

## Remarks at a People for the American Way Reception

October 24, 2000

Thank you very much, Ralph. I want to thank you and your predecessor, Carole Shields, and the other board members of the People for the American Way. I thank Representative Sheila Jackson Lee from Houston for joining us tonight. Where are you, Sheila? She's here somewhere—right there. Thank you. And I want to thank Mary Frances Berry. You know, we go back to the Carter administration together. We've been friends for way over 20 years, and now she's the Chair of our U.S. Commission on Civil Rights. She's done a magnificent job. [*Applause*] Thank you.

I smiled when I walked in and put my arm around her. I said, "Mary Frances, that gray hair looks a lot better on you than it does on me." And we concluded that we had both earned every one of ours in the last 8 years, and we're proud to have them. So thank you, Mary Frances Berry. Thank you.

I want to thank you for hosting this event. I thank all of you for participating, because one of the great questions the American people will answer in this election is the future of the Supreme Court, the future of the Federal courts generally, and what the shape of American life will be when it comes to the individual rights of American citizens, and potentially as important, the power of the United States Congress and the Federal Government to protect the American people from all manner of things, in the face of a determined effort by what is already on occasion a majority in the Supreme Court to limit the ability of the Congress to do it.

On a daily basis, Federal judges make decisions that affect our everyday lives. Of course, they can decide at the Supreme Court level whether women continue to have the right to choose or if their fundamental rights to privacy will be eliminated; whether the Government can keep a safe environment for our children; whether we can keep guns out of schools; whether we can pass a law to protect women from violence; whether we can ban hate crimes; and whether we can expect the States to cooperate with the Federal Government and do their part if the

Congress finds the national interest, or whether we will have a new form of ultra-conservative judicial activism that rejects the Government's rights or authority to protect the rights of our citizens and the interests of our citizens.

For 8 years now, I have worked to ensure that our courts at all levels are filled with judges who are qualified, fair, reflect our Nation's diversity, and uphold and enforce our laws. Since 1993, I've had the honor to appoint more women and minorities to the Federal bench than any previous President, almost half of my judicial appointees. But I'm also gratified to know that they have garnered the highest percentages of top ABA ratings of any group of Presidential appointees in nearly 40 years, which shatters the myth that you can't have diversity and excellence at the same time.

In spite of the fact that study after study after study have shown how qualified these people are, and I might add, how relatively nonideological and mainstream, a number of my appointees, especially in election years, both in 1996 and this year—although in this case, some of these go back the last 3 or 4 years—have been denied a place on the bench and in many cases even denied a hearing for partisan political reasons, even though it's clear that they're qualified. There are more than 40 pending judicial nominees currently. More than half of them are women and minorities. A study not very long ago showed that the women and minorities I appointed had to wait a whole lot longer for a hearing than guys that looked like me, and that they were much more likely to be denied.

For example, even though the fourth circuit in our country, in southeastern United States, has the largest percentage of African-Americans of any Circuit in the United States, no African-American has ever served on it. And there have been plenty of qualified lawyers in the fourth circuit who happen to be African-American. Roger Gregory would be the first African-American. He's not been given a hearing.

In the fifth circuit, which has, next to the ninth circuit, the largest number of Hispanics, Enrique Moreno—graduated with great distinction from Harvard and is a native

of El Paso, and the judges in west Texas said he was one of the three best lawyers in west Texas—has been deemed unqualified for the fifth circuit by the Republican Senators. And I might say, the response from the other Republican officials in Texas has been deafening silence.

The longest waiting appellate nominee is Helene White of Michigan, who has been waiting for 3 years now. They include Kathleen McCree Lewis, daughter of the civil rights lion Wade McCree. She'd be the first African-American woman to serve on the sixth circuit. The people who can't get a vote include Bonnie Campbell, former attorney general of Iowa, who led our administration's efforts to pass the Violence Against Women Act.

Time and again I have asked the Senate leadership just to give these folks a vote. But they did it once, when they rejected Ronnie White, the first African-American State supreme court justice in the history of Missouri, who was turned down for a Federal judgeship, though he was superbly qualified, on grossly political grounds. And the reaction of the public in Missouri and throughout the United States was predictable and quite honorable. And so the next strategy was that "People don't like it very much when we vote these folks down, so we'll just let them die in silence. We'll just never have hearings."

I've had, as you might imagine, a lot more success in appointing Federal trial judges, but the Republican majority has been quite sensitive to the appellate courts because they know they make a lot of policy, just like the Supreme Court. And when they had the White House the last time, they appointed a lot of very young people to those appellate courts, in the hope that by the time they got it the next time, whatever they couldn't pass through Congress and whatever the American people wouldn't put up with, they could just do it through the courts, with people who had life tenure.

Now, we're just a vote or two away from reversing *Roe v. Wade* in the United States Supreme Court, and I think it's inevitable that the next President will have two appointments to the Supreme Court; could be more.

Beyond that, as I intimated in my opening remarks, there has already been a majority

in this Court for restricting the ability of Congress, even a bipartisan majority in Congress, to get the States to help implement public interest legislation that protects people. The Supreme Court threw out part of the Brady bill because it required the States to help do things. It struck down part of the Violence Against Women Act, and other laws. I'm sure that people who are going to be part of this forum will talk more about this, and I don't need to go through this whole litany of cases.

But I can tell you that Justice Scalia and Justice Thomas, occasionally with three others voting with them, have a view that is quite different than the view that has prevailed in the country for the last 40 years about what Congress should be able to do to advance the cause of civil rights and the environment and public health. Now, I have no doubt this view is honestly held, and I have no personal criticism of them, but they do have a lifetime appointment and unlimited abilities, except only by the cases that come before them, to advance this view. And if they get one or two more allies and their view prevails, we'll have a philosophy of what the role of the National Government in our country's life is that will be coming out of the Supreme Court that will have as its only modern parallel what prevailed in the 1930's, until Franklin Roosevelt tried to pack the Court with the help of his majority leader from my home State, Joe T. Robinson. And the public hated it, and there was a terrible reaction, but afterward the Supreme Court began to uphold the New Deal legislation.

And so we all want to pretend that there's no politics in this, but there is certainly philosophy in this. There is philosophy in the appointments of Supreme Court Justices and appellate court justices. And therefore, the Presidency is important, but the Senate races are important as well, because they have to confirm these folks.

And I don't doubt for a moment that the main problems that the present majority in the United States Senate has with my nominees is probably not primarily race or gender; they just know they're not going to be as right-wing as they think they ought to be. And they can't credibly claim that they would be too liberal—whatever that is—but they know that if they can just keep these folks

from getting a hearing, over and over and over again, and then if they get lucky and have the Senate and the White House, they'll be able to move the judiciary way to the right and reinforce and accelerate the pace of decisions restricting not only some individual rights under the judicially defined constitutional right to privacy but also the ability of the National Government to protect certain vital interests.

That's what was inherent in the Brady bill, the Violence Against Women Act, and any number of these other cases. And I said I hope the people that come behind me will actually go through in greater detail these cases, because I think a lot of Americans have a general idea that the right to choose may be at stake in this election in the appointments to the Supreme Court, but what—I think virtually no Americans, outside those who follow the day-to-day decisions of the Supreme Court, understand just how many of our other rights are at stake by virtue of the possibility of different Court appointments.

So I come here just to sort of give you good cheer and say how you're doing a good thing—[laughter]—and remind you of something. The American people have normally gotten it right. That's why we're all around here after 224 years. Sometimes it takes an agonizingly long period of time, but the story of the United States of America is pretty much an illustration of Martin Luther King's eloquent statement that the arc of history is long, but it bends toward justice. So I urge you to see your presence here as benders. You're the people who are supposed to make sure the arc keeps bending toward justice.

Our country is a different place than it was 8 years ago. We're remarkably more diverse, as well as more prosperous. We're learning to live together and work together and accept each other in ways that we never did before. You've now got more than two-thirds of the country and heavy majorities of people in both political parties for a hate crimes bill that protects gay Americans as well as racial minorities and disabled people. It's a big deal. That's a big deal. You've got a majority in the country and a majority of people in both parties for an "Employment Non-Discrimination Act" that covers gay Americans as well as people of all races. But the anchors of the Republican Party in the Congress are to the right of that, and they see this election as their chance.

Now, while it's true that nobody can predict with any 100 percent precision how his or her appointees will vote—thank goodness, President Eisenhower didn't really know about Earl Warren and Bill Brennan—[laughter]—we've got a lot better feel for it today than they did 40 years ago and a lot better idea of what the issues are going to be. And I say this with all respect: We should all assume that the people running for President and the people running for the Senate and all these other races, that they actually believe what they say, and therefore, if they are elected, we should assume that they will act on their beliefs.

As I have said repeatedly, the American people ought to view this election as a celebration: how to keep our economy going; how to extend it to people in places left behind; how to keep the environment improving and the schools improving and more people getting health insurance and the welfare rolls and the crime rates going down. All the indicators are right. The question is, how are you going to make a truly good society out of this? And what kind of individual protections do we think should be out there? And what kind of group rules should be out there in terms of the absence of discrimination and the presence of opportunity?

And because our country is in good shape today, we can have an honest, open debate. But it doesn't serve anybody to pretend that these differences aren't there when they, in fact, are there. So what I hope will come out of your gathering here is a clear and sharp understanding of the honest differences that are out there, of the kinds of decisions that will be made and the appointments that will be made to all of our Federal courts, beginning with the Supreme Court but including the courts of appeals and the district courts. And then you can do whatever you want with it with the American people and in your own communities between now and the election and thereafter.

But I have to tell you that as someone who has been a law professor, been an attorney

general, related to the Federal courts as a Governor, and then appointed people as a President to all levels of the Federal judiciary, it is my honest opinion that the incredibly energetic debate that is going on now at the Supreme Court level about the role of the National Government and the range of personal-privacy-related individual rights will only intensify in the years ahead and will be swung decisively one way or the other depending on the outcome of these elections. And to pretend otherwise is to be like an ostrich with your head in the sand.

So we don't have to be hand-wringing, and we don't have to overstate the case, and we don't have to attack our adversaries. This is America. We've always had people with different views and different feelings and different convictions. But you're here because you have a certain take on what the parameters of personal liberty have to be in order for America to have a genuine community across all the lines that divide us. That's how come you're here. That's how come you belong to this organization. So you have to understand with great detail and clarity what is at stake, and then you have to be willing to share it, because, as I said, the American people will make a decision in this election which will shape the Supreme Court and the other Federal courts and the range of liberty and privacy and the range of acceptable national action for years to come.

I think it is fair to say that with the single exception of a woman's right to choose, which is fairly high on the radar screen, most people have no earthly idea that any of these other issues are even at stake in this election. And a lot of people still don't really believe a woman's right to choose is at stake in this election. But it is. So those of us who are old enough to remember what it was like before *Roe v. Wade*, and those of us who care about things like the Violence Against Women Act and the Brady law and the other things that we believe make America a better country and are not so burdensome to ask the States to walk along with us hand in hand and work with us, we have a big job to do in the next 2 weeks.

So again, Ralph, I thank you. Mary Frances, I thank you for your leadership and your passion and for always prodding me

along. Whenever anybody else thinks I've done a great job on a civil rights issue, I get about a C-plus from her. [Laughter] But that's her job. That's her job.

Look—this is the last thing I'm going to say. This is a great country. Our diversity is making us greater, richer, and more interesting. But if you look around the world at all the trouble spots today, you see people have a whole lot of trouble dealing with folks who have honest convictions that are different from theirs, especially if they're religious convictions, or if they are of different racial and ethnic origins which lead them into different cultural patterns of life. The great genius of America in the 21st century has got to be how to take the most diverse society we've ever had and the most diverse one in the world—although, interestingly enough, India is a pretty close competitor—and how to celebrate all this diversity and, at the same time, affirm our common humanity. Doing that in the context of all these cases that keep coming up to the Supreme Court requires a great deal of wisdom and understanding about what the real principles of our Constitution require and how the real world works and an imagination about how it has to work in the 21st century.

So you're here discussing something profoundly important. I just don't want you—you don't have to wring your hands about it, but you do have to get your telephone ringing when you go home.

Thank you, and God bless you.

NOTE: The President spoke at 8:19 p.m. at the National Education Association, prior to a panel discussion on the future of the Supreme Court. In his remarks, he referred to Ralph G. Neas, president, and Carole Shields, former president, People for the American Way.

### Remarks at a Reception for Congressional Candidate Donald Dunn

October 24, 2000

Well, let me first of all say I'm delighted to see all of you here, and I'm delighted to be here, myself, for several reasons. I'd like to begin by thanking Ron and Beth Dozoretz