The original documents are located in Box 29, folder "Supreme Court" of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.

DRAFT STATEMENT BY THE PRESIDENT

THE NOMINATION OF A SUPREME COURT JUSTICE IS ONE OF THE MOST IMPORTANT DECISIONS A PRESIDENT HAS TO MAKE. FOR MORE THAN TWO WEEKS I HAVE WEIGHED CAREFULLY THIS IMPORTANT

THE NOMINATION OF A JUSTICE TO THE SUPREME COURT is ONE OF THE MOST IMPORTANT DECISIONS A PRESIDENT HAS TO MAKE. For more than 2 weeks I HAVE CONDUCTED AN EXTENSION SEARCH & THE PERSON WHO WILL SERVE WITH HONOR ON OUR HIGHEST COURT, WHOSE JUDICIAL DECISIONS CAN AFFECT THE DIRECTION OF OUR SOCIETY FOR DECADES TO COME.

I HAVE CONSIDERED A outstanding LONG LIST OF POSSIBILITIES AND I HAVE received THE VIEWS OF A WIDE RANGE OF PEOPLE IN PUBLIC OFFICE AND PRIVATE LIFE.

After careful consideration, I have chosen a person I The most Believe will bring honor to the court. I have TO OUR HIGHEST COURT. I AM PLEASED TO ANNOUNCE THAT IT IS MY INTENTION TO SUBMIT THE NOMINATION OF JUDGE JOHN PAUL STEVENS OF THE 7TH CIRCUIT COURT Appeals IN CHICAGO.

JUDGE [redacted] STEVENS [redacted] IS HEID IN THE HIGHEST ESTEEM BY HIS COLLEAGUES IN THE BAR [redacted] AND ON THE BENCH. HE IS THE PERSON BEST QUALIFIED TO SERVE [redacted] ON THE SUPREME COORT. [redacted] I AM CONFIDANT HE WILL TAKE HIS PLACE AMONG OUR GREAT [redacted] JUSTICES.

DRAFT

STATEMENT BY THE PRESIDENT

The nomination of a Justice to the Supreme Court is one of the most important decisions a President has to make. The judicial opinions of a Supreme Court Justice can affect the course of our society for decades to come. With this heavy responsibility in mind I have conducted an extensive search for more than two weeks. I have considered a long list of outstanding possibilities and I have received the views of a wide range of people in public office and private life. After the most careful consideration, I have chosen the person I believe will bring honor to the court. It is my intention to submit the nomination of Judge John Paul Stevens of the 7th Circuit Court of Appeals in Chicago. Judge Stevens is held in the highest esteem by his colleagues in the legal profession and in the judicial system. He is the person best qualified to serve on the Supreme Court. I am confident he will take his place among our great Justices.

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STEVENS, JOHN PAUL, Judge; b. Chgo., April 20, 1920; s. Ernest James and Elizabeth (Street) S.; A.B., U. of Chgo, 1941; J.D., Northwestern U., 1947; m. Elizabeth Jane Sheeren, June 7, 1942; children-John Joseph, Kathryn, Elizabeth Jane, Susan Roberta. Admitted to Ill. bar, 1947, practiced in Chgo.; law clk. to U.S. Supreme Ct. Justice Wiley Rutledge, 1947-48; asso. Poppenhusen, Johnston, Thompson & Raymond, 1948-50; asso. counsel sub-com. on study monopoly power, com. on judiciary U.S. Ho. of Reps., 1951; partner firm Rothschild, Hart, Stevens & Barry, 1952-70; U.S. circuit judge, 1970-. Lectr. anti-trust law Northwestern U. Sch. Law, 1953, U. Chgo. Law Sch., 1954-55. Mem. Atty. Gen.'s Nat. Com. to Study Anti-Trust Laws, 1953-55. Served with USNR, 1942-45. Decorated Bronze Star, Mem. Chgo. Bar Assn. (2d v.p. 1970), Order of Coif, Phi Beta Kappa, Psi Upsilon, Phi Delta Phi.

7th.

Chicago, Ill

Man of outstanding qualities.
See his rulings over past 5 years.
And confirmation Hearings will bring out his judicial philosophy.

Considered with care & [illegible].
Extensive search. Consulted widely.
Attention to submit the nominee of J.P.C. (man) ABA rated highly very.
Criteria = best qualified to serve as member of Scotus and has greatest potential to be a great justice.

Ron -

If asked Judge Stevens religion, Bouchen and Schmultz suggest you answer.

We don't know. That was not a subject of inquiry / a consideration. You'll have to ask Judge Stevens.

Jim

FOR IMMEDIATE RELEASE NOVEMBER 28, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

The nomination of a Justice to the Supreme Court of the United States is one of the most important decisions a President has to make. The opinions of the Court affect the course of our society and the lives of individual citizens for decades to come. The confidence in which the Court is held is the sum of the esteem extended to each of its nine Members, and nothing is more essential to our system of liberty under law than the integrity of the Judicial Branch of the Federal Government.

With this burden of responsibility in mind I have conducted a thorough search and considered an extensive list of distinguished men and women to fill the existing vacancy on the Supreme Court. The views of a wide range of Americans in the legal profession and in both public and private life have been sought and are appreciated.

I have decided to submit to Congress when it returns the name of the person I believe to be best qualified to serve as an Associate Justice of the Supreme Court:

United States Judge John Paul Stevens of the Seventh Circuit Court of Appeals in Chicago, Illinois.

Judge Stevens is held in the highest esteem by his colleagues in the legal profession and the judiciary, and has had an outstanding career in the practice and teaching of law as well as on the Federal bench. I am confident that he will bring both professional and personal qualities of the highest order to the Supreme Court.

Because of the urgency attached to the earliest consideration of this nomination by the United States Senate, in order that the Court may be at full strength in considering its current calendar, I am announcing my choice today and will submit Judge Stevens' name formally on Monday. I believe the best interests of the nation will be served by prompt confirmation proceedings in the Senate.

# # #

[Nov. 1975]

Dear Mr. Justice Douglas,

I have read your letter of this date with profound personal sympathy for the sad circumstances under which you deem it advisable ~~for you~~ to attempt to continue participating in the work of the Supreme Court of the United States. I want you to know first of all of my warm admiration for your valiant effort to carry on the duties of your high office, despite your recent illness, with the same courage and independent will that have characterized your long service to your country.

~~In learning of~~ I appreciate advising me of your decision to retire at the close of this day from regular active service as an Associate Justice, ~~May~~ In response to May I express on behalf of all our countrymen this nation's great gratitude for your more than 36 years as a Member of the Supreme Court, ~~a record that is not only distinguished but~~ Those distinguished years of service on the Court unequalled in all the history of the ~~United States~~. Your contributions to the law both as scholar and jurist and your service under President Franklin D. Roosevelt as member and chairman of the Securities and Exchange Commission constitute a lifetime of dedicated public service ~~few Americans have surpassed~~ matched by few Americans.

It is my sincere hope that your health will soon be restored so that you can enjoy your well-deserved retirement and relax among the natural beauties you love and have helped to preserve. Future generations of citizens will continue to benefit from your firm devotion to the fundamental rights of individual freedom and privacy under the Constitution.

Please accept my respect and personal good wishes.

Sincerely,

THE WHITE HOUSE

WASHINGTON

November 12, 1975

Dear Mr. Justice Douglas,

I have read your letter of this date with profound personal sympathy for the sad circumstances under which you deem it inadvisable to attempt to continue participating in the work of the Supreme Court of the United States. I want you to know first of all of my warm admiration for your valiant effort to carry on the duties of your high office, despite your recent illness, with the same courage and independent will that have characterized your long service to your country.

In response to your decision to retire at the close of this day from regular active service as an Associate Justice, may I express on behalf of all our countrymen this nation's great gratitude for your more than 36 years as a Member of the Supreme Court. Your distinguished years of service are unequalled in all the history of the Court. Your contributions to the law both as scholar and jurist and your service under President Franklin D. Roosevelt as member and chairman of the Securities and Exchange Commission constitute a lifetime of dedicated public service matched by few Americans.

It is my sincere hope that your health will soon be restored so that you can enjoy your well-deserved retirement and relax among the natural beauties you love and have helped to preserve. Future generations of citizens will continue to benefit from your firm devotion to the fundamental rights of individual freedom and privacy under the Constitution.

Please accept my respect and personal good wishes.

Sincerely,

The Honorable William O. Douglas
Supreme Court of the United States

November 28, 1975

REPRESENTATIVE OPINIONS OF JUDGE JOHN PAUL STEVENS

Kirby v. Sturges, 510 F 2d 397 (1975)

U.S. v. Ramsey 503 F 2d 524 (1973)

U.S. ex rel Allum v. Toomey 484 F 2d 740 (1973)

U.S. v. Smith 440 F 2d 521 (1971) (dissent)

Buforg v. Southeast Dubois County School Corp. 472 F 2d 890 (1973)

Cousins v. City Council of Chicago 466 F 2d 830 (dissent)

Cohen v. Illinois Institute of Technology 74-1930 (decided October 28, 1975)

U. S. v. Staszcuk #73-1869 (decided May 16, 1975)

Arnold v. Carpenter 459 F 2d 939 (1972) (dissent)

Dyer v. Blair 390 F. Supp. 1291 (1975)

ESKRA v. Morton (September 29, 1975)

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

December 27 1976

Mr. Ron Nessen
Spokesman
the White House

Dear Mr. Nessen,

FYI, attached is the year-ender from the Chief Justice which I am distributing.

With kind regards

Barrett McGurn, director

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

NOTE TO EDITORS

Attached is Chief Justice Warren E. Burger's annual year-end report on the Judiciary, for release in the a.m.'s of Sunday, January 2, 1977. For additional information please contact me at 202 393-1640 or at the address above.

Barrett McGurn

For Release in
A.M.'s Sunday
January 2, 1977

YEAR-END REPORT

By Chief Justice Warren E. Burger

Nineteen seventy-six may be remembered as a "year of the courts." The way disputes are resolved in America--a function critical to our liberties--is still the object of scant resources and attention. But, in 1976 a number of forces coalesced to set an agenda for a new focus of attention on the needs of courts and the manner in which courts serve the public.

"POUND REVISITED" CONFERENCE

In April, the American Bar Association, the Conference of (State) Chief Justices, and the Judicial Conference of the United States met in St. Paul to do what Dean Roscoe Pound had urged in that city 70 years earlier: focus national attention on the causes of popular dissatisfaction with the administration of justice. The Conference was important. It was the first time these leaders of the legal and judicial professions were brought together. Mainly, it was important because it launched a probing assessment into the forms and procedures we use to administer justice.

The Conference focused on how to address dissatisfaction with the administration of justice in wholly new ways still consistent with our traditions of justice.

In contrast to the casual attention of the past, diverse groups are probing these questions in detail,

which will undoubtedly result in new directions. As an immediate result of the Conference, the American Bar Association created a special Committee on Resolution of Minor Disputes. The Committee is examining alternatives to litigation such as wider use of arbitration, mediation, ombudsmen, and informal neighborhood justice centers.

ALTERNATIVES TO LITIGATION

The Committee recognizes that disputes that seem minor, when set against the panoply of national problems, are nonetheless critical to those affected. To test and amplify conclusions, a national conference on minor dispute resolution will be convened in New York City in May 1977, by the American Bar Association. These are steps in the right direction.

Dissatisfaction with the law is in many ways dissatisfaction with the legal profession. It is being addressed in some respects. Continuing legal education programs are burgeoning and three states, Iowa, Minnesota and Wisconsin, make attendance at these programs mandatory. On other occasions I have pointed out that we require more to certify plumbers and electricians than we do for lawyers to represent clients in state and federal courts.

CONTINUING LEGAL EDUCATION

Trial advocacy programs for lawyers and law students have been developed by professional associations and law schools. At a number of law schools,

TRAINING IN ADVOCACY

students learn the skills of both interviewing and counseling clients; and in some instances they represent clients in court under the supervision of a licensed attorney.

UPGRADING ADMISSION STANDARDS

We are moving toward the development of higher standards of admission for practice before the federal courts. Only a few federal districts currently give examinations or require more than admission to a state bar. A Committee of the U.S. Judicial Conference is presently evaluating ways to determine whether a lawyer is qualified to argue cases before federal courts. This is intended to help protect clients who hire lawyers to argue their cases before federal courts.

DISCIPLINING LAWYER MISCONDUCT

The bar is increasingly recognizing its obligation to discipline those lawyers who betray professional trust. A new development is that most states now have state level disciplinary committees with centralized offices for receiving and processing complaints. Twelve states have added nonlawyers to disciplinary boards. More than 170 lawyers and investigators are working full-time on enforcement, financed by lawyers' assessments. As a result, an increasing share of violations are resulting in disciplinary action, which is up 85 percent, to 1198 actions, since 1973. This increase should continue if we are to provide adequate protection for the public.

FEE DISPUTES

Fee disputes are a significant and troublesome area of conflict between attorneys and their clients. In more than 30 jurisdictions, fee disputes between lawyers and clients may now be arbitrated before a panel of the local bar rather than remaining unsettled or end in litigation.

STUDY OF ETHICS

With the new codes of legal responsibility and judicial ethics and enforcement staff, more law schools and state bars are requiring students to study legal ethics. Bar associations are subsidizing legal ethics programs in some law schools. This is much needed.

LEGISLATION

While historically, courts have been neglected by other branches of government, in 1976, Congress enacted some needed improvements. The leaders of the Judiciary Committees of the Senate and House merit commendation. Magistrates are now permitted additional duties, enabling district judges to spend more time on trials and less on pretrial procedure and routine matters. In addition, the use of special three-judge district courts has been substantially abolished, which will give some relief to federal courts. Yet there remains an agenda of legislative proposals, endorsed by the Judicial Conference, on which action is needed in the new Congress.

The needs of the courts were discussed in Presidential debates this year. President-elect Carter

demonstrated his commitment to court modernization and the merit selection of judges when he was Governor of Georgia--a commitment recognized by the American Judicature Society with their 1974 Herbert Harley Award. Mr. Carter has urged that "all federal judges and prosecutors shall be appointed strictly on the basis of merit."*

No modern society maintains a system, as we do, of changing hundreds of U.S. Attorneys and Assistants with every change of party control of the Executive Branch. I advocated a career service for United States Attorneys' offices more than 20 years ago when I was Assistant Attorney General. The proper handling of public business in federal courts--whether civil or criminal--requires trained and experienced lawyers. Without substantial continuity this cannot be attained, and the public interest suffers accordingly. The offices of U.S. Attorneys in the larger metropolitan centers have moved toward permanent staffing and this should be encouraged and expanded if the quality of the government's representation is to be kept at a high level.

Given the crushing caseloads and the increasingly complicated problems being assigned to the judiciary, and the high importance of perpetuating constitutional freedoms, the professional attributes of those selected to be judges continues to be of critical importance.

*President-elect Carter's "Issue Statement" on Federal Judicial Reform

With the adoption or expansion of merit selection systems for judges in Florida, Maryland, Nevada, and North Dakota, in 1976, a majority of states now use merit selection. The federal system has also evolved in this direction. Upon the request of recent Presidents, nominees have been screened by the American Bar Association Committee on the Federal Judiciary. This Committee has rejected as not qualified for such a critical and powerful position, from 10 to 20 percent of the names submitted formally or informally, and many others have not been put forward because of the ABA screening.

NEW JUDGESHIPS

The need for new judgeships continues to grow. After careful analysis, in September, 1976, the Judicial Conference recommended creation of 106 District judgeships and 16 new judgeships in Courts of Appeals; about one-half of these had been identified as needed four years earlier. Case filings in the Courts of Appeals will have increased more than 140 percent between the last new judgeships of 1968 and the authorization and filling of any new judgeships.

INCREASE OF PRODUCTIVITY

Fortunately, federal judges, with the aid of new techniques and research of the Federal Judicial Center have continued to improve procedures and work long days. As a result, the average federal judge completed work on 36 percent more cases this past year than eight years ago.

CASELOADS

Court filings were up 11.3 percent in fiscal 1976 to 130,597. Dispositions increased five percent. A grave problem is emerging, however, due in large part to the rigidities of the Speedy Trial Act--a recent piece of legislation consistently opposed by the Judicial Conference as unnecessary. District Courts are complying with time limits imposed for criminal cases, but some overloaded courts have not been able to try a civil case in many months, other than emergency matters.

CIVIL CASE BACKLOG

REVIEW OF SENTENCING

Discretion in sentencing has been a double-edged sword. It permits the judge to accommodate unusual circumstances relative to each defendant. But this sometimes results in defendants who ought to be similarly treated receiving substantially disparate sentences.

Some form of review procedure is needed to deal with this dilemma, but it must be fashioned so as to avoid further overburdening of the Courts of Appeals, which already have impossible caseloads.

In September 1976, the Judicial Conference of the United States recommended a proposed Rule 35.1 of the Federal Rules of Criminal Procedure. Presently being reviewed by members of the bench and bar are proposals developed by the Committee on Criminal Rules to provide for review of sentences.

I continue to believe strongly that as justice cannot be rationed, neither is it divisible. There must be close cooperation between state and federal judicial systems.

This year, Congress extended the life of the Law Enforcement Assistance Administration (LEAA) for three years. Due in considerable part to the efforts of Senator Edward Kennedy, the reauthorization legislation earmarks a minimum of $50,000 to each state establishing a judicial planning committee. These funds will facilitate the development of multi-year, comprehensive plans for the courts. Judicial participation on governing boards of the state planning agencies is appropriately required. State planning agencies, in funding decisions, are to give special attention to "programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system."

STATE COURT PLANNING

Many state and local courts continue to suffer from gross understaffing; many state courts lack what we take for granted in the federal system, such as judicial control of judicial budget requests. Some state courts continue to carry the irrational burden of partisan election of judges and absence of merit selection and tenure for support personnel. The

effects of this neglect and inattention--especially in the courts of minor jurisdiction--is a problem for national concern. The importance of a court to the people is not measured by the dollar figure of its jurisdiction.

These conditions are improving though, and 1976 was an important year with expansion of merit selection plans and the continuing development of the National

TRAINING OF JUDGES

Center for State Courts as a research and development clearinghouse for state courts. The National College of the State Judiciary at Reno, Nevada, has now expanded its training and has trained almost 6,000 judges, and continues to make an important contribution to the improvement of the work of state courts.

One of the most important events in 1976 is the report of the statutory quadrennial Commission on Executive, Legislative and Judicial Salaries which has submitted its recommendations to the President. If approved by the President and accepted by Congress, they

ADJUSTING FOR LOST PURCHASING POWER

will make up in part for the failure to adjust judges' salaries for almost eight years (excluding the 5 percent cost-of-living increase of 1975).

The resolution of this crisis--for it is just that--in compensation of the upper levels of the federal government will have a lasting impact. Failure to adopt these recommendations essentially as made will

lead to an increased "brain drain" in the Judiciary and the upper echelons of the Executive Branch career service. To repair that damage will take a generation. The gross inequity of the seven year pay "freeze", while cost of living has increased more than 60 percent, is not a bright spot in the treatment accorded some of America's public servants.* The price we have already paid is this: in the past three years, more federal judges have resigned to return to private legal activity than in the previous half-century. There are obvious limits to the purchasing power of so-called psychic income which some attribute to the prestige of a federal judgeship.

JUDICIAL CONDUCT

Since 1969, the judiciary has been in general compliance with the recommendations on ethics and reporting proposed by the Commission on Executive, Legislative and Judicial Salaries. Judges are totally banned from the practice of law or serving as an officer, director or employee of a corporation organized for profit. Judges cannot perform judicial duties in any matter in which they have any interest--even one share of stock. Judges file complete reports on any outside earned income every six months and these reports are open to the public.

*Civil service employees below the top echelons have received approximately 70 percent increases, excluding promotions.

This year end is a good time to pay tribute to the great service rendered by the Senior Federal Judges--the most conspicuous of whom is Mr. Justice Tom Clark, who accepts assignments to sit in every corner of the country. It is sometimes said by the uninformed that federal judges have a generous retirement pension. The fact is, they do not have a "pension", as that term is used to describe retired civil servants or Congressmen who return to private pursuits after earning a pension.

Presently, there are 163 Senior Federal Judges, virtually all of whom, like Mr. Justice Tom Clark, literally work for nothing. Only a handful of Senior Judges of advanced years or infirm health are truly "retired" in the sense of no longer performing judicial duties.

VOLUNTARY SERVICE OF SENIOR JUDGES

Were it not for the continued work of these Senior Judges, the Federal Court system would have collapsed during the past 5 or 6 years--the very years when judges, along with the upper tier of civil service personnel, have been subject to an unparalleled discrimination on salaries.

To refer to Senior Federal Judges as "retired" or as receiving "generous pensions" is a distortion of fact. The value of the continuing services performed

by these judges who have no obligation to continue work after age 65 can be measured in the millions of dollars each year.