and Marshall. ...

TUESDAY, *September 27, 2005*

Mr. ISAKSON. Mr. President, I rise on the advice and consent question of Judge John Roberts.

Before I address my judgment on that, I would like to pay tribute for a second to Sandra Day O'Connor and the late WILLIAM REHNQUIST.

Sandra Day O'Connor's announced retirement caused the nomination by the President of John Roberts, and subsequently the untimely passing of Chief Justice REHNQUIST afforded the opportunity for that nomination to be for Chief Justice as well. In the anticipated furor of this debate and confirmation, the credit never was given that should have been to Justice O'Connor or Justice REHNQUIST.

Sandra Day O'Connor was the first woman appointed to the U.S. Supreme Court. She served with honor and distinction. She wrote brilliantly, concisely, and succinctly, and, most important of all, she had an insight and wisdom second to none. In fact, I commend to everyone her final writing, her dissenting opinion on the eminent domain case, if you want to see a Justice who was well grounded and interested in the American people.

WILLIAM REHNQUIST was the 16th Chief Justice of the United States, an outstanding individual of immense capac-

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ity, dedication, and commitment to the United States of America. His loss is a tragedy, and the retirement of Justice O'Connor is a loss to the Court. . . .

WEDNESDAY, *September 28, 2005*

Mr. HAGEL. Mr. President, 25 years from now most of the events and personalities of September 2005 will have passed into the pages of history. New Orleans will once again stand proudly as one of America's most vibrant cities; America will have been forced to address our need for energy independence; and the legacies of today's politicians will be the work of tomorrow's history professors. However, the confirmation of John Roberts as the 17th Chief Justice of the United States could well be even more significant in 2030 than it is today. The Roberts court will have a profound and historic impact on the preservation of liberty for decades to come.

I first met John Roberts when we both served in the Reagan administration in the early 1980s. He is a person of enormous intelligence, character and judgment. His performance in his Senate confirmation hearings earlier this month transcended tv ads, Internet blogs, tv talking heads, and the million dollar industry that reduces the judicial nominations process to caricatures and buzz words across the political spectrum. As many of my colleagues have noted, the Roberts confirmation hearings forced a serious examination of the role of the Supreme Court and the Federal Government in our society.

My beliefs about the role of government were shaped and molded when I served on the staff of Nebraska Congressman John Y. McCollister in the 1970s. I remember him warning America about the wholesale disregard of the 10th amendment to the Constitution which states:

> The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people.

In the late 1930s and early 1940s, the Supreme Court used Article I, Section 8 of the Constitution which gives the Federal Government the power to "regulate commerce," as a crowbar to pry open the lid of federalism and more fully insert the Federal Government into the lives of the American people. By the 1970s, we saw an expansion of the Federal Government's power our Founders could not have imagined.

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At the same time that Congressman McCollister was invoking the 10th amendment in the House of Representatives, Justice WILLIAM REHNQUIST was frequently the lone voice on the Supreme Court for the discretion of States and the integrity of the 10th amendment. Much has been said about WILLIAM REHNQUIST in the last month. He was a giant of our time. As history considers his legacy, I believe his ability to move the Court back to a responsible position concerning federalism will be his greatest accomplishment. In this, he had a strong ally in Justice Sandra Day O'Connor.

The Founders did not arrive at the 10th amendment by accident. It was a necessary compromise in order to get the Constitution ratified. The Founders believed that the Constitution must protect the citizens of the United States from the consolidation of the Federal Government's power. History has proven them wise. Well-meaning politicians never have enough power to do all the good things they believe are essential to the Nation's well-being. History shows that the growth of central governments is no substitute for the ingenuity and energy of individual citizens.

It was President Woodrow Wilson who said:

> The history of liberty is a history of the limitation of governmental power, not the increase of it.

As we work to address 21st century challenges like terrorism, the proliferation of weapons of mass destruction and incredible advances in technology, we will constantly be confronted with the need to balance the expansion of the Federal Government's power with States rights, individual liberties and national security. As we act to secure our Nation, we must also guard against Federal overreaching. That is why measures like the sunset provisions in laws like the Patriot Act are so important.

In years to come, Congress will be under great pressure to reach into areas of law historically reserved for State and local governments, including land use, education, economic development, law enforcement and contract law, including marriage. A wise and judicious Supreme Court will be as critical as it has ever been to see America through this volatile time.

Decades from now, if John Roberts can look back upon a legacy of having protected the rights of States and individuals while helping strengthen America from within, and constraining the power of the Federal Government, then it will be a legacy worthy of succeeding WILLIAM REHNQUIST.

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Mr. VOINOVICH. . . . The Chief Justice is the top administrator of the Federal Courts, so any nominee to Chief Justice must possess management skills. Former Chief Justice REHNQUIST was an excellent administrator, so Judge Roberts has some shoes to fill. . . .

THURSDAY, *September 29, 2005*

Ms. STABENOW. Mr. President, this is a critical time in our Nation's history. For the first time in more than a decade, we have not just one but two vacancies on the U.S. Supreme Court. Sandra Day O'Connor, the first woman Justice and often the critical deciding vote, is retiring, and Chief Justice REHNQUIST, who served on the Court for more than 33 years, passed away after a courageous battle with cancer. . . .

Mr. McCONNELL. Madam President, Senators cast many important votes—votes to strengthen our highway system, or to implement a comprehensive energy strategy, for example—but it is not often we cast a vote that is both important and truly historic. We do so, however, when we vote on whether to confirm a nominee to be Chief Justice of the United States.

There have been 9,869 Members of the House of Representatives, 1,884 Senators, and 43 Presidents of the United States, but only 16 Chief Justices. On average, each Chief Justice serves for well over a decade. Our last Chief Justice served for 19 years, a little short of two decades. The occupant of the "center seat" on the Court often has had a profound impact on the shape and substance of our legal system. But despite such profound effects, the position of Chief Justice actually got off to a rather inauspicious start.

The Constitution of the United States mentions the position of Chief Justice only once. Interestingly, it does not do so in Article III, which establishes the judicial branch of our government. Rather, the Constitution refers to the position of Chief Justice, almost in passing, only in Article I, which sets forth the powers of the legislative branch.

There, in Section 3, Clause 6, it discusses the Senate's procedures for a trial of an impeached President, stating that "When the President of the United States is tried, the Chief Justice shall preside." That is the sum and substance of his constitutional authority.

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The Judiciary Act of 1789, which established the Federal court system, did not add much to the Chief Justice's responsibilities. It specified merely that "the supreme court of the United States shall consist of a chief justice and five associate justices."

It is not surprising, then, that the position of Chief Justice initially was not viewed as particularly important. Indeed, the first Chief Justice, John Jay, left completely disillusioned, believing that neither the Court nor the post would ever amount to very much.

It took George Washington four tries to find Jay's successor, as prominent people repeatedly turned him down. They were turning down George Washington's offers to make them the Chief Justice of the United States.

With such humble constitutional roots for the office, the power, prestige, and independence of the Supreme Court and the Federal court system in general often has been tied to the particular personal qualities of those who have served as Chief Justice.

John Marshall was our first great Chief Justice. His twin legacies were to increase respect for the Court and, relatedly, its power as well. He worked to establish clear, unanimous opinions for the Court, and his opinion in *Marbury* v. *Madison* forever cemented the Court as a co-equal branch of government.

Marshall's successes were viewed, then as now, as a function of his formidable personal qualities. He is said to have had a "first-class mind and a thoroughly engaging personality." Thomas Jefferson, for example, tried, in vain, to break his influence on the Court. In writing to James Madison, his successor, about Supreme Court appointments, Jefferson said:

> [I]t will be difficult to find a character of firmness to preserve his independence on the same bench with Marshall.

That is Thomas Jefferson speaking about Chief Justice Marshall.

I find myself agreeing with the columnist George Will, who wrote recently in one of his columns:

> Marshall is the most important American never to have been President.

William Howard Taft and Charles Evans Hughes also used their individual talents to become great Chief Justices. Taft, the only Chief Justice to serve also as President, which was prior to that, had a singular determination to modernize the Federal courts. He used his energy and his political acumen

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to convince Congress to establish what is now the Judicial Conference of the United States to administer the Federal courts; enact the Judiciary Act of 1925, which allowed the Court to decide the cases it would hear; and, before he left office, to give the Court its first, and current, permanent home—a stone's throw from where we stand today, across the East Lawn of the Capitol.

A fellow Justice called Charles Evans Hughes "the greatest in a great line of Chief Justices." He was known for his leadership in running the Court and for constantly working to enhance the public's confidence in the Court. His successes were at least partly due to his keen appreciation of the limits of that office. This is what Charles Evans Hughes had to say:

> The Chief Justice as the head of the Court has an outstanding position, but in a small body of able men with equal authority in the making of decisions, it is evident that his actual influence will depend on the strength of his character and the demonstration of his ability in the intimate relations of the judges.

Hughes was famous for the efficient, skillful, and courteous way in which he presided at oral argument, ran the Court's conferences, and assigned opinions, calling the latter his "most delicate task." But his greatest service may have been in spearheading public opposition to FDR's court-packing plan.

Our last great Chief Justice, WILLIAM REHNQUIST, may be said to have possessed the best qualities of Marshall, Taft, and Hughes. He had an exceptional mind, an engaging personality, boundless energy, and a courteous and professional manner. These qualities helped him revolutionize Federal jurisprudence, administer the Supreme Court and the court system very efficiently, and interact constructively with those of us here in Congress. . . .

FRIDAY, *September 30, 2005*

Mr. ALLEN. On September 3, 2005, America lost one of its greatest public servants when, following a year-long battle with cancer, WILLIAM HUBBS REHNQUIST passed away at the age of 80. At the time of his death, he had been a member of the U.S. Supreme Court for 33 distinguished years, having served as Chief Justice since 1986 and previously as an Associate Justice, appointed in 1972.

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Much of WILLIAM REHNQUIST's professional career was dedicated to public service. He served his country honorably in the U.S. Army Air Corps during World War II from 1943 to 1946. After his military service, he earned an undergraduate, a master's and a law degree from Stanford University. Even further demonstrating his intellectual acumen, REHNQUIST also graduated with a master's degree from Harvard University and was first in his class at Stanford University Law School. After law school, he became a Supreme Court clerk for Associate Justice Robert Jackson before leaving for private practice in Arizona. In 1969, Chief Justice REHNQUIST joined the Nixon administration as an Assistant Attorney General where he served until 1971. That year, President Nixon nominated WILLIAM H. REHNQUIST to be on the Supreme Court; the following year, he was confirmed to be an Associate Justice by the U.S. Senate.

It was on the Supreme Court that WILLIAM REHNQUIST built his reputation as one of the great legal minds of our time. His tenure on the High Court of the land, both as an Associate Justice and as the Chief Justice, was an extraordinary achievement. I was particularly impressed with his leadership as the head of the entire Federal judiciary, as well as his affable personal demeanor on the bench and off, both of which were important traits in his role as Chief.

I respect immensely the way in which Chief Justice REHNQUIST served on the Court with honor and restraint. As a Justice, he fairly and properly interpreted the words of the Constitution without usurping the rights of the American people and those of the States to make laws as they deem appropriate rather than allowing un-elected judges who are appointed for life to substitute their personal political views for the popular will of the people.

Chief Justice REHNQUIST clearly understood that judges ought to apply the law and Constitution, not invent the law or amend the Constitution by judicial decree. And I believe that he perfectly embodied what I consider to be the proper role of a Justice and that America should be grateful for his long and distinguished public service on the bench.

Our Nation was so fortunate to have a man of WILLIAM REHNQUIST's intelligence and legal experience in public service for so many years. As a Supreme Court Justice, he was a decent, dedicated, steady, and principled jurist whose legal brilliance and knowledge will be difficult to replace. Chief Justice REHNQUIST deserves America's gratitude for his over three decades of dedicated service on the Supreme Court and

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a life devoted to the service of this great Nation and its citizens.

My condolences go out to his family, in particular his three children, James, Janet, and Nancy, during this difficult time.

May he rest in peace.

Mrs. DOLE. Mr. President, I was deeply saddened to learn of the passing of Chief Justice WILLIAM REHNQUIST. He will most certainly be remembered as one of this Nation's greatest Chief Justices.

During his 33 years of distinguished service on the High Court, Chief Justice REHNQUIST served with tremendous wisdom, skill, and intellect. His legacy will be defined by his calm and steady leadership, his staunch defense of the Constitution, and his support of an independent judiciary.

Born into a modest home in the Midwest, REHNQUIST enlisted in the Army at age 19 during World War II. He went on to have a very impressive academic career, earning bachelor's and master's degrees in political science from Stanford University. In 1950, REHNQUIST received a master's degree in government from Harvard University. He later returned to Stanford Law School, where he graduated first in his class and served as the editor of the law review.

After law school, REHNQUIST served as a law clerk to Associate Supreme Court Justice Robert Jackson. He then settled in Phoenix, AZ, with his wife Nancy, where he spent 20 years in successful private practice. In 1968, REHNQUIST returned to Washington, DC, to serve as President Nixon's Assistant Attorney General in the Office of Legal Counsel. In 1972, WILLIAM REHNQUIST became the 100th Justice of the U.S. Supreme Court.

I expect we will hear much discussion in the coming years about the legacy of Chief Justice REHNQUIST. But I am confident that a significant part of his legacy, his strong leadership of the Court, will be unquestionable. President Bush said at REHNQUIST's memorial service, "He built consensus through openness and collegiality." Likewise, praise from so many of his colleagues and friends serve as a true testament to WILLIAM REHNQUIST's ability to treat people graciously and fairly, both from the bench and in his personal life.

The praise for his professional life is certainly plentiful, but we know that most important to WILLIAM REHNQUIST was his family. He was greatly loved as a husband, father, grandfather, and uncle. His daughters Nancy and Janet joked that dating your father was completely underrated, after they had the pleasure of accompanying their father

around Washington and on foreign trips after the death of their mother. He was a family man, first and foremost.

Chief Justice REHNQUIST deserves our praise and our tremendous gratitude for his dedicated service to this country. Our Nation mourns the passing of this great man. The significant contributions he made, personally and professionally, will certainly be remembered always.

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Proceedings in the House of Representatives

TUESDAY, *September 6, 2005*

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 52. Concurrent resolution providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable WILLIAM H. REHNQUIST, Chief Justice of the United States.

COMMUNICATION FROM ASSOCIATE JUSTICE OF SUPREME COURT

The SPEAKER pro tempore (Mrs. Biggert) laid before the House the following communication from Antonin Scalia, Associate Justice of the Supreme Court of the United States:

SUPREME COURT OF THE UNITED STATES,
Washington, DC, September 6, 2005.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify the House of Representatives, through you, that the Chief Justice of the United States died in Arlington, Virginia, on Saturday, September 3, 2005.

Very truly yours,

ANTONIN SCALIA,
Associate Justice.

Mr. DeLAY. Madam Speaker, I offer a privileged resolution (H. Res. 422) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 422

Resolved, That the House has heard with profound sorrow of the death of the Honorable WILLIAM H. REHNQUIST; Chief Justice of the United States.

Resolved, That the House tenders its deep sympathy to the members of the family of the late Chief Justice in their bereavement.

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Resolved, That the Clerk communicate these resolutions to the Senate and to the Supreme Court and transmit a copy of the same to the family of the late Chief Justice.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the late Chief Justice.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DeLAY. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 52) providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late Honorable WILLIAM H. REHNQUIST, Chief Justice of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 52

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Supreme Court of the United States the catafalque which is situated in the crypt beneath the Rotunda of the Capitol so that such catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late honorable WILLIAM H. REHNQUIST, Chief Justice of the United States.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

Mr. PEARCE. Mr. Speaker, pursuant to House Resolution 422, I move that the House do now adjourn in memory of the late Honorable WILLIAM H. REHNQUIST, Chief Justice of the United States.

The motion was agreed to; accordingly (at 11 o'clock and 44 minutes p.m.), pursuant to House Resolution 422, the House adjourned until tomorrow, Wednesday, September 7, 2005, at 10 a.m. in memory of the late Honorable WILLIAM H. REHNQUIST, Chief Justice of the United States.

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WEDNESDAY, *September 7, 2005*

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Since justice and judgment are the foundation of Your throne, Lord God; because You love those who hate evil and guard the lives of Your faithful ones, Lord, we know that You welcome into the heavenly court Your servant, Chief Justice WILLIAM H. REHNQUIST.

May his legacy continue to guide this Chamber, the provisions of the courts of this land and the citizens governed; to seek the truth behind every dispute and deferring opinion, to work for equal justice under the law for all Your people.

Eternal rest and reward grant unto him, O Lord. Amen.

Mr. WILSON of South Carolina. Mr. Speaker, today our thoughts and prayers are with the Rehnquist family and our Nation. As we celebrate the life of Chief Justice WILLIAM REHNQUIST today, we mourn the loss of a true leader who made the most of his unique opportunity to help the American people. He was a skilled judge and a brilliant man who devoted over a third of his life to ensuring that our highest court fairly upheld our laws.

From fighting excessive Federal laws as an Associate Justice to battling cancer as Chief Justice, REHNQUIST embodied determination and conviction throughout his tenure. Often the lone vote on an issue, he remained true to his conservative beliefs and worked tirelessly to ensure that justice was fairly delivered, and efficiently. Because of his monumental impact on our legal system, he earned a valuable place in our Nation's history.

As his family and friends gather today, I would like to express my sincere respect and gratitude for the life and work of Chief Justice WILLIAM REHNQUIST.

In conclusion, God bless our troops, and we will never forget September 11.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time to consider in the House the resolution (H. Res. 423); the resolution shall be considered as read; and the previous question shall be considered as ordered on the resolution to its adoption without intervening motion or demand for division of the question except: (1) 1 hour of debate equally divided and con-

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trolled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. Simpson). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to the order of the House entered into previously today, I call up the resolution (H. Res. 423) honoring and recognizing the distinguished service, career, and achievements of Chief Justice WILLIAM HUBBS REHNQUIST upon his death, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 423 is as follows:

H. RES. 423

Whereas WILLIAM H. REHNQUIST was born on October 1, 1924, in Milwaukee, Wisconsin and grew up the son of a paper salesman;

Whereas WILLIAM H. REHNQUIST served the United States in the Army Air Corps during World War II;

Whereas WILLIAM H. REHNQUIST attended and graduated from Stanford University, earning a bachelor's and master's degree in political science, and a second master's degree in government from Harvard University;

Whereas WILLIAM H. REHNQUIST went on to graduate first in his class at Stanford Law School in 1952, where he met his wife Natalie "Nan" Cornell;

Whereas WILLIAM H. REHNQUIST and Natalie had three children: James, Janet, and Nancy;

Whereas WILLIAM H. REHNQUIST served as a law clerk to Justice Robert H. Jackson on the Supreme Court during the 1951 and 1952 terms, and as Assistant Attorney General for the Justice Department's Office of Legal Counsel, where he advised the Nixon Administration on constitutional law from 1969 until 1971;

Whereas WILLIAM H. REHNQUIST was appointed by President Nixon and confirmed by the Senate as an Associate Justice of the United States on December 10, 1971, at the age of 47;

Whereas WILLIAM H. REHNQUIST was appointed by President Reagan and confirmed by the Senate as the 16th Chief Justice of the United States in 1986;

Whereas Chief Justice REHNQUIST's 33-year tenure on the Supreme Court was one of the longest and most influential in the Nation's history;

Whereas legal scholars of all perspectives rank Chief Justice REHNQUIST as among the great Chief Justices of the United States who influenced the interpretation of the law in significant ways;

Whereas Chief Justice REHNQUIST was widely respected for his evenhandedness as Chief Justice; and

Whereas on January 7, 2002, the 30th Anniversary of his swearing in at the Supreme Court, Justice John Paul Stevens praised Chief Justice REHNQUIST for "the efficiency, good humor and absolute impartiality that you have consistently displayed when presiding at our Conferences": Now, therefore, be it

Resolved, That the House of Representatives—

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(1) has learned with profound sorrow of the death of Chief Justice REHNQUIST; and

(2) honors, recognizes, and expresses gratitude for the distinguished service, career, and achievements of WILLIAM H. REHNQUIST upon his death.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. Sensenbrenner) and the gentleman from California (Mr. Berman) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 423 which honors and recognizes the distinguished service, career, and achievements of Chief Justice WILLIAM HUBBS REHNQUIST upon his death.

Mr. Speaker, the passing of Chief Justice REHNQUIST means that a long and distinguished career has come to an end. WILLIAM REHNQUIST was born on October 1, 1924, in Milwaukee, WI, and was raised in nearby Shorewood, WI, which currently lies in the congressional district I am proud to represent. The future Chief Justice attended Kenyon College briefly before joining the U.S. Army Air Corps during World War II.

Following his career in the Army, Chief Justice REHNQUIST attended and graduated from Stanford University, where he received a bachelor's and master's degree in political science and a second master's degree in government from Harvard University.

At Stanford Law School, the future Chief Justice graduated first in the class that famously included his future colleague, Justice Sandra Day O'Connor. It was also at Stanford Law School that the Chief Justice met his future wife, Natalie "Nan" Cornell, whom he married in 1953.

After graduation, WILLIAM REHNQUIST clerked for Supreme Court Justice Robert H. Jackson for the 1952 and 1953 terms. He then went on to practice as an attorney in his adopted home State of Arizona for several years before returning to Washington, DC, to serve as Assistant Attorney General for the Justice Department's Office of Legal Counsel, where he advised the Nixon administration on constitutional law from 1969 until 1971.

On October 22, 1971, President Nixon nominated WILLIAM REHNQUIST to fill the vacancy on the U.S. Supreme Court created by Justice John Marshall Harlan's retirement. The

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Senate confirmed him to the post of Associate Justice on December 10, 1971, and he was sworn into office on January 7, 1972, at the age of 47.

Under his leadership, federalism, judicial restraint, and State autonomy once again became staple features of the Court's jurisprudence. Chief Justice REHNQUIST deeply respected the proper roles of each branch of government and the separation of powers envisioned by our Founders. He repeatedly acknowledged that the first amendment to the Constitution guaranteed the free exercise of religion.

By the time President Reagan nominated him to become the 16th Chief Justice of the United States on June 20, 1986, to replace Warren Burger, the pieces were in place for the Chief Justice to make a profound impact on American jurisprudence. His commitment to his principles were evidenced in his majority opinion upholding Cleveland, Ohio's program of school vouchers, which allowed public school students in poor areas to use vouchers to attend better, and often religious, schools, against an establishment clause challenge. His support for freedom of religion was also evidenced in his concurring opinion of *Elk Grove Unified School District* v. *Newdow*, in which he rightly concluded that the phrase "under God" in the Pledge of Allegiance was not a violation of the establishment clause.

Most recently, Chief Justice REHNQUIST joined Justice O'Connor's dissent in *Kelo* v. *City of New London* in which they correctly concluded that it is a violation of the fifth amendment's public use clause when a government takes private property and gives it to another private entity to use for private commercial purposes.

Apart from the doctrinal changes the Chief Justice brought to the Court, he also streamlined the manner in which the Court operated. His keen intellect and evenhandedness were appreciated by all of his colleagues. On the 30th anniversary of REHNQUIST's swearing in, Justice John Paul Stevens, who often found himself on the opposite side of opinions from the Chief Justice, praised him for the "efficiency, good humor, and absolute impartiality that you have consistently displayed when presiding at our conferences." These traits have led observers of all political persuasions to view Chief Justice REHNQUIST as one of the most consequential jurists in our history.

When Chief Justice REHNQUIST was diagnosed with thyroid cancer in October 2004, many of his admirers feared that his tenure on the Court would come to an end. The

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Chief Justice, however, had other plans and continued to make his presence felt on the Court even as he battled his disease. Unfortunately, last Saturday, Chief Justice REHNQUIST lost that battle, and the country has lost a great intellect and a great public servant. His decision to swear in President George W. Bush last January while battling his illness inspired millions of Americans.

From a personal standpoint, let me say that I first met the future Chief Justice back in 1968 going door to door while running for a seat in the Wisconsin Assembly, and when I knocked on his parents' door, they introduced me to the Chief Justice-to-be, and he and I have kept contact up for a number of years until he passed away, both before he was selected for the Court and I was elected to the Congress.

As the chairman of the Committee on the Judiciary, let me say that I deeply appreciated the Chief Justice's invitations to address the twice-yearly meetings of the Judicial Conference of the United States on issues relating to the separation of powers and the interrelationship to how the laws the Congress passes relate to the operation of the third branch of government. I can say that the Chief Justice was extremely responsive when I had complained that the judicial discipline statute enacted in 1980 was not being utilized properly and effectively in terms of disciplining judges in the appeals court and in the lower Federal courts that may have strayed from the bounds of propriety and the ethical standards that we hope all of the judges will uphold.

I can say that probably one of my most profound memories of the Chief Justice was at a Judicial Conference meeting on the morning of September 11, 2001, where, because I had the first three bills up on the floor at 10 o'clock, the Chief Justice put me on first. At that time the Twin Towers had both been hit, and the Chief Justice came in, sat down and said, "Jim, make this snappy. Something bad is going on."

So my remarks got condensed to a minute and a half and the Chief Justice said, "There are no questions of the chairman, are there?" And everybody else in the room got the message, so I was then excused, and when I got here to the Capitol to make the three motions for suspensions of the rules, the Pentagon had already been hit. So the Chief Justice, I think, was advised that we were all in danger, he wanted to get the business done despite the danger, and he was able to do that. I think that this shows his character, and that touched me in an extremely personal way.

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While the country has lost so much, his family, including his children James, Nancy, and Janet, and his six grandchildren have lost a loving family member as well. I know that the whole House will join me in extending our condolences to his family and our thanks for his great service to this country. I hope that all Members will join me in supporting House Resolution 423 honoring, recognizing, and expressing our gratitude for the distinguished service, career, and achievements of Chief Justice WILLIAM H. REHNQUIST.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to celebrate the life of Chief Justice REHNQUIST. Chief Justice REHNQUIST was devoted to the highest court of the land and, more broadly, to our system of justice; and throughout his long tenure, he served them both admirably. During his 33 years on the Court, 19 of which were as Chief Justice, he chartered a definitive path which reflected his philosophy and left an unquestionable impact on the direction of the Court.

In his early years on the Court, at a time when his approach to constitutional interpretation often was not shared by a majority on the Court, Justice REHNQUIST stuck closely to his principles, earning him the moniker "The Lone Ranger." Over time, he was joined by other Justices who shared his ideology, and he was able to craft majorities that moved the Court toward adopting his vision of the law. To his great credit, when faced with a conflict between his own strongly held position and the dictates of stare decisis, as happened with recent efforts to limit the *Miranda* decision, he frequently sided with precedent.

While it is fair to say that over the years on decisions which have split the Court, I have probably disagreed with Chief Justice REHNQUIST's opinions more often than I have agreed with them; however, I have admired many of his efforts to protect the independence of the judiciary and his willingness to criticize his own party.

Chief Justice REHNQUIST often stated his discomfort with Congress encroaching on a court's prerogative in an attempt to guard judicial independence. He lashed out at those attempting to impeach judicial activists and threaten judges for rulings they did not like. "The Constitution protects judicial independence not to benefit judges but to promote the rule of law. Judges are expected to administer the law fairly, without regard to public reaction," he once said.

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Chief Justice WILLIAM H. REHNQUIST also criticized Congress for repeatedly enacting Federal criminal laws that overlap State laws. The States have the primary role in the area of crime and law enforcement, he said in his annual message on the judiciary, and Congress needs to think twice before turning "every highly publicized societal ill or sensational crime" into a new Federal law. "The trend to federalize crimes that traditionally have been handled in State courts not only is taxing the judiciary's resources," he said, "but it also threatens to change entirely the nature of the Federal system. Federal courts were not created to adjudicate local crimes, no matter how sensational or heinous the crimes may be. State courts do, can, and should handle such problems."

The impact of Congress having relegated more complex and time-consuming cases appropriate for State court adjudication to Federal jurisdiction, such as Congress did with class action reform, warranted REHNQUIST's rebuke:

> Congress should commit itself to conserving the Federal courts as a distinctive judicial forum of limited jurisdiction in our system of federalism. Civil and criminal jurisdiction should be assigned to the Federal courts only to further clearly define national interests, leaving to the State courts the responsibility for adjudicating all other matters. This long-range plan for Federal courts is based not simply on the preferences of Federal judges but on the traditional principle of federalism that has guided this country throughout its existence.

As noted by the *New York Times*, Chief Justice REHNQUIST was also duly critical of hastily enacted limitations on judicial sentencing decisions and the potential damage that compiling information on the sentencing habits of individual judges could do to fair and impartial Justices. Chief Justice REHNQUIST plainly saw his role as defender in chief of the Nation's independent court system, which he famously called "one of the crown jewels of our system of government."

His often practical approach to immeasurably weighty responsibility of having one out of nine votes on the most powerful court in the country reflected his devotion and respect for the institution of the Supreme Court and its effect on the lives of all Americans. Nowhere did Chief Justice REHNQUIST's love for the Court shine through more than in his numerous books on Supreme Court history and lore.

Chief Justice REHNQUIST also displayed considerable skill in managing an often divided Court. His colleagues have spoken of his deft ability, good humor, and impartiality as he led the Court through landmark cases. On top of this, he served for nearly two decades as the chief judicial officer of

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the Nation's Federal court system, constantly advocating for the resources needed to improve the courts' mission of delivering evenhanded justice throughout the Nation.

I would commend to my colleagues the op-ed piece in the *New York Times* yesterday by Laurence Tribe, a frequent litigator in the Supreme Court who argued many, many cases, who speaks of Chief Justice REHNQUIST's career there and finds many, many reasons to praise and admire him. He closes his article urging that as the Senate now considers the confirmation of a new Chief Justice, they look to one of the issues that he felt Chief Justice REHNQUIST so ably stood for and that is the ability of new Justices to help the Court earn the respect of all who take part in its proceedings or are affected by its rulings, which means everyone. "Chief Justice REHNQUIST," Professor Tribe noted, "was a master at that mission. For that, and for the steadiness of his leadership, I will always remember him with profound gratitude and admiration."

We are all saddened by the loss of Chief Justice WILLIAM REHNQUIST. As we mourn his death, regardless of our political differences, we must remember how he selflessly gave to the Court and the Nation. His work is an important legacy that impacts every American's life and will shape the lives of future generations. I join the Nation in applauding his accomplishments, and I express my sympathy for our collective loss.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. Coble).

Mr. COBLE. Mr. Speaker, not unlike the gentleman from Wisconsin, I also appeared at the Supreme Court on 9/11 to address the judicial conference. Just as I approached the podium, the Chief Justice handed me a note which read: "The Pentagon has been bombed." I thought perhaps they did not know about the World Trade Center because they had been in session the entire morning, and I said, "No, Chief, it's the World Trade Center." He said, "No, Howard, it's the Pentagon here." My staff, Mr. Speaker, admonishes me to this day for not having retained that piece of paper. It would have been a nice personal memento. Each time I saw the Chief after that, he or I mentioned that exchange between us.

Not unlike the gentleman from Wisconsin, I did not know the Chief that intimately, but I think he was an outstanding

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Chief Justice. Each time I saw him, he or I mentioned that exchange between us on 9/11.

If I could describe him very briefly, I would say a man blessed with supreme intellect; a warm, cordial demeanor; an outstanding Chief Justice; an outstanding jurist; an outstanding citizen; an outstanding gentleman. He will indeed be missed. I join my colleagues in extending our sincere condolences to the family of this great man.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. Chabot), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, as chairman of the Constitution Subcommittee of the Judiciary Committee, I want to take this opportunity to honor the late Chief Justice WILLIAM HUBBS REHNQUIST. Our country was privileged to have Chief Justice REHNQUIST serve as a member of our Supreme Court for 33 years, the last 19 years, as we know, as Chief Justice. Once considered the maverick lone star Justice for his solo dissents, he eventually led a majority which perhaps most importantly favored a shift in power from Washington back to the States where it belongs.

Among other challenges he met during his tenure, Chief Justice REHNQUIST presided over the impeachment trial of a President, President Clinton. Having served as one of the House managers myself, I can say that he did so with an evenhanded approach, showing fairness and dignity to both sides. Also, notably, he was the last member of the Court who voted on the landmark case of *Roe* v. *Wade*, dissenting from that ruling that legalized abortion. I will always appreciate his respect for the value of human life and his commitment to this body and local government's making decisions to protect life, such as the ban on partial-birth abortion.

Through his opinions, the Chief Justice showed that an active Court could uphold conservative policy through judicial restraint. As we begin the process of finding a replacement for Chief Justice REHNQUIST, I hope that we will remember the important impact of his presence on the Court and his commitment to upholding the text and history of the Constitution.

His strength and dedication to our country could be seen most recently when he fulfilled his duties of swearing in our 43d President for the second time while battling terminal thyroid cancer. Let us remember this, I believe, historic Chief Justice for his love of the law and his love for his coun-

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try. Our thoughts and prayers are with his family on this day.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Gohmert).

Mr. GOHMERT. Mr. Speaker, Chief Justice REHNQUIST was a man of great intellect on a Court that is saturated with great intellect. He was also a man of vast common sense. Unfortunately, common sense was not so well and evenly distributed on the Court. Nonetheless, as a gentle man, a man of class, a man of integrity, he brought great wisdom and great honor to the Court. As a former prosecutor, a former district judge, a former chief justice of an appellate court in Texas, I watched his actions, I read his opinions and appreciated his great intellectual honesty and appreciation for the Constitution. He was a rare man, a man who brought great honor upon the Court, upon this country, and upon the Constitution. He will be sorely missed. It is with great respect that we extend our sympathy and our sincere best wishes and our prayers to the family and those closest to the Chief Justice. We all mourn the loss of a very great American.

Ms. PELOSI. Mr. Speaker, I join all of my colleagues in expressing our deepest condolences to the family of Chief Justice WILLIAM H. REHNQUIST. I mourn his loss, and I thank the gentleman from Wisconsin, Mr. Sensenbrenner, and the gentleman from Michigan, Mr. Conyers, for introducing this resolution.

I had the privilege yesterday of paying my respects to the Chief Justice as he lay in repose at the Great Hall. As I prayed, I thought of the great courage he displayed in the last few months, and his devotion to duty, even in the face of illness.

As a Nation, today we honor his memory and a lifetime of dedicated public service. Chief Justice REHNQUIST was a man of great intellect and passion for the Supreme Court and its traditions, who was an outstanding leader and administrator of the judiciary. He was not only a student of history, an author of books on American history, but he also wrote chapters in our Nation's history as Chief Justice.

As a law clerk to a great Justice, Robert Jackson, he formed an early appreciation for the institution that he would serve in a long and distinguished career. As Justice John Paul Stevens noted, Chief Justice REHNQUIST set an exemplary example as leader of the Court. His colleagues uni-

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formly spoke of his fair and impartial leadership of their proceedings, and of his efforts to prevent disagreements from becoming personal.

His legacy is his steadfast and proud defense of an independent judiciary. As Justice Ruth Bader Ginsburg said on Sunday: "He regarded an independent judiciary as our country's hallmark and pride, and in his annual reports, he constantly urged Congress to safeguard that independence."

I hope all of us in Congress will honor his legacy by preserving an independent judiciary. It is our oath of office to protect and defend the Constitution of the United States—and that means protecting an independent judiciary free of manipulation and intimidation.

As the *New York Times* noted this morning, Chief Justice REHNQUIST disapproved of recent congressional attempts to "intimidate individual judges, strip federal courts of jurisdiction to decide certain constitutional challenges, and otherwise undermine the constitutional separation of powers and checks and balances." In his last annual report, the Chief Justice wrote that "A judge's judicial acts may not serve as a basis for impeachment. Any other rule would destroy judicial independence."

An independent judiciary has served for more than two centuries as the guardian of our constitutional liberties and as the words on the Supreme Court building so nobly state, has ensured "equal justice under law." We must preserve an independent judiciary and honor his memory by doing so.

It is with sadness and respect that I extend my sympathies to Chief Justice REHNQUIST's family and friends. I hope it is a comfort that so many people are praying for them at this sad time. He will long be remembered and missed.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to one of the most influential jurists of the 20th century, Chief Justice WILLIAM H. REHNQUIST, the 16th Chief Justice of the United States, upon his passing on the evening of Saturday, September 3, 2005.

First appointed to the Supreme Court as an Associate Justice by President Richard Nixon in 1972, REHNQUIST would go on to serve for 33 years, the final 19 of which as Chief Justice. During his time on the Court, REHNQUIST earned the reputation as a conservative intellectual who would challenge the status quo in the name of judicial restraint and federalism principles. He respected the Court's role as an independent body whose role was not to legislate subjectively

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on the issues of the day; but rather to serve as the objective arbiter of the rule of law.

Notwithstanding the politically charged nature of the Court during the latter half of the 20th century, REHNQUIST was very well liked and respected by all his colleagues, even those with whom he frequently disagreed. In fact, Justice John Paul Stevens, the Justice with whom REHNQUIST most frequently disagreed, commented on "the efficiency, good humor and absolute impartiality that [REHNQUIST had] consistently displayed when presiding at [Supreme Court] Conferences." This ability to work closely with all of his colleagues was a testament to Chief Justice REHNQUIST's affability, professionalism and evenhandedness.

Not only will Chief Justice WILLIAM H. REHNQUIST be missed as a jurist, he will also be missed as a loving family man. Though his wife preceded him in death, he is survived by three wonderful children to whom he no doubt passed his strong work ethic, patriotism, and deep and abiding respect for our American institutions.

In closing Mr. Speaker, please let me extend my condolences to Chief Justice REHNQUIST's family and friends on their loss. He was a great American and will be missed by us all.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Simpson). Pursuant to the order of the House of today, the resolution is considered read and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. Kirk). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. Carter) is recognized for 60 minutes as the designee of the majority leader.

Mr. CARTER. Mr. Speaker, I appreciate the recognition, and I rise this evening to discuss a man and a history on the bench, judicial bench, that probably will be recorded as one of the great careers in the legal profession in the history of the United States. I am referring to Chief Justice WILLIAM REHNQUIST.

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Today we laid to rest Chief Justice WILLIAM REHNQUIST, who has served this country and served it well for many, many years. Chief Justice REHNQUIST is going to be sorely missed by the citizens of this country. His wisdom and his leadership and his all-around ability to unite and work with every faction of the Supreme Court has been an inspiration to all of the citizens of this country.

He served tirelessly with great wisdom, judgment, and leadership. He leaves behind a legacy as one of the most influential Chief Justices in our Nation's history; and today, in sadness, we bid him farewell, and we say to Chief Justice REHNQUIST, a job well done.

A native of Milwaukee, WI, WILLIAM REHNQUIST grew up in the nearby suburb of Shorewood. His father, the son of Swedish immigrant parents, worked as a paper salesman, and his mother as a multilingual professional translator.

I come from a part of Texas which has a large Swedish heritage, and I am sure that Chief Justice REHNQUIST got his base principles established by that Swedish heritage that he grew up in.

After service in World War II with the Army Air Corps from 1943 to 1946, and with the assistance of the GI bill, REHNQUIST earned bachelor's and master's degrees in political science from Stanford University, finishing in 1948. In 1950 he received a master's degree in government from Harvard. REHNQUIST later returned to Stanford University to attend law school, where he graduated first in his class in 1952, even ahead of Justice Sandra Day O'Connor, currently serving on the Court. He also served as the editor of the Law Review.

REHNQUIST served as a law clerk for Associate Supreme Court Justice Robert Jackson both in 1951 and 1952. Following his clerkship, he settled in Phoenix, AZ, where he was in private practice from 1953 to 1969.

In 1964 he also served as a legal advisor to the Barry Goldwater Presidential campaign.

When President Nixon was elected in 1968, REHNQUIST returned to Washington, DC, to serve as Assistant Attorney General in the Office of Legal Counsel. In this position REHNQUIST served as the Chief Legal Counsel to the Attorney General. He served as Assistant Attorney General in the Office of Legal Counsel until 1971, when President Nixon nominated him to replace John Marshall Harlan on the Supreme Court.

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During his time in the Court, Chief Justice REHNQUIST authored countless landmark decisions and thought-provoking dissents. He carefully reasoned his opinions and insisted that the principle of federalism is an integral part of our Nation's constitutional structure. His opinions recognized that our government is one of enumerated rights and dual sovereignty, with certain functions and powers left to the States.

His jurisprudence has shown that the first amendment establishment clause does not dictate government hostility toward religion. Rather, the government should act in a manner which respects our freedom to worship as we please, neither favoring nor disfavoring religion.

The last 19 years have shown that Chief Justice REHNQUIST was a terrific choice to lead the Supreme Court. Though some of his colleagues on the Court disagreed with him at times, there is no doubt that they admired his strong leadership and his likable personality and his ability to build a consensus. While always a forceful advocate for his views, the Chief Justice consistently strove for consensus on the Court and treated his colleagues with courtesy and respect.

It is thanks to his personal attributes that even in an age of 5 to 4 decisions, the Court never descended into bitter infighting. Instead, Chief Justice REHNQUIST led a court united by friendship, committed to the law and service to our country.

One example of Chief Justice REHNQUIST's commitment to the law is his opinion in *Dickerson* v. *The United States*. Although a long-time critic of *Miranda* v. *Arizona*, REHNQUIST nevertheless placed his past position aside and wrote an opinion in *Dickerson* effectively affirming *Miranda*.

In 1999 Chief Justice REHNQUIST lent his services to the Senate when he became only the second Chief Justice in history to preside over a Presidential impeachment in the trial of President Clinton. During that difficult time, with the Nation and some of its Senators locked in partisan struggle, the Chief Justice's very presence reminded us of the solemn legal duties the Constitution requires of the Senate.

A historian of the Supreme Court, Chief Justice REHNQUIST authored three books on the history of the Court and the American legal system.

As Chief Justice, Mr. REHNQUIST led not only the Supreme Court but the entire third branch of government. In that role he was an eloquent advocate for a strong and independent judiciary. In his annual reports on the judiciary and other

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public pronouncements, Chief Justice REHNQUIST championed the interest of the judicial branch, earning praise from judges of all jurisdictional stripes.

At all times Chief Justice REHNQUIST performed his duties of office with nobility and courage. Even in his recent sickness, he found the strength to administer the oath of office to President Bush and to consider the challenging cases that came before the Court.

Peggy Noonan wrote of President Bush's inauguration:

> And the most poignant moment was the manful WILLIAM REHNQUIST, unable to wear a tie and making his way down the long marble steps to swear in the President. The continuation of democracy is made possible by such gallantry.

Our Nation is deeply indebted to WILLIAM REHNQUIST. Above all, the rule of law was paramount for Chief Justice REHNQUIST. He understood that our government cannot survive without a judiciary that places the rule of law above politics.

Chief Justice REHNQUIST has tirelessly served our Nation for the last three decades, and he serves a permanent legacy as one of the great Supreme Court Justices. The next Chief Justice will surely have big shoes to fill.

At this time, Mr. Speaker, I would like to yield as much time as he wishes to consume to my colleague, the gentleman from Arizona (Mr. Franks).

Mr. FRANKS of Arizona. Thank you, Mr. Speaker, and thank you. We call you Judge Carter here in this institution. Mr. Speaker, the gentleman from Texas (Mr. Carter) has earned a great deal of respect in this institution because he is not only a man who brings judicial experience to this body, but he is someone whom we can all trust. He is someone who we know has a heart that burns with patriotism, for love for his country, for love for his fellow human beings and just a commitment to human freedom.

And I want you to know, Mr. Speaker, that it is my precious honor to serve with a man like Judge Carter. You know, and perhaps that is all too appropriate tonight as we speak of judges, because we talk sometimes of judges legislating from the bench. Maybe Judge Carter comes to this body with just the kind of experience he needs to have. But we are grateful that he is a man who did not legislate from the bench, and that he understands the difference between the judiciary and the legislative body.

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And with that, Mr. Speaker, I would just like to pay a few words tonight of tribute to a towering figure in our country, Chief Justice WILLIAM REHNQUIST.

The era of the Rehnquist court has come to a close, and WILLIAM H. REHNQUIST has stepped quietly into the arms of God. Chief Justice REHNQUIST was one of America's great Chief Justices. This Nation has suffered a great loss with his passing, and as twilight falls upon this remarkable man's career, the most notable elements of his extraordinary legacy must not be lost to revisionist history, Mr. Speaker, because in his tireless defense of the U.S. Constitution, Chief REHNQUIST strongly advocated for a judiciary that applies the law rather than legislates from the bench.

We, as Americans, should be very grateful for our Founding Fathers and for the genius of the constitutional system that they left to us. It was a framework that protects human dignity and individual freedom by enforcing limits on government power. It is incumbent upon us and future generations to jealously guard that precious gift bestowed upon us by our forebears.

Chief Justice REHNQUIST spent decades on the highest court in the land acting as the Constitution's protector. He was a constitutional originalist, defending the process of interpretation of the law that is constrained by the text and the original meaning of that great document.

Mr. Speaker, there is a fundamental reason why we, as a self-governing people, so carefully put pen to paper to memorialize our Constitution and our laws and our great founding documents. They are written words that have become an agreement between the people and the government. We write it all down to keep a record and an understanding of the limits placed on government by the will of the people.

Chief Justice REHNQUIST advanced this understanding that at times the Federal courts must enforce limitations on Federal power while recognizing the preeminent role of democratically elected institutions at both the State and Federal levels. Chief Justice REHNQUIST was a valiant defender of States rights in recognition of the superiority of a federalist system when governing peoples of divergent views, divergent faith and cultures.

He was an influential man in leading the Court back toward the original intent of the Constitution after decades of abuse by a liberal activist Court born of the Roosevelt era and the New Deal philosophy.

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Mr. Speaker, that New Deal activist Court actually delivered such bizarre rulings as in *Wickard* v. *Filburn*, a ruling that a man in Ohio who was growing wheat in his own backyard as a means to feed his family and his own livestock had somehow violated the Interstate Commerce Clause of the U.S. Constitution because the quantity of wheat that he grew could have actually been sold.

Moreover, in their unanimous decision, this liberal activist Court affirmed:

> If we assume it is never marketed, homegrown wheat competes with wheat in commerce. The stimulation of commerce is a use of the regulatory function quite as definitive and quite as definitely as prohibitions or restrictions thereon.

Mr. Speaker, what a circuitous and false logic.

The stage was then set of course by this activist Court for massive expansion of Federal power. Year after merciless year a liberal Supreme Court, drunk with self-imposed power, delivered an unprecedented assault upon the rights of the States and of the people.

During his years on the court, especially his early years, Mr. Speaker, Justice REHNQUIST was often called the lone dissenter to outrageous decisions, even once receiving a Lone Ranger doll awarded by his friends. But yet his adherence to the Constitution, faithfully expressed in some of his earliest dissents, had great influence upon the Court as evidenced in later majority opinions where he was vindicated in his previous conclusions.

In 1973, when the Supreme Court illegitimately bestowed its imprimatur on abortion on demand, it was Justice WILLIAM REHNQUIST who wrote a scathing dissent to that majority opinion in *Roe* v. *Wade*. He said:

> To reach its results, the Court necessarily has had to find within the scope of the 14th amendment a right that was apparently completely unknown to the drafters of the amendment.

How very eloquent.

Chief Justice REHNQUIST was also instrumental in fighting back assaults on religious freedom in his efforts to make clear that the Constitution ensures government neutrality in matters of religious conscience, but not the requirement to move religion altogether from the public square. He understood the Constitution.

In the 1995 case of *United States* v. *Lopez*, the Rehnquist court marked the first time in over 50 years, Mr. Speaker, that the Supreme Court upheld the rights of States, ruling against the expansion of Federal power and finding a Fed-

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eral law in violation of that now woefully distorted commerce clause of the Constitution.

Chief Justice WILLIAM REHNQUIST was often found standing in the breach of defense of the Constitution, endowing this Nation through the years with a noble legacy of resistance to a liberal, activist Court determined to make its own law and enact its own agenda.

Mr. Speaker, he gave the American people his last full measure of devotion and stayed at his post through great personal pain and sacrifice while he was fighting cancer. To the very end, he led a brave and good-natured effort to restore the Supreme Court to its ethical grounding.

Mr. Speaker, as we bid loving farewell to this stoic champion, I reflect upon the words of Alfred Lord Tennyson in tribute:

> Though much is taken, much abides; and though we are not now that strength in which the old days moved Earth and Heaven; that which we are, we are, one equal-temper of heroic hearts, made weak by time and fate, but strong in will to strive, to seek, to find, and not to yield.

Mr. Speaker, when the final battle with illness and physical weakness came to Chief Justice WILLIAM H. REHNQUIST, he resolutely remained at his post for his President, for his country, and for the future of all mankind. He did not yield.

Mr. CARTER. Mr. Speaker, I thank my colleague for that very well-presented picture of this great man whom we are talking about here tonight.

The gentleman is right. There was a time when WILLIAM REHNQUIST stood alone for the rule of law and a strict interpretation of the U.S. Constitution in a world where lots of people that were of the other persuasion actually made jokes about him.

To us who are conservatives and respected his intelligence, his wit, his humor, and his bulldoggedness, he was someone whom we respected and we loved because when he got ready to do his job, he did it.

One of the things you can look at is, when your colleagues who disagree with you have comments that are positive about you, I think that speaks a lot about not only his ability to stand his ground but his ability to stand it with grace as a man who demanded and received respect because of his behavior and because of the way he handled himself.

Now, Chief Justice William Brennan is well known for the way he uses certain language. I am going to read a quote from Justice Brennan, and some of it is a little rough, but

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I think we will enjoy it. He is talking about Justice REHNQUIST.

> He is just a breath of fresh air. He is so damn personable. He lays his position out, casts his vote. You know exactly where he stands on every goddamn case. And he's meticulously fair in assigning opinions. I can't begin to tell you how much better all of us feel and how fond all of us are of him personally.

Another of his colleagues, Justice Lewis Powell said:

> In many ways he is the best-educated person I have ever worked with, very familiar with the classics. He'll quote them with confidence. Everybody agrees generally, I suppose, that he's brilliant, but he has a good sense of humor and he is very generous and he is principled.

Former Supreme Court Justice Thurgood Marshall said, "REHNQUIST is a great Chief Justice."

All these people were people on the other side of most of the issues with WILLIAM REHNQUIST, and yet they speak of him as a colleague that they highly respect, and they believe he handled himself very well.

As we are talking about colleagues that we respect, I see that we are joined today by the gentleman from east Texas (Mr. Gohmert) and also one of my judicial colleagues, coming to this august body from the judiciary of Texas, which is getting to be a habit for quite a few of our Congressmen, and we are glad to have him. I wonder if the gentleman would like to step up and make a statement about the Chief Justice and join in a colloquy about the Chief Justice.

Mr. GOHMERT. Mr. Speaker, it is a pleasure and an honor to be here to talk about the great Chief Justice WILLIAM REHNQUIST.

The gentleman knows, those of us that really believed in strict constructionism, that the Founders and writers of the Constitution meant what they said, and we know this to be a great man, a brilliant man. We do mourn in the passing of the Chief Justice, 19 years, as the gentleman pointed out, as the Chief Justice, nearly 34 years as a Justice. That is incredible that he maintained his humility, his sense of purpose, his servanthood-type mentality.

I just want to highlight some things. Under his leadership the 10th and 11th amendments began to have more meaning, as they were intended. For so long they had just been forgotten. The 10th amendment is not an enumerated power, basically it is reserved to the people in the States.

This is a man who had an intellect unsurpassed by anybody on the Court, past or present, and yet sometimes the intellect seems to get in the way and you cannot see the for-

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est for the trees. He saw the words in simplistic brilliance. He knew they meant what they said and he said so.

In *Alden* v. *Maine*, *Seminole Tribe* v. *Florida*, *U.S.* v. *Printz*, *U.S.* v. *Lopez*, that was one the Chief penned himself, those were cases where he pointed these things out.

In the *Lopez* case—it is a great case, one of my favorites—it had the powerful language that reins in the commerce clause power that Congress has. And he explained that commerce clause means what it says. You cannot just keep reaching out and say a school is part of interstate commerce. That is not the intention and everybody knows it. And he helped rein in the Court to where it should be.

Now, the Chief Justice wrote the 2005 opinion *Van Orden* v. *Perry* that allowed the State of Texas to continue to display a monument containing, among other things, the Ten Commandments. As I sat there and listened to the oral argument before the Supreme Court, and I am a member of the Supreme Court bar, and it was an honor and privilege to be sitting there, you look up and you see Moses holding the Ten Commandment tablets and, here they are trying to decide if it is OK for the State of Texas to have a monument to the Ten Commandments.

He understood the hypocrisy. He understood how silly it was for people to try to be so intellectual, as a lady back in Mount Pleasant where I grew up used to say, "Some people have a Ph.D. but the truth is they are still P-H-U-Ls. They are fools." But the Chief Justice had that kind of delightful sense of humor as well.

In the establishment clause he framed the issue very well when he said:

> This case, like all establishment clause challenges, presents us with the difficulty of respecting both faces. Our institutions presuppose a Supreme Being. Yet these institutions must not press religious observances upon their citizens. One face looks to the past in acknowledgment of our Nation's heritage, while the other looks to the present in demanding a separation between church and state. Reconciling these two faces requires that we neither abdicate our responsibility to maintain a division between church and state nor evince a hostility to religion by disabling the government from, in some ways, recognizing our religious heritage.

At times, like the World War II monument where they just did not include the part where Roosevelt said, "So help us God," like that was going to offend somebody, it reminds me, I had a summer in the Soviet Union back in college. Stalin wrote Trotsky completely out of the history books. That is what Chief Justice REHNQUIST was saying. You cannot just rewrite history to suit yourself. A Supreme Being, the ac-

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knowledgment of God, has been part of our history, and it should not be ignored.

The Chief quoted a case previously decided by the Court in 1952 because he also believed in precedent, like we do, like we did as judges; that is what we are supposed to do. That has been placed far back as a rule for Justices to follow. He understood that just because something, a monument, a speech or a display, contains religious symbols or words, it does not mean that it violates the establishment clause.

On the sensitive issue of abortion, the gentleman from Arizona (Mr. Franks) pointed this out, he was steadfast. He said the States have that right. They have the right. So he dissented in *Roe* v. *Wade*; and again, he dissented in *Parenthood* v. *Casey*. It was clear to the Chief, he believed, that States had a right to place restrictions unless they were prevented from doing so by clear language of the Constitution, and that simply was not there.

This same usurpation that Members of Congress just talk about daily, this was a man who lived it. He did not believe in usurpation of the State and local governments' rights.

As I reflect on the Court and awe and reference from such a humble man of peace, man of life, I could not help but think about the words in the Declaration of Independence. We are created equal by our Creator, but it is pretty clear a lot of us did not get an equal amount of common sense.

Everybody on the Supreme Court is brilliant, some of the brightest minds in this country; and yet the common sense was not equally passed around those nine Justices. So things that made complete sense, common sense, were so simple that it apparently flew right by some of the pseudo-intellectuals. Here was a man who made the complicated simple, as it should have been. He is a man this country owes a great debt of gratitude to. He is a man whom I will always have great respect for. He is a man who should and could be a role model for all Americans. He loved liberty more than self.

He was a servant, and I thank God for Chief Justice WILLIAM REHNQUIST. I thank God for the life he lived. I thank God for the life he tried to make sure that others would have as well, and our thoughts and prayers will continue to be with his loved ones.

I thank the gentleman from Texas (Mr. Carter) for giving me an opportunity to share in this tribute. It does weigh heavy. It is important that we pay tribute to such a great man.

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Mr. CARTER. Mr. Speaker, I was thinking back. The gentleman from Texas (Mr. Gohmert) and I both served in the Texas judiciary, and I do not know if you were there at the time or not and if you remember. At one point in my 22 years on the bench we had a State judicial conference. Our guest speaker was a very personable and intelligent professor of law from the University of Virginia. He actually was smart enough to carry two full days of education for judges by himself, and you have got to be pretty good to do that.

In one of these sessions, he was analyzing the President's Supreme Court, and this was prior to Chief Justice REHNQUIST becoming Chief Justice, when he was Justice REHNQUIST, and he was talking about the makeup of the U.S. Supreme Court at that point in time.

He started by tracking the liberals on the Court, which at that time was the vast majority; and he talked about their capabilities and what direction they wanted to take things. Finally he got down and said those of you who are feeling very depressed because you do not have a liberal bend toward the law, do not lose heart because you have a champion, and he is equal to the task of all those we have just discussed put together in his ability to analyze and take forward his view of the U.S. Constitution.

He said never sell short WILLIAM REHNQUIST. He knows what he is doing; he knows where he wants to take the law; and he will take it there. And believe me, as long as it is a Republican in office, he should and will be the next Chief Justice of the United States, and at that time he will turn the corner on many of the decisions which we have found to be very strange and not very well directed toward the trial courts and the trial courts' abilities. So do not lose heart. You have a champion and he is a white knight and he will deliver for the conservative view, the rule-of-law view of the Constitution.

He certainly did. Even though he wrote dissents, sometimes those dissents were so telling that they moved the Court slowly. Absolutely a phenomenal intelligence and ability to wordsmith, to word things so that they led us in a direction we needed to go.

Mr. GOHMERT. Mr. Speaker, if the gentleman will yield, I think about one of the last cases the Court decided under his Chief Justice administration, the *Kelo* case. He was in the dissent, and it brings to mind the quote, "The price of liberty is eternal vigilance." He did a great deal. He was able

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to help turn the Court back toward having the Constitution mean what it said.

Yet, here again, the *Kelo* case, he dissented. He was, as you say, very clear, very precise. He had Justices Scalia, Thomas, and O'Connor with him in dissenting. They all four dissented, and yet a majority of the Court turned around, said you know what, we are going back to the day of fiefdoms and kings and dukes. So whoever is better friends with the ones in power, well, they can just flat take land away from those that have, if they are going to promise to provide more bounty to the ones in power. Phenomenal decision, just an embarrassment. It should be for everyone who sits on the bench anywhere.

Yet, to the very end, he maintained his integrity, he maintained his principle, he maintained the clarity of mind to understand that not only is that not right, not only is that not fair, not only is that un-American, it violates the Constitution.

Mr. CARTER. Mr. Speaker, if I can reclaim my time, I noticed that the gentleman from Iowa (Mr. King), our friend, has arrived in the Chamber. I would really like to hear what he has to say about Chief Justice REHNQUIST. So I yield to our colleague and good friend from Iowa.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman. It is an honor for me to stand on the floor here with two of the three judges that we have from Texas to help guide us down this constitutional path and my good friend, the gentleman from Arizona (Mr. Franks), who is a pure constitutionalist and whom I have the honor to serve with on the Subcommittee on the Constitution.

I have a lot of things to say about Chief Justice REHNQUIST, and it is an honor for me to have an opportunity to say a few words here, but I would like to first start by recapping some of his life. That is a life just so well-lived and so impressive to see what he has done and how he put it together piece by piece, almost without flaw.

Looking back through that life, we know that we have lost a great public servant just last Saturday, and it happened in the middle of the disaster down in the gulf coast. So some of the media was swamped by those current events. We need to raise this up and commemorate this man's life in a special way.

He was just a month short of his 81st birthday. He battled cancer that eventually took his life, but he battled it with the

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same determination that he battled for principles that we all here hold so dear.

The Chief Justice awed the Nation by never giving up, and he never retired. He continued his service to our Nation until the very end. He was consistent with his lifetime of service, and he also was consistent with the vision of the Founding Fathers in that these Justices would be appointed for life. They were expected to serve for life or until retirement. He served a full lifetime for this country and he was consistent and true to his principles all the way through. He was a noble and honorable American who was part of the greatest generation. Examining his lifetime and career gives us insight into this powerful figure.

He devoted the majority of his life to serving this country in numerous capacities, and I take you back to 1943 to 1946 where he served in the U.S. Army Air Corps, and there is no question he had an incredibly deep intelligence.

He attended top schools, earning numerous advanced degrees, and was consistently at the top of his class, and unquestionably served as a model for his fellow students.

He received a B.A. and an M.A. in political science from Stanford and another master's in government from Harvard. He graduated first in his class from Stanford in 1952, just two places ahead of Justice Sandra Day O'Connor. He served as a law clerk for Justice Robert Jackson on the Supreme Court of the United States in the 1951 and 1952 terms and practiced law in Phoenix, AZ, from 1953 until 1969.

He served as Assistant Attorney General in the Office of Legal Counsel from 1969 until 1971. As Assistant Attorney General for the Justice Department's Office of Legal Counsel, it was one of his primary functions to screen potential Supreme Court candidates.

When Justice John Marshall Harlan retired, a search went out for a replacement, and Attorney General John Mitchell, who many of us remember was REHNQUIST's boss at the time, announced he had found someone suitable for the job. That person was WILLIAM REHNQUIST whom Nixon appointed to the Court. So at the tender age of 47, which at that time was a young age for those appointments, and at this time as well, he was confirmed as Associate Justice on December 10, 1971, by a vote of 68 to 26. I can only imagine there are 26 votes out there that would like to have the opportunity to reconsider that vote.

His first day on the job was January 7, 1972. He served on the Nation's highest court throughout seven Presidencies.

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In 1986, Chief Justice Warren Burger retired, and President Reagan nominated Justice REHNQUIST through to the reins of the Court as Chief Justice. There was a confirmation debate and deliberation that ensued. He was confirmed as Chief Justice on September 17, 1986, by a vote of 65 to 33, another 33 that I believe would like to have a chance to reconsider that vote in light of the historical 33 years of service of Chief Justice REHNQUIST.

We have gotten to know a little bit more about him in the last few days. His management style, his effort to be fair, to be a giving and forgiving boss, but one that was also a task master. As a result he was able to form a cohesive Supreme Court body. Even though they had a lot of different personalities and a lot of different kinds of common sense they brought to their jurisprudence, Chief Justice REHNQUIST pulled them together. He left quite a legacy.

In elementary school, he was asked about his career plans by his teacher, and what I think is one of the best prophesies I have heard of a career in some time, he replied, "I'm going to change the government." Now when some people say, I am going to change the government, they mean they are going to grow government or they are going to adapt government in light of modern contemporary values.

Chief Justice REHNQUIST did change the government. He fought a rear guard action to preserve our Constitution, the text of the Constitution. He was a constitutionalist. He was a model of judicial restraint. He stayed true to the principle and the paramount principle which is strict construction. No matter what path the other members of the Court took, at the beginning of his career on the Supreme Court, Justice REHNQUIST was often a dissenter on a Court filled with judicial activists. He held firm to the guidance that the Constitution itself provides and was eventually joined by allies who helped him hold on to some of the meaning of our Constitution's text.

He led the Court in preserving States rights, which was referenced here, and I appreciate that discussion; but it started with *U.S.* v. *Lopez*, which struck down a Federal law banning guns near local schools. Now I approve of the policy, but I more approve of his constitutional decision in dissenting from the Congress' policy. In *U.S.* v. *Morrison*, which struck down substantial parts of the Violence Against Women Act, again something, a policy, that I approved of, but a constitutional decision that I agreed with, and I appreciate that restraint.

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He was not yet there on the Court when *Griswold* v. *Connecticut* in 1965 established a right to privacy. I wish he had been there on that day because that was the day that the Court turned into an extreme activist Court, established this right to privacy that had never been found in the Constitution before. It was discovered in the emanations and penumbras of the Constitution, meaning that we laypersons could not divine that. In fact, maybe some of the judges here could not have found that right in the Constitution either.

He was a staunch defender of the right to life. He authored *Rust* v. *Sullivan*, where the government can withhold funds from clinics that advocate abortion. He strongly dissented in *Roe* v. *Wade*; *Planned Parenthood* v. *Casey*, which reaffirmed *Roe* v. *Wade*; and in *Stenberg* v. *Carrhart*, which was the constitutional decision that found a right to partial birth abortion. Chief Justice REHNQUIST held the line against that. He needed more help on the Court. Almost every day he was there he needed more help on the Court. He firmly rejected the extra constitutional right to privacy that his colleagues created.

Chief Justice REHNQUIST also did something many shy away from today. He recognized that the free exercise clause of the first amendment is just as important as the establishment clause.

He authored the 2002 case that upheld school vouchers in *Zelman* v. *Simmons-Harris*, and strongly dissented in the 2000 case that held that public schools could not allow organized prayer at sporting events, even if the speaker is a student, and that was *Santa Fe Independent School District* v. *Doe*.

He joined the majority in *Agostini* v. *Felton* in 1987, which allowed public school teachers to provide remedial education in parochial schools.

REHNQUIST dissented from the Court's 1985 decision that moments of silence in public schools are unconstitutional. That was *Wallace* v. *Jaffree*.

And in 2003, he strongly dissented in the Court's affirmative action cases, *Strutter* and *Gratz*, which we remember.

And I sat in on those cases and I remember watching him sitting on the bench as he deliberated on those presentations and oral arguments. He condemned the racial preference policies as a sham and a naked effort to achieve racial balancing. His position in 2003 matched that of the majority he joined in the 1978 *Bakke* case, which held that Federal law

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does not permit a university's consideration of race in admissions.

He was consistent from 1978 until 2003. He was consistent until the last day of his life. Chief Justice REHNQUIST opposed the reading of "public use" as being substituted for "public benefit" in this summer's *Kelo* eminent domain decision, which we have had much discussion about here on the floor of this Congress. And I think all of us have engaged in that. He argued the fifth amendment means what it says.

And I would support the statement that those 12 words in the fifth amendment of the Constitution, "nor shall private property be taken for a public use without just compensation," are some of the clearest and cleanest words that we have in the entire Constitution, yet the majority of the Court, with Chief Justice REHNQUIST and Justice O'Connor dissenting, held otherwise. I do not believe that the fifth amendment could be written more precisely, more concisely, and I would challenge the attorneys that we have across this country to write that better than it has been written.

Both the personal and case histories I have discussed here show that Chief Justice REHNQUIST, whose passing we mourn, whose legacy we celebrate tonight, was a man of great principle and honor. I firmly believe that without Chief Justice REHNQUIST's presence on the Court for the last 33 years, our Constitution would be unrecognizable. It is to him that we owe our deepest thanks for preserving our Constitution for future Americans to fully restore to its original text.

I would say that there was a time in my life when I had the privilege and honor to sit in the presence of this great man. I am not going to pose the question here into this *Record* tonight, but I posed a question to Chief Justice REHNQUIST that caused him to deliberate for quite some time, and he finally answered, "I am going to elect not to answer that question." Now, I do not believe he elected not to answer the question because he did not know the answer. I believed he elected not to answer the question because of how the answer would reflect on the other members of the Court.

He had an ability to do a calculation on a question or a problem and boil it down to the root quicker than anyone whom I have watched process these heavy legal questions.

He was a giant of a man. He lived a life that was well lived, and we are here to celebrate tonight and give great honor to a man who hung on to this Constitution as dearly

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and as strongly as anyone has been charged with when they take the oath to uphold this Constitution.

It has been an honor to be a citizen of this country for the 33 years that he has served us so well. It has been an honor to have worked with him, to have been in his presence, and to deliberate with him on those occasions, and an honor to be in the courtroom to hear the oral arguments and an honor to read the opinions that he has given us. He has left us a legacy.

He has also left us a duty and a responsibility to pick up this ball now, and where he has held onto this Constitution, it is our job to carry forward and reestablish the text of this Constitution that he held so dear, and that we all hold so dear.

Our prayers go out to the family. Our prayers of gratitude for the lifetime, the legacy of Chief Justice WILLIAM REHNQUIST will continue into the future.

As I say, it has been an honor to be serving in this government with a man like that, and I hope and pray that we will be able to carry on the legacy that he left for us.

Mr. CARTER. Mr. Speaker, I thank the gentleman for his comments, and I was thinking as he was speaking, and he gave an excellent presentation of the Chief Justice, but we are joined here in the Chamber today by two men who basically made their entire life a part of dealing in the justice system both as members of the bar, members of the bench, and who also built, basically from scratch, from what I know of both of them, very successful businesses, overcoming insurmountable obstacles. And then, when they had the ability to continue to go out and make those businesses thrive, they volunteered to come to Washington and become a part of the justice system, a part of the legislative branch of our government. This defines the kind of man that Chief Justice REHNQUIST personally reached out to, kind of everybody.

He wrote the opinions of those of us who honor our heritage, who honor the language that our forefathers wrote into the Constitution and think that if that is what it says, that is what it says. It does not take a genius to read the paper and say that is what it says. And with all his skill and writing ability, really you can cut it down to the fact that that is the way he looked at it. He said, Wait a minute, let us read the Constitution. That is what it says. It speaks volumes that Chief Justice REHNQUIST was able to do that in such a talented manner and in such a manner that challenged legal scholars across the country.

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One of his opponents from Harvard University made a comment about him, something to the effect that no matter what you thought of him, whether you agreed with his ideology, he said, I have to give REHNQUIST an A. That is the kind of talent he had. He could take the causes that those of us working in the trenches, the trial judges, and we liked to say there is a difference between trial judges and appellate judges. We shoot from the hip and make those decisions and then they get to grade our papers. Of course, Judge Gohmert has been both, so he has experience in both those areas, but I am just an old trial judge.

Mr. GOHMERT. If the gentleman will yield, I might just say that it is easier to grade papers after people have shot from the hip.

Mr. CARTER. Well, at least you know they are shooting from the hip.

Mr. GOHMERT. But we all loved, I think, his simplicity. Even toward the end of this great man's life, I remember seeing on television the reporters all after him, asking are you going to resign or are you going to retire? And he came back, this man of brilliance yet simplicity, and said, "It is for me to know and for you to find out." That is the kind of man he was even to the end, cute, humble, and a lot of fun.

Mr. KING of Iowa. Mr. Speaker, if the judges would yield, there is another anecdote that is worth mentioning, and I do not know if it has been passed along here tonight, but I think it demonstrates his sense of humor. And sometimes it was self-deprecating and sometimes it was succinct.

Several years after he had been appointed to the bench, he was asked what it is like to serve here on the Supreme Court. He said, "Well, you spend the first 2 years here wondering how you got here, and the rest of your time wondering how they got here."

Mr. CARTER. Mr. Speaker, I thank the gentleman for sharing that, and I now yield to my colleague, the gentleman from Arizona (Mr. Franks).

Mr. FRANKS of Arizona. Mr. Speaker, I think my primary reason for being here tonight was just to not let this man's towering contribution to the judicial process slip away into history. There is an old quote by Dostoyevski. He said, "He who controls the present, controls the past. And he who controls the past, controls the future."

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Of course, as somebody was saying, there are a lot of revisionists out there trying to rewrite history in order to affect the future, but this man's history is very important to our country. I will make a prediction tonight that a lot of the decisions, where he found himself in dissent, in the next 20 or 30 years will turn in the other direction, and we will see that this man was before his time.

There is a saying that if you fail without succeeding, if you struggle without succeeding, it is so someone else might succeed after you. And if you succeed without struggling, which I think some of our modern-day Justices are going to do, it is because someone has struggled and succeeded before you. This man, I believe, is going to be vindicated in society, because he did not find a lot of these hidden things that the gentleman from Iowa (Mr. King) talked about.

We have seen judges say that somehow the words in the Pledge of Allegiance, "under God," might be unconstitutional; or that it is unconstitutional to protect a 9-year-old girl from Internet pornography, or it is unconstitutional to protect an unborn child from partial-birth abortion. With regard to all of these insane notions, he did not see them.

One woman said, Maybe these judges who find all these things ought to be out looking for Osama bin Laden if they are that good at finding things that are not there.

This judge saw the Constitution for what it was. He did not try to make a new revolution. He simply tried to affirm the one we already had. I think that tonight we celebrate the life of a man who many Justices of the future will stand on his shoulders and look back and say, you know, Chief Justice REHNQUIST was right, Chief Justice REHNQUIST was correct.

The ship of state turns slowly sometimes, but this man had his hand on the rudder long before the rest of us even knew. And I again just wanted to join with all of my colleagues and honor this man's life.

Mr. CARTER. Mr. Speaker, I thank the gentleman for his comments, and let me say this. As we discuss Chief Justice REHNQUIST and what he has accomplished and the legacy he brings to the United States of America, we are doing this on the very eve of the beginning of the new selection of a Chief Justice of the United States. It is, I think, appropriate to realize that as Chief Justice REHNQUIST was serving 33 years on the highest court in this land, he also was writing history books to record history.

He knew just what my colleague said, the gentleman from Arizona (Mr. Franks), that it is important that we remember

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the history as it was, not revise it to make it what we want it to be. So he wrote three history books about the Court so we could say, Well, what does history tell us about that event at that time? And so the Chief Justice, the great researcher, has given us the research and a direction on the history as it pertains to the Court, something the other Justices of the Court that will follow can turn to as additional information to get a picture of where the Court was coming from as it made rulings.

It is very important, and I hope our colleagues in the Senate, as they look at the confirmation of Judge Roberts, are looking at the history of the U.S. Supreme Court and the legacy of WILLIAM REHNQUIST.

Mr. KING of Iowa. Mr. Speaker, there is a point that comes to mind, and I can get it quickly made. This right to privacy that was in the emanation's penumbras, in the shadows, was something that was never recognized by Chief Justice REHNQUIST. That right to privacy will be presented to Judge Roberts, and he will be asked. In fact, he will be demanded to recognize that right to privacy as a condition of his confirmation over in the Senate, a very right to privacy that Chief Justice REHNQUIST never recognized.

That is how they are going to try to amend the Constitution and the confirmation process over in the Senate. I think it is important to recognize that the legacy of Chief Justice REHNQUIST should be preserved in the confirmation process in the Senate as well.

Mr. CARTER. I wonder how you can be unqualified to serve by not recognizing that right, when there are members sitting on the Court at this time who do not recognize that right.

The point of a Supreme Court is that there are multiple points of view, and you should not be requiring only one point of view on the U.S. Supreme Court. To make a confirmation hearing dependent upon one point of view absolutely flies in the face of justice in America.

Mr. GOHMERT. Mr. Speaker, I appreciated hearing from my colleague from Iowa regarding his saying in elementary school that he wanted to change the government. I think about the example of the emperor who had no clothes, yet all the crowd got swept up in seeing clothes that were not there and saying, Oh, are the clothes not beautiful? They were not there. Chief Justice REHNQUIST was one of those if he had

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to stand alone and say they are not there, there are no clothes, he did it.

Just in conclusion, I think about the end of Frost's poem: Two roads diverged in the woods for Chief Justice REHNQUIST many years ago, and he took the one less traveled by, and that has made all the difference. It has, in fact, changed a Nation for the good.

Mr. CARTER. Mr. Speaker, reclaiming my time, I thank the gentleman. One of the downfalls of appearing in the Congress with the gentleman from Texas (Mr. Gohmert) and the gentleman from Arizona (Mr. Franks) and the gentleman from Iowa (Mr. King) is these guys are great in quoting all these things off the top of their head, and that is hard for an old trial judge who is just used to shooting from the hip. I do enjoy the wonderful quotes these guys pull out and quote them right. It is a blessing to have them as Members of our Congress.

Mr. Speaker, you have been very patient today as we honor our passing Chief Justice of the Supreme Court, as we laid him to rest today. We thank you for your patience in allowing us to express our opinions about him.

THURSDAY, *September 8, 2005*

Mr. SCHIFF. Madam Speaker, as we honor Chief Justice WILLIAM REHNQUIST's life, we pause to reflect on his service to our country, a record of service that was colored with honor, dignity, and distinction.

Many commentators are focused on his success ushering in a quiet, conservative revolution on the Court. Another remarkable facet of REHNQUIST's legacy, however, is found in a much more understated role of the Chief Justice, that of the judiciary's chief advocate and ambassador. The hallmark of his style, no matter how volatile the issue or context, from abortion to impeachment, was one of respectful debate, a quality that garnered an enormous degree of loyalty and respect among his fellow Justices, litigants, and Court watchers.

But the Chief Justice not only worked to foster respect and collegiality within the walls of the Court; he did more. For the last 2 years of his tenure, REHNQUIST turned his focus to a matter that has also been a source of growing concern for many, the deterioration in relations between the Con-

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gress and the courts. As the Chief Justice reported in his year-end analysis of the state of the judiciary, and again in his customarily understated way, "During the last year, it seems that the traditional interchange between the Congress and the Judiciary broke down."

This hostility long preceded congressional intervention in the tragic case of Terri Schiavo and has taken many forms beyond the most simple and pernicious, that of defunding the courts. It includes measures stripping the courts of jurisdiction to hear particular cases, condemning the courts for the citation of certain precedent, and splitting circuits out of a dislike for their jurisprudence.

One constitutional amendment would even change the Framers' design-of-life tenure for lower Federal courts and subject judges to costly campaigns and retention elections. If Members think political campaigning by elected officials and the growth of 527 organizations and other independent expenditure efforts are already out of control, just imagine adding negative attack ads in judicial races around the country: "Call Judge Jones and tell him to stop coddling criminals" or "Call Judge Smith and ask him why he denied relief to widows and orphans." One can just imagine what the judicial ads might look like.

Even though many of these legislative initiatives have yet to pass, we are already witnessing the direct consequences to our court system. In recent years there has been a marked decline in the level of interest and service on the bench among highly qualified attorneys. Judges are leaving the bench to return to private practice. Reckless talk in the House Committee on the Judiciary about the potential impeachment of judges not for unethical conduct but out of a disagreement with their decisions has only added to the chilling effect on the courts and people's willingness to serve.

Ultimately, this protracted war against the judicial branch will only denigrate both Congress and the courts. This is not the first time relations between the two branches have been at a dangerously low ebb, nor was REHNQUIST the first Chief Justice to express alarm. Former Chief Justice Charles Evans Hughes admonished the Congress of his day that "in the great enterprise of making democracy workable, we are all partners. One member of our body politic cannot say to another 'I have no need of thee.'"

Increasingly, however, the Congress has been saying just that, and REHNQUIST was among the first to spot the danger. When the gentlewoman from Illinois (Mrs. Biggert) and I

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formed a bipartisan caucus to improve relations with the courts, Chief Justice REHNQUIST was the first to sit down with us. We invited him to meet with our caucus. He came to the Hill, sat down with us, and it was a very important meeting and interchange. After presiding over the High Court for the last two decades, he was clearly disturbed at the turn of events in relations between the branches and the resulting attack upon the independence of the judiciary.

Why does it matter if the Congress and the courts are at war? Because if the separation of powers has eroded and an independent judiciary is impaired, decisions become increasingly politicized. Public confidence in the rule of law erodes and people begin taking law into their own hands: 174 years ago, Supreme Court Chief Justice John Marshall warned, "The greatest scourge an angry Heaven ever inflicted upon an ungrateful and sinning people was an ignorant, a corrupt, or a dependent judiciary."

During the confirmation hearings of John Roberts next week, there will be a great many important questions asked about Roberts' judicial philosophy, his views on individual rights and freedoms. But I hope that at least one Senator will ask whether Roberts, a prodigy of and potential successor to REHNQUIST, will aspire to succeed not only his mentor's conservative revolution but his all too solitary work to repair the damage to the historic and vital comity between the Congress and the courts.

TUESDAY, *September 20, 2005*

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Arizona (Mr. Franks) for yielding to me. It is an honor for me to join him here on the floor again tonight. The last time, as I recall, the gentleman from Arizona (Mr. Franks), the gentleman from Texas (Mr. Carter), and also the gentleman from Texas (Mr. Gohmert) and I were here together was to celebrate the life of Chief Justice WILLIAM REHNQUIST. That was a somber moment, a moment of reverence and respect and reminiscing; but also, we came away from that evening and we came away from that week with a sense of the legacy that was left by the years on the bench by Chief Justice REHNQUIST. . . .

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A Service of Celebration
And Commitment to God

Of the life of

William Hubbs Rehnquist
Chief Justice of the United States
1924–2005

St. Matthew's Cathedral
1725 Rhode Island Ave., N.W.
Washington, D.C.

Wednesday, September 7th
2:00 p.m.

The Reverend George W. Evans, Jr., D.D.
The Reverend Jeffrey M. Wilson
Lutheran Church of the Redeemer, McLean, VA

The Reverend Jan P. Lookingbill
Emmanuel Lutheran Church, Bethesda, MD

Theodore Cardinal McCarrick
Archbishop of Washington

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The Service

I. Prelude

Selections from "Water Music"—Handel
"Joyful, Joyful, We Adore Thee"—Beethoven
"Jesu, Joy of Man's Desiring"—Bach
"How Lovely Is Thy Dwelling Place"—Brahms

II. The Procession *(Please stand)*

"God of Our Fathers"
(At the end of the procession, please be seated)
Solo: "Amazing Grace" Denny Clark, tenor

III. The Call To Worship:

Welcome Remarks: Theodore Cardinal McCarrick

(Please stand)
Pastor Wilson: Blessed be the God and Father of our Lord Jesus Christ, the source of all Mercy and the God of all consolation. He comforts us in all our sorrows so that we can comfort others in their sorrows with the consolation we ourselves have received from God.

Congregation: Thanks be to God.

Hymn: "A Mighty Fortress Is Our God" Congregation
EIN' FESTE BURG. 8 7, 87, 6 6, 6 6, 7.
Broadly, with vigor

1. A mighty fortress is our God, A bulwark never failing;
Our helper he amid the flood Of mortal ills prevailing:
For still our ancient foe Doth seek to work us woe;
His craft and power are great, And, armed with cruel hate,
On earth is not his equal.

2. Did we in our own strength confide Our striving would be losing;
Were not the right Man on our side, The Man of God's own choosing.
Dost ask who that may be? Christ Jesus, it is he;
Lord Sabaoth his Name, From age to age the same,
And he must win the battle.

3. And though this world, with devils filled, Should threaten to undo us;
We will not fear, for God hath willed His truth to triumph through us:

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The prince of darkness grim, We tremble not for him;
His rage we can endure, For lo! his doom is sure,
One little word shall fell him.

4. That word above all earthly powers, No thanks to them, abideth;
The Spirit and the gifts are ours Through him who with us sideth:
Let goods and kindred go, This mortal life also;
The body they may kill: God's truth abideth still,
His kingdom is forever.

Martin Luther, 1483–1546
Tr. Frederick H. Hedge, 1805–1890
Based on Psalm 46

Pastor: When we were baptized in Christ Jesus, we were baptized into his death. We were buried therefore with him by Baptism into death, so that as Christ was raised from the dead by the glory of the Father, we too might live a new life. For if we have been united with him in a death like his, we shall certainly be united with him in a resurrection like his.

IV. The Liturgy of the Word:

The Kyrie:
Cantor: In peace let us pray to the Lord.
Congregation: Lord, have mercy.
Cantor: For the peace from above and for our salvation, let us pray to the Lord.
Congregation: Lord have mercy.
Cantor: For the peace of the whole world, for the well-being of the Church of God, and for the unity of all, let us pray to the Lord.
Congregation: Lord have mercy.
Cantor: For this holy house, and for all who offer here their worship and praise, let us pray to the Lord.
Congregation: Lord have mercy.
Cantor: Help, save, comfort, and defend us, gracious Lord.
Congregation: Amen.

The Gloria:
Cantor: Glory to God in the highest, and peace to his people on earth.

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Congregation: Lord God, heavenly King, almighty God and Father:
We worship you, we give you thanks, we praise you for your glory.
Lord Jesus Christ, only Son of the Father,
Lord God, Lamb of God: You take away the sin of the world;
Have mercy on us.
You are seated at the right hand of the Father; receive our prayer.
For you alone are the Holy One, you alone are the Lord,
You alone are the Most High, Jesus Christ, with the Holy Spirit,
In the glory of God the Father. Amen.
Pastor: The Lord be with you.
Congregation: And also with you.
Pastor: Let us pray.

V. The Readings: *(Please be seated)*

Psalms 61: 1–5	V. Samuel Laurin, III
Isaiah 40: 25–31	Pastor Lookingbill
"Faith of Our Fathers"	Choir
Remembrance:	Justice Sandra Day O'Connor

Associate Justice Sandra Day O'Connor: We are here to celebrate the life of a great Chief Justice, and to thank God for blessing this country with his presence for 80 years. The last 33 of those 80 years were spent at the U.S. Supreme Court—14 as an Associate Justice, 19 as Chief Justice.

I met BILL REHNQUIST when I was a freshman at Stanford University in 1946. He was serving as a "hasher" at my dormitory during the evening meal. He amazed all the young women by carrying such heavy loads of dishes on his tray. I guess that is how he learned to carry all those heavy loads in all the years that followed.

He and I enrolled at Stanford Law School in 1950. He was clearly the brightest student in our class—always prepared and always willing to express his views when asked. He had conservative views backed up by brilliant analyses. Outside class we enjoyed bridge games, charades, and occasional movies. BILL was always fun to be around and he had a fine sense of humor. Little did either of us expect to serve on the U.S. Supreme Court one day.

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Our class was very excited when he was selected by Justice Robert Jackson to be a law clerk at the Supreme Court. At that time not many Stanford law graduates were invited to clerk at the Court.

BILL married another undergraduate classmate of mine, Nan Cornell. She also was very bright and engaging. After finishing his law clerk's position, BILL and Nan settled in Phoenix. They wanted a city that was both the political and economic center of the State, and Phoenix suited them. They became parents of Janet, Jim, and Nancy. When John and I moved to Phoenix after John's military service, we enjoyed seeing the Rehnquists on a regular basis. We had a play reading group, and a bridge group. We went on family desert outings.

BILL was a successful lawyer in a civil practice, and was active in the Arizona Republican Party. When he was offered the post of Assistant Attorney General, Office of Legal Counsel in 1969, the Rehnquists moved to northern Virginia and their children entered the public school system. Two years later President Nixon appointed BILL REHNQUIST as an Associate Justice of the Court. I came to Washington to attend the joint investiture of Justice Lewis Powell and Justice WILLIAM REHNQUIST on January 7, 1972. It was a proud and poignant moment.

As a member of the Court, Justice REHNQUIST found himself frequently in dissent in the post-Earl Warren years. In 1986 President Reagan wisely nominated Justice REHNQUIST for Chief Justice upon the retirement of Chief Justice Warren Burger, and as Chief, BILL REHNQUIST served ably both as an administrator and as a member of the Court. He had no pretenses at all and was always friendly to Justices and staff alike. His sense of humor never left him and he could break up a tense moment with a funny story, quip, or poem. On the last day of our public session, June 27, the Chief noted the seven separate opinions issued in a contentious Ten Commandments case and joked, "I didn't know we had so many Justices." It drew hearty laughter from the spectators. He never twisted arms to get a vote on a case. He relied on the power of his arguments and he was always fair.

Occasionally he surprised us. One day as we gathered in our Conference Room to shake hands before going in the Courtroom, he appeared with four gold stripes on the sleeve of his robe. We thought it must be a joke. "Where did those come from?," we asked. "Oh, I had the seamstress sew on one stripe for every 5 years I have been on the Court," he

said. "Just like the Lord Chief Justice in Gilbert and Sullivan." And the stripes stayed. He could have added more but never did.

Despite the workload, the Chief authored four fine books and a number of articles. These works also deserved some gold stripes. He was a first-rate historian and wrote with an engaging style.

I grew up on a ranch. The really expert riders of horses let the horse know immediately who is in control but then they guide the horse with loose reins and very seldom use the spurs. So it was with our Chief. He guided us with loose reins and used the spurs only rarely to get us up to speed with our work. Efficiency was very important to the Chief.

His annual reports on the state of the judiciary were masterful. His handling of the impeachment proceedings against President Clinton was also expert. He presided over all our Conferences with dispatch. He did not encourage longwinded debates among us, but he gave each Justice time to say what was needed. Because be was concise he thought we should be also.

Thanks to him relations among the members of the Court have been remarkably harmonious considering our different viewpoints. He has enabled the Court to serve the role envisioned for it by the Framers of the Constitution. He lived his life fully—enjoying his family, his beloved wife, Nan, his three fine children, and his grandchildren. He was a faithful member of the Lutheran Church—no doubt due to his Swedish ancestry. He was a beloved friend and colleague, and a public servant in the finest tradition. He was courageous at the end of his life, just as he was throughout his life. And he never lost his sense of humor. As he was being examined in the emergency room of a local hospital in the final week of his life, the examining physician asked who was his primary care doctor. "My dentist," he struggled to say, with a twinkle in his eye.

The Chief was a betting man. He enjoyed making wagers about most things: The outcome of football or baseball games, elections, even the amount of snow that would fall in the courtyard at the Court. If you valued your money, you would be careful about betting with the Chief. He usually won. I think the Chief bet he could live out another term despite his illness. He lost that bet, as did all of us, but he won all the prizes for a life well lived.

We love you, Chief.

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Now, as the Chief would say, "Counsel, the red light is on. Your time is up."

Remembrance: President George W. Bush

President George W. Bush: Jim and Janet and Nancy; members of the Rehnquist family; colleagues of the Chief Justice. This afternoon the people of the United States mourn the passing of the leader of a branch of the government, the eight Justices of the Court pay final homage to their Chief and friend, and a loving family bids farewell to a kind and gentle soul.

WILLIAM HUBBS REHNQUIST accomplished many things in his good life, and rose to high places. And we remember the integrity and the sense of duty that he brought to every task before him. That character was clear in the young man of 18 who signed up for the Army Air Corps during the Second World War. The Nation saw that character in his more than three decades of service on our highest court. And the Nation saw it again last January 20, when the Chief Justice made his way onto the inaugural platform. Many will never forget the sight of this man, weakened by illness, rise to his full height and say in a strong voice, "Raise your right hand, Mr. President, and repeat after me."

It was more than a half-century ago that BILL REHNQUIST first came to the Supreme Court as a law clerk. As he would later recount the story, he made that trip from Milwaukee, in the middle of the winter in an old blue Studebaker with no heater. He recalled that as he began the journey, he patted that car and thought, don't let me down, baby.

After a year-and-a-half in the Chambers of Justice Robert Jackson, BILL REHNQUIST left Washington, DC, and headed for Phoenix with an even greater love for the law—and with something more: a beautiful fiance named Natalie Cornell. She would share his walk in life for nearly 40 years. All who knew the Chief know how he cherished Nan and their time together, and how much he missed his wife in the years without her.

In every chapter of his life, WILLIAM REHNQUIST stood apart for his powerful intellect and clear convictions. In a profession that values disciplined thought and persuasive ability, a talent like his gets noticed in a hurry. Still in his forties, he became the 100th Justice of the Supreme Court, and one of the youngest in modern times.

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After he moved to the center chair, WILLIAM REHNQUIST led the Court for nearly two decades, and earned a place among our greatest Chief Justices. He built consensus through openness and collegiality. He was a distinguished scholar of the Constitution and a superb administrator of the judicial conference. He understood the role of a judge and the place of courts in our constitutional system. He was prudent in exercising judicial power, and firm in defending judicial independence.

On the bench and as a leader of the Federal courts, Chief Justice REHNQUIST was always a calm and steady presence. In his thinking and in his bearing, he personified the ideal of fairness, and people could sense it. Inside the Court, no man could have been a finer steward of the institution, its customs, and its history.

As long as WILLIAM REHNQUIST was presiding, colleagues and advocates knew that the proceedings would be orderly, on time, businesslike, and occasionally humorous. Once during an oral argument, a lawyer criticized his opponent's position by saying, "I doubt very much it will fool this Court." The Chief Justice replied, "Don't overestimate us."

In his time on the Court, WILLIAM REHNQUIST served with 16 other Justices, and by all accounts, each one of his colleagues regarded the man with respect and affection. Justice William Brennan once said to a visitor, "I cannot begin to tell you . . . how fond all of us are of him personally."

Throughout this city of government, people saw WILLIAM REHNQUIST in that same way. He carried himself with dignity, but without pretense. Like Ronald Reagan, the President who elevated him to Chief Justice, he was kindly and decent, and there was not an ounce of self-importance about him. It is a rare man who can hold a prominent position in Washington, DC, for more than 30 years and leave behind only good feelings and admiration. That's what WILLIAM REHNQUIST did.

His law clerks knew him as a demanding boss who pressed them, as one said, to "read carefully, write clearly, and think hard." But the clerks also became an extension of the Chief's family, joining him for walks around the Capitol, or for lunch or dinner, or games of tennis or charades. His clerks remember those times with fondness. And even more, they remember his vast store of knowledge and his daily example of clear thinking and character. To work beside WILLIAM REHNQUIST was to learn how a wise man looks at the law and how a good man looks at life.

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The Chief Justice was devoted to his public duties, but not consumed by them. He was a renaissance man, a man who adored his family, a man who always kept things in balance. He read works of history and wrote a few fine ones of his own. He knew how to paint, and he knew how to win at bridge and poker. He had a passion for the classics, for astronomy, and for college basketball. He enjoyed music, and having stood next to him during the national anthem, I can tell you the man loved to sing.

WILLIAM REHNQUIST often reminded young lawyers of the ancient insight that time is the most valuable thing a man can spend. He spoke with feeling about the need to choose wisely, doing your job well, and never forgetting the other important things that also take time: love for one another, being a good parent to a child, service to your community. He might have added the importance of being a loving grandfather, because he was clearly that, too.

The 16th Chief Justice of the United States was given 80 years of life. He filled those years with purpose, a gracious spirit, and faithful service to God and country to the very end. He now goes to his rest beside his beloved Nan. And WILLIAM H. REHNQUIST leaves behind the gratitude of our whole Nation. We're proud of our Chief Justice, and America honors his memory. May God bless him.

Hymn: **"America The Beautiful"** Congregation
(Please stand)

O beautiful for spacious skies, For amber waves of grain,
For purple mountain majesties Above the fruited plain!
America! America! God shed his grace on thee
And crown thy good with brotherhood From sea to shining sea.

O beautiful for heroes proved In liberating strife.
Who more than self their country loved And mercy more than life!
America! America! May God thy gold refine
Till all success be nobleness And every gain divine!

O beautiful for patriot dream That sees beyond the years
Thine alabaster cities gleam Undimmed by human tears!
America! America! God shed his grace on thee
And crown they good with brotherhood From sea to shining sea!

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(Please be seated)

Poetry Reading: Donald C. McLean
Remembrance: James Cornell Rehnquist
Remembrance: Nancy Rehnquist Spears
Remembrance: Natalie Ann Rehnquist Lynch
The Gospel: Matthew 5: 1–16 Pastor Lookingbill

(Please stand)

Hymn: "Guide Me O Thou Great Jehovah" Congregation
CWM RHONDDA. 8 7, 8 7, 8 7. John Hughes, 1873–1932
Broadly, in moderate time

1. Guide me, O thou great Jehovah,
Pilgrim through this barren land;
I am weak, but thou art mighty,
Hold me with thy powerful hand;
Bread of heaven, Bread of heaven,
Feed me till I want no more,
Feed me till I want no more.
2. Open now the crystal fountain
Whence the healing stream doth flow;
Let the fire and cloudy pillar
Lead me all my journey through;
Strong deliverer, Strong deliverer,
Be thou still my strength and shield,
Be thou still my strength and shield. Amen.
3. When I tread the verge of Jordan,
Bid my anxious fears subside;
Death of death and hell's destruction,
Land me safe on Canaan's side;
Songs of praises
I will ever give to thee. Amen.

William Williams, 1717–1791
Tr. from the Welsh by the author
and Peter Williams, 1722–1796

Sermon: Pastor Evans

Hallelujah ("Messiah")—Handel Choir

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VI. The Creed:

Pastor: God has made us through our Baptism into Christ. Living together in trust and hope, we confess our faith.
Congregation: *(Please stand)*
I believe in God, the Father almighty, creator of heaven and earth.
I believe in Jesus Christ, his only Son, our Lord.
He was conceived by the power of the Holy Spirit and born of the virgin Mary.
He suffered under Pontius Pilate, was crucified, died, and was buried.
He descended into hell. On the third day He rose again.
He ascended into heaven, and is seated at the right hand of the Father.
I believe in the Holy Spirit, the Holy Catholic Church,
The communion of saints, the forgiveness of sins,
The resurrection of the body, and the life everlasting. Amen.

VII. The Prayers:

The Pastor shall lead the congregation in prayer. The congregation is invited to sit or kneel as they feel comfortable.

The Lord's Prayer.

VIII. The Commendation: The Clergy
(Please be seated)

Pastor: Into your hands, O merciful Savior, we commend your servant WILLIAM HUBBS REHNQUIST. Acknowledge, we humbly beseech you, a sheep of your own fold, a lamb of your own flock, a sinner of your own redeeming. Receive him into the arms of your mercy, into the blessed rest of everlasting peace, and into the glorious company of the saints in light.
Congregation: Amen.
Pastor: Let us go forth in peace.
Congregation: In the name of Christ. Amen.

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IX. The Benediction: *(Please rise)*

Hymn: "For All the Saints" Congregation

1. For all the saints who from their labors rest,
   all who by faith before the world confessed,
   your name, O Jesus, be forever blest.
   Alleluia! Alleluia!
2. You were their rock, their fortress, and their might;
   you, Lord, their captain in the well-fought fight;
   you, in the darkness drear, their one true light.
   Alleluia! Alleluia!
3. Oh, may your soldiers, faithful, true, and bold,
   fight as the saints who nobly fought of old
   and win with them the victor's crown of gold.
   Alleluia! Alleluia!
4. Oh, blest communion, fellowship divine,
   we feebly struggle, they in glory shine;
   yet all are one within your great design.
   Alleluia! Alleluia!
5. And when the strife is fierce, the warfare long,
   steals on the ear the distant triumph song,
   and hearts are brave again and arms are strong.
   Alleluia! Alleluia!
6. The golden evening brightens in the west;
   soon, soon to faithful warriors comes their rest;
   sweet is the calm of paradise the blest.
   Alleluia! Alleluia!
7. But then there breaks a yet more glorious day: the
   saints triumphant rise in bright array;
   the King of glory passes on his way.
   Alleluia! Alleluia!
8. From earth's wide bounds, from ocean's farthest coast, through
   gates of pearl streams in the countless host,
   singing to Father, Son, and Holy Ghost:
   Alleluia! Alleluia!

Text: William W. How, 1823–1897, alt.
Music: SINE NOMINE. R. Vaughan Williams, 1872–1958

X. Recessional: "Crown Him With Many Crowns"

Please remain standing and in your seats while the family and the President depart.

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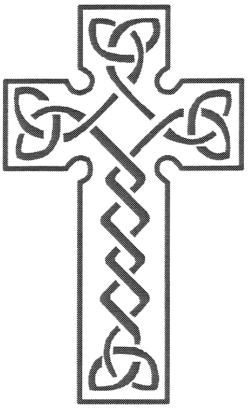
Thank You:
A special thank you to Donald McCullough (Music Director of the Master Chorale of Washington and former Music Director at the Lutheran Church of the Redeemer in McLean, Virginia (Chief Justice REHNQUIST's church) for coordinating the music for this service. Special thanks also to Jennifer Goltz, Music Director of St. Matthew's, for her assistance and to all the musicians who participated in this service.



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