

ORAL ARGUMENT NOT YET SCHEDULED

No. 09-5126

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MICHAEL NEWDOW, *et al.*,

Plaintiffs-Appellants,

v.

HON. JOHN ROBERTS, JR., CHIEF JUSTICE
OF THE UNITED STATES SUPREME COURT, *et al.*,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUPPLEMENTAL APPENDIX FOR FEDERAL DEFENDANTS/APPELLEES, VOL II

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Thomas Jefferson

FIRST INAUGURAL ADDRESS IN THE WASHINGTON, D.C.

WEDNESDAY, MARCH 4, 1801

Chief Justice John Marshall administered the first executive oath of office ever taken in the new federal city in the new Senate Chamber (now the Old Supreme Court Chamber) of the partially built Capitol building. The outcome of the election of 1800 had been in doubt until late February because Thomas Jefferson and Aaron Burr, the two leading candidates, each had received 73 electoral votes. Consequently, the House of Representatives met in a special session to resolve the impasse, pursuant to the terms spelled out in the Constitution. After 30 hours of debate and balloting, Mr. Jefferson emerged as the President and Mr. Burr the Vice President. President John Adams, who had run unsuccessfully for a second term, left Washington on the day of the inauguration without attending the ceremony.

Friends and Fellow-Citizens:

Called upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled to express my grateful

thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye—when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue, and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly, indeed, should I despair did not the presence of many whom I here see remind me that in the other high authorities provided by our Constitution I shall find resources of wisdom, of virtue, and of zeal on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the Constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression. Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this dis-

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tant and peaceful shore; that this should be more felt and feared by some and less by others, and should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government can not be strong, that this Government is not strong enough; but would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm on the theoretic and visionary fear that this Government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest Government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man can not be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

Let us, then, with courage and confidence pursue our own Federal and Republican principles, our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them; enlightened by a benign religion, professed, indeed, and practiced in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter—with all these blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow-citizens—a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has

earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government, and consequently those which ought to shape its Administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people—a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism; a well disciplined militia, our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burthened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information and arraignment of all abuses at the bar of the public reason; freedom of religion; freedom of the press, and freedom of person under the protection of the habeas corpus, and trial by juries impartially selected. These principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

I repair, then, fellow-citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this the greatest of all, I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this sta-

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tion with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose preeminent services had entitled him to the first place in his country's love and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional, and your support against the errors of others, who may condemn what they would not if seen in all its parts. The approbation implied by your suffrage is a great consolation to me for the past, and my future solicitude will be to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying, then, on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choice it is in your power to make. And may that Infinite Power which rules the destinies of the universe lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

SECOND INAUGURAL ADDRESS

MONDAY, MARCH 4, 1805

The second inauguration of Mr. Jefferson followed an election under which the offices of President and Vice President were to be separately sought, pursuant to the newly adopted 12th Amendment to the Constitution. George Clinton of New York was elected Vice President. Chief Justice John Marshall administered the oath of office in the Senate Chamber at the Capitol.

Proceeding, fellow-citizens, to that qualification which the Constitution requires before my entrance on the charge again conferred on me, it is my duty to express the deep sense I entertain of this new proof of confidence from my fellow-citizens at large, and the zeal with which it inspires me so to conduct myself as may best satisfy their just expectations.

On taking this station on a former occasion I declared the principles on which I believed it my duty to administer the affairs of our Commonwealth. My conscience tells me I have on every occasion acted up to that declaration according to its obvious import and to the understanding of every candid mind.

In the transaction of your foreign affairs we have endeavored to cultivate the friendship of all nations, and especially of those with which we have the most important relations. We have done them justice on all occasions, favored where favor was lawful, and cherished mutual interests and intercourse on fair and equal terms. We are firmly convinced, and we act on that conviction, that with nations as with individuals our interests soundly calculated will ever be found inseparable from our moral duties, and history bears witness to the fact that a just nation is trusted on its word when recourse is had to armaments and wars to bridle others.

At home, fellow-citizens, you best know whether we have done well or ill. The suppression of unnecessary offices, of useless establishments and expenses, enabled us to discontinue our internal taxes. These, covering our land with officers and opening our doors to their intrusions, had already begun that process of domiciliary vexation which once entered is scarcely to be restrained from

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reaching successively every article of property and produce. If among these taxes some minor ones fell which had not been inconvenient, it was because their amount would not have paid the officers who collected them, and because, if they had any merit, the State authorities might adopt them instead of others less approved.

The remaining revenue on the consumption of foreign articles is paid chiefly by those who can afford to add foreign luxuries to domestic comforts, being collected on our seaboard and frontiers only, and incorporated with the transactions of our mercantile citizens, it may be the pleasure and the pride of an American to ask, What farmer, what mechanic, what laborer ever sees a taxgatherer of the United States? These contributions enable us to support the current expenses of the Government, to fulfill contracts with foreign nations, to extinguish the native right of soil within our limits, to extend those limits, and to apply such a surplus to our public debts as places at a short day their final redemption, and that redemption once effected the revenue thereby liberated may, by a just repartition of it among the States and a corresponding amendment of the Constitution, be applied *in time of peace* to rivers, canals, roads, arts, manufactures, education, and other great objects within each State. *In time of war*, if injustice by ourselves or others must sometimes produce war, increased as the same revenue will be by increased population and consumption, and aided by other resources reserved for that crisis, it may meet within the year all the expenses of the year without encroaching on the rights of future generations by burthening them with the debts of the past. War will then be but a suspension of useful works, and a return to a state of peace, a return to the progress of improvement.

I have said, fellow-citizens, that the income reserved had enabled us to extend our limits, but that extension may possibly pay for itself before we are called on, and in the meantime may keep down the accruing interest; in all events, it will replace the advances we shall have made. I know that the acquisition of Louisiana had been disapproved by some from a candid apprehension that the enlargement of our territory would endanger its union. But who can limit the extent to which the federative principle may operate effectively? The larger our association the less will it be shaken by local passions; and in any view is it not better that the opposite bank of the Mississippi should be settled by our own brethren and children than by strangers of another family? With which should we be most likely to live in harmony and friendly intercourse?

In matters of religion I have considered that its free exercise is placed by the Constitution independent of the powers of the General Government. I have therefore undertaken on no occasion to prescribe the religious exercises suited to it, but have left them, as the Constitution found them, under the direction and discipline of the church or state authorities acknowledged by the several religious societies.

The aboriginal inhabitants of these countries I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores; without power to divert or habits to contend against it, they have been overwhelmed by the current or driven before it; now reduced within limits too narrow for the hunter's state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence and to prepare them in time for that state of society which to bodily comforts adds the improvement of the mind and morals. We have therefore liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity, and they are covered with the aegis of the law against aggressors from among ourselves.

But the endeavors to enlighten them on the fate which awaits their present course of life, to induce them to exercise their reason, follow its dictates, and change their pursuits with the change of circumstances have powerful obstacles to encounter; they are combated by the habits of their bodies, prejudices of their minds, ignorance, pride, and the influence of interested and crafty individuals among them who feel themselves something in the present order of things and fear to become nothing in any other. These persons inculcate a sanctimonious reverence for the customs of their ancestors; that whatsoever they did must be done through all time; that reason is a false guide, and to advance under its counsel in their physical, moral, or political condition is perilous innovation; that their duty is to remain as their Creator made them, ignorance being safety and knowledge full of danger; in short, my friends, among them also is seen the action and counteraction of good sense and of bigotry; they too have their antiphilosophists who find an interest in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendancy of

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habit over the duty of improving our reason and obeying its mandates.

In giving these outlines I do not mean, fellow-citizens, to arrogate to myself the merit of the measures. That is due, in the first place, to the reflecting character of our citizens at large, who, by the weight of public opinion, influence and strengthen the public measures. It is due to the sound discretion with which they select from among themselves those to whom they confide the legislative duties. It is due to the zeal and wisdom of the characters thus selected, who lay the foundations of public happiness in wholesome laws, the execution of which alone remains for others, and it is due to the able and faithful auxiliaries, whose patriotism has associated them with me in the executive functions.

During this course of administration, and in order to disturb it, the artillery of the press has been leveled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science are deeply to be regretted, inasmuch as they tend to lessen its usefulness and to sap its safety. They might, indeed, have been corrected by the wholesome punishments reserved to and provided by the laws of the several States against falsehood and defamation, but public duties more urgent press on the time of public servants, and the offenders have therefore been left to find their punishment in the public indignation.

Nor was it uninteresting to the world that an experiment should be fairly and fully made, whether freedom of discussion, unaided by power, is not sufficient for the propagation and protection of truth—whether a government conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation. The experiment has been tried; you have witnessed the scene; our fellow-citizens looked on, cool and collected; they saw the latent source from which these outrages proceeded; they gathered around their public functionaries, and when the Constitution called them to the decision by suffrage, they pronounced their verdict, honorable to those who had served them and consolatory to the friend of man who believes that he may be trusted with the control of his own affairs.

No inference is here intended that the laws provided by the States against false and defamatory publications should not be enforced; he who has time renders a service to public morals and public tranquillity in reforming these abuses by the salutary coercions of the law; but the experiment is noted to prove that, since

truth and reason have maintained their ground against false opinions in league with false facts, the press, confined to truth, needs no other legal restraint; the public judgment will correct false reasoning and opinions on a full hearing of all parties; and no other definite line can be drawn between the inestimable liberty of the press and its demoralizing licentiousness. If there be still improprieties which this rule would not restrain, its supplement must be sought in the censorship of public opinion.

Contemplating the union of sentiment now manifested so generally as auguring harmony and happiness to our future course, I offer to our country sincere congratulations. With those, too, not yet rallied to the same point the disposition to do so is gaining strength; facts are piercing through the veil drawn over them, and our doubting brethren will at length see that the mass of their fellow-citizens with whom they can not yet resolve to act as to principles and measures, think as they think and desire what they desire; that our wish as well as theirs is that the public efforts may be directed honestly to the public good, that peace be cultivated, civil and religious liberty unassailed, law and order preserved, equality of rights maintained, and that state of property, equal or unequal, which results to every man from his own industry or that of his father's. When satisfied of these views it is not in human nature that they should not approve and support them. In the meantime let us cherish them with patient affection, let us do them justice, and more than justice, in all competitions of interest; and we need not doubt that truth, reason, and their own interests will at length prevail, will gather them into the fold of their country, and will complete that entire union of opinion which gives to a nation the blessing of harmony and the benefit of all its strength.

I shall now enter on the duties to which my fellow-citizens have again called me, and shall proceed in the spirit of those principles which they have approved. I fear not that any motives of interest may lead me astray; I am sensible of no passion which could seduce me knowingly from the path of justice, but the weaknesses of human nature and the limits of my own understanding will produce errors of judgment sometimes injurious to your interests. I shall need, therefore, all the indulgence which I have heretofore experienced from my constituents; the want of it will certainly not lessen with increasing years. I shall need, too, the favor of that Being in whose hands we are, who led our fathers, as Israel of old, from their native land and planted them in a country flowing with all the necessaries and comforts of life; who has covered our infancy with His providence and our riper years with His wisdom and

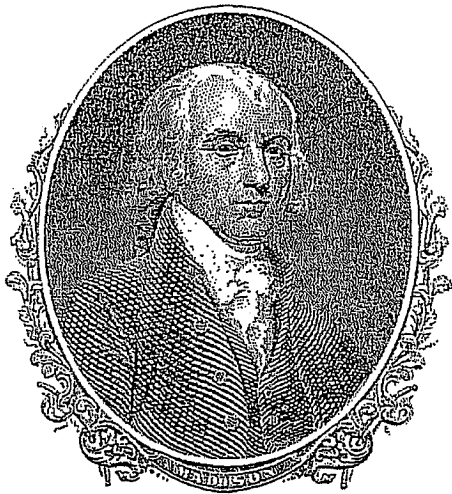
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power, and to whose goodness I ask you to join in supplications with me that He will so enlighten the minds of your servants, guide their councils, and prosper their measures that whatsoever they do shall result in your good, and shall secure to you the peace, friendship, and approbation of all nations.

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James Madison

FIRST INAUGURAL ADDRESS

SATURDAY, MARCH 4, 1809

Chief Justice John Marshall administered the oath of office in the Hall of the House of Representatives (now National Statuary Hall). Subsequently the oath by Presidents-elect, with few exceptions, was taken in the House Chamber or in a place of the Capitol associated with the Congress as a whole. The Vice Presidential oath of office for most administrations was taken in the Senate Chamber. President Jefferson watched the ceremony, but he joined the crowd of assembled visitors since he no longer was an office-holder. The mild March weather drew a crowd of about 10,000 persons.

Unwilling to depart from examples of the most revered authority, I avail myself of the occasion now presented to express the profound impression made on me by the call of my country to the station to the duties of which I am about to pledge myself by the most solemn of sanctions. So distinguished a mark of confidence, proceeding from the deliberate and tranquil suffrage of a free and virtuous nation, would under any circumstances have commanded my gratitude and devotion, as well as filled me with an awful sense of

the trust to be assumed. Under the various circumstances which give peculiar solemnity to the existing period, I feel that both the honor and the responsibility allotted to me are inexpressibly enhanced.

The present situation of the world is indeed without a parallel, and that of our own country full of difficulties. The pressure of these, too, is the more severely felt because they have fallen upon us at a moment when the national prosperity being at a height not before attained, the contrast resulting from the change has been rendered the more striking. Under the benign influence of our republican institutions, and the maintenance of peace with all nations whilst so many of them were engaged in bloody and wasteful wars, the fruits of a just policy were enjoyed in an unrivaled growth of our faculties and resources. Proofs of this were seen in the improvements of agriculture, in the successful enterprises of commerce, in the progress of manufacturers and useful arts, in the increase of the public revenue and the use made of it in reducing the public debt, and in the valuable works and establishments everywhere multiplying over the face of our land.

It is a precious reflection that the transition from this prosperous condition of our country to the scene which has for some time been distressing us is not chargeable on any unwarrantable views, nor, as I trust, on any involuntary errors in the public councils. Indulging no passions which trespass on the rights or the repose of other nations, it has been the true glory of the United States to cultivate peace by observing justice, and to entitle themselves to the respect of the nations at war by fulfilling their neutral obligations with the most scrupulous impartiality. If there be candor in the world, the truth of these assertions will not be questioned; posterity at least will do justice to them.

This unexceptionable course could not avail against the injustice and violence of the belligerent powers. In their rage against each other, or impelled by more direct motives, principles of retaliation have been introduced equally contrary to universal reason and acknowledged law. How long their arbitrary edicts will be continued in spite of the demonstrations that not even a pretext for them has been given by the United States, and of the fair and liberal attempt to induce a revocation of them, can not be anticipated. Assuring myself that under every vicissitude the determined spirit and united councils of the nation will be safeguards to its honor and its essential interests, I repair to the post assigned me with no other discouragement than what springs from my own inadequacy to its high duties. If I do not sink under the weight of this deep

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conviction it is because I find some support in a consciousness of the purposes and a confidence in the principles which I bring with me into this arduous service.

To cherish peace and friendly intercourse with all nations having correspondent dispositions; to maintain sincere neutrality toward belligerent nations; to prefer in all cases amicable discussion and reasonable accommodation of differences to a decision of them by an appeal to arms; to exclude foreign intrigues and foreign partialities, so degrading to all countries and so baneful to free ones; to foster a spirit of independence too just to invade the rights of others, too proud to surrender our own, too liberal to indulge unworthy prejudices ourselves and too elevated not to look down upon them in others; to hold the union of the States as the basis of their peace and happiness; to support the Constitution, which is the cement of the Union, as well in its limitations as in its authorities; to respect the rights and authorities reserved to the States and to the people as equally incorporated with and essential to the success of the general system; to avoid the slightest interference with the right of conscience or the functions of religion, so wisely exempted from civil jurisdiction; to preserve in their full energy the other salutary provisions in behalf of private and personal rights, and of the freedom of the press; to observe economy in public expenditures; to liberate the public resources by an honorable discharge of the public debts; to keep within the requisite limits a standing military force, always remembering that an armed and trained militia is the firmest bulwark of republics—that without standing armies their liberty can never be in danger, nor with large ones safe; to promote by authorized means improvements friendly to agriculture, to manufactures, and to external as well as internal commerce; to favor in like manner the advancement of science and the diffusion of information as the best aliment to true liberty; to carry on the benevolent plans which have been so meritoriously applied to the conversion of our aboriginal neighbors from the degradation and wretchedness of savage life to a participation of the improvements of which the human mind and manners are susceptible in a civilized state—as far as sentiments and intentions such as these can aid the fulfillment of my duty, they will be a resource which can not fail me.

It is my good fortune, moreover, to have the path in which I am to tread lighted by examples of illustrious services successfully rendered in the most trying difficulties by those who have marched before me. Of those of my immediate predecessor it might least become me here to speak. I may, however, be pardoned for not sup-

pressing the sympathy with which my heart is full in the rich reward he enjoys in the benedictions of a beloved country, gratefully bestowed or exalted talents zealously devoted through a long career to the advancement of its highest interest and happiness.

But the source to which I look or the aids which alone can supply my deficiencies is in the well-tried intelligence and virtue of my fellow-citizens, and in the counsels of those representing them in the other departments associated in the care of the national interests. In these my confidence will under every difficulty be best placed, next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising Republic, and to whom we are bound to address our devout gratitude for the past, as well as our fervent supplications and best hopes for the future.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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MICHAEL NEWDOW, ET AL Docket No. 08-2248
Plaintiffs,

v. Washington, D.C.
January 15, 2009
2:00 p.m.

JOHN ROBERTS, JR., ET AL
Defendants.

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PRELIMINARY INJUNCTION HEARING
BEFORE THE HONORABLE REGGIE B. WALTON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 MR. NEWDOW: I agree, and I apologize for not
2 getting it earlier, but you know, I was actually quite hopeful
3 that Barack Obama would be somebody who wouldn't be doing what
4 he's doing, and it takes a ton of time to create these
5 filings. It took a lot of work.

6 THE COURT: I know. I mean, this filing seems to be
7 almost identical to the filing that was made back in 2004,
8 except for the issue related to the oath.

9 MR. NEWDOW: That issue was large, and you still
10 have to go over it, you have to make sure you get all the
11 Plaintiffs together. If it conceivably could have been done
12 earlier, I certainly would have tried. I also, for whatever
13 it's worth, I'm an emergency physician. That's how I make a
14 living, and I worked like crazy last month, so to do all this
15 simultaneously is rather difficult.

16 THE COURT: So, I guess my first question is in
17 reference to the challenge to the invocation and the
18 benediction, why aren't you precluded, under issue preclusion,
19 from pursuing your claims in reference to those two events in
20 light of the ruling that was made out of the Ninth Circuit
21 back in 2001 and in light of Judge Bates' ruling?

22 MR. NEWDOW: I think I probably would be as an
23 individual Plaintiff, but I don't think that applies to the
24 other Plaintiffs.

25 THE COURT: The others stand in the same footing as

1 you do, don't they?

2 MR. NEWDOW: Well, no, because especially since I
3 now brought in a minor child who's going to be at the
4 inauguration, you know, as a consequence.

5 THE COURT: How is her status any different?

6 MR. NEWDOW: Well, if you look in *Lee versus*
7 *Weisman*, then the whole issue that the Court distinguished
8 from *Marsh v. Chambers* is the fact that it was a child who was
9 in this constrained setting in a formal atmosphere.

10 THE COURT: This isn't a constrained setting.
11 That's a schoolhouse.

12 MR. NEWDOW: I think it is. Actually, I think it's
13 far more constrained. There's guards all over the place.
14 Inside she has to wait two hours to get into the setting to
15 begin with. She's not going to be able to move. She's going
16 to be with many adults. She'll be much less uncomfortable
17 than she would be with her fellow students.

18 I think this is far more constrained, and it's the
19 inauguration of the President of the United States. It's not
20 a high school graduation. I think that's a far more formal
21 and imposing atmosphere.

22 THE COURT: When -- because as I understand the
23 suggestion that was made in the affidavit is that she was
24 going to be by herself.

25 MR. NEWDOW: Probably will be by herself, yes.

1 Inaugural Committee that they -- I know that I can't get on
2 that dais.

3 THE COURT: As I understand, you appreciate that
4 President-Elect Obama has a First Amendment right himself to
5 say "so help me God" at the end of the oath if he so chooses.

6 MR. NEWDOW: And that's -- we have that in our
7 complaint. He absolutely has that right.

8 THE COURT: If that's true, then doesn't that
9 undermine the suggestion that there is an injury, because if
10 you and the other Plaintiffs are prepared to be present and
11 hear him say that, how are you injured to a greater extent
12 just because the Chief Justice says it?

13 MR. NEWDOW: Because in one sense we have somebody
14 exercising his free exercise rights. The only reason Barack
15 Obama has the right to do that is because he's doing it under
16 his individual free exercise rights.

17 I think he doesn't have the right to do that as the
18 Chief Executive, but you have conflicting rights and we're
19 willing to waive that. But the Chief Justice has no free
20 exercise right. The Chief Justice is representing the highest
21 individual of law in our nation.

22 THE COURT: So is Mr. -- so is President-Elect
23 Obama.

24 MR. NEWDOW: He is, but he has free exercise rights.
25 He's taking the oath as he sees fit. The Chief Justice has --

110TH CONGRESS
2D SESSION

S. CON. RES. 67

CONCURRENT RESOLUTION

1 *Resolved by the Senate (the House of Representatives*
2 *concurring),*

3 SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

4 There is established a Joint Congressional Committee
5 on Inaugural Ceremonies (in this resolution referred to as
6 the "joint committee"), consisting of 3 Senators and 3
7 Members of the House of Representatives appointed by
8 the President of the Senate and the Speaker of the House
9 of Representatives, respectively. The joint committee is
10 authorized to make the necessary arrangements for the
11 inauguration of the President-elect and the Vice Presi-
12 dent-elect of the United States.

13 SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

14 The joint committee—

15 (1) is authorized to utilize appropriate equip-
16 ment and the services of appropriate personnel of
17 departments and agencies of the Federal Govern-
18 ment, under arrangements between the joint com-
19 mittee and the heads of the departments and agen-

2

1 cies, in connection with the inaugural proceedings
2 and ceremonies; and

3 (2) may accept gifts and donations of goods
4 and services to carry out its responsibilities.

 Passed the Senate February 8 (legislative day, February 6), 2008.

Attest:

Secretary.



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, TUESDAY, JANUARY 20, 2009

No. 11

Senate

The Senate met at 3 p.m. and was called to order by the Honorable BERNARD SANDERS, a Senator from the State of Vermont.

PRAYER

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

Let us pray.

Lord, You have been our dwelling place in all generations. Before the mountains were brought forth, or even before the Earth was framed, even from everlasting to everlasting, You are God.

On this historic day we ask Your richest blessings upon President Barack Obama, Vice President JOSEPH BIDEN, and the members of the Cabinet. O God, in these challenging times, help them to trust You with all their hearts and to depend upon Your providence to lead and guide them to Your desired destination.

In a special way today, we ask for Your healing hands to be placed upon Senator TEDDY KENNEDY. O, God, You are a healer and we claim Your promise that, if we will ask in faith, You will respond.

We thank You for what our eyes have seen and what our ears have heard on this great day.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BERNARD SANDERS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a letter to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 20, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BERNARD SANDERS, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANDERS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

INAUGURAL AND VILSACK NOMINATION

Mr. HARKIN. Mr. President, I take to the floor right now to talk about my good friend, the former Governor of Iowa and our soon to be Secretary of Agriculture, Tom Vilsack.

Before I do, I would be remiss if I did not at this time talk about what it was like to be at the inauguration of the 44th President of the United States. This is my ninth inauguration. My first was Jimmy Carter when I was a freshman Congressman in 1977 and then two Reagans, Bush, two Clintons, two more Bushes. And so this is my ninth.

I can tell you, I have never seen anything such as this. To be out there today, I mean this is once in history that something such as this happens. I was watching a television program yesterday, a news program, and JIM CLYBURN, our colleague on the House side, was talking about the importance of today and what it meant to him.

He went on to talk about not only himself but so many people from where he is from in South Carolina and other places, elsewhere. He said, I remember my grandparents telling me about their parents being slaves and how close the connection was. And to think that today America saw inaugurated as our 44th President an African-American.

Not only does this say a great deal about Barack Obama, but it says a great deal about America and how far we have come. Someone asked me what I thought earlier about his speech. I thought three things: uplifting, sobering, and challenging. I think that is what we want from a President. We want a President who will lift us up, a President who will be honest and square with us but a President who also challenges us.

That is what I thought President Obama did in his speech today. So it was a great day, not only for President Obama and Michelle and their family, for our great friend, JOE BIDEN, now our Vice President, and Jill and his family, a great day for America, a real turning point, I think, in our history.

So we look forward with confidence and with optimism to the future. I wished to take the floor today to say a few words about my friend, Tom

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Mr. REED. Mr. President, with respect to the nominations confirmed today, I ask unanimous consent that the President be immediately notified of the Senate's action and that the Senate return to legislative session.

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

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now return to legislative session.

INAUGURAL CEREMONY

Mr. REID. Mr. President, I ask unanimous consent that the Inaugural Ceremony proceedings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INAUGURAL CEREMONY

Inauguration of Barack Hussein Obama, January 20, 2009, 11:30 a.m.

The Joint Chiefs of Staff assembled on the President's platform.

The Diplomatic Corps assembled on the President's platform.

The Governors of the United States and its territories and the Mayor of the District of Columbia assembled on the President's platform.

Members of the 111th House of Representatives of the United States, led by majority whip James E. Clyburn and Republican whip Eric Cantor, assembled on the President's platform.

Members of the Senate of the United States assembled on the President's platform.

Former Speakers of the House of Representatives, Thomas Foley and Newt Gingrich, accompanied by Mrs. Foley and Mrs. Gingrich, assembled on the President's platform.

Former Vice Presidents Walter Mondale, Dan Quayle, and Al Gore, accompanied by Mrs. Mondale, Mrs. Quayle, and Mrs. Gore, assembled on the President's platform.

Mr. William M. Daley, Ms. Penny Pritzker, Mr. John W. Rogers, Jr., Mr. Patrick G. Ryan, and Ms. Julianna Smoot, cochairs of the 56th Presidential Inaugural Committee; and Mr. Emmett S. Beliveau, executive director of the 56th Presidential Inaugural Committee, assembled on the President's platform.

The President-elect's Cabinet and agency designees assembled on the President's platform.

The Chief Justice of the United States, the Honorable John G. Roberts, Jr., and the Associate Justices of the Supreme Court of the United States assembled on the President's platform.

The 39th President of the United States, Jimmy Carter, and Mrs. Rosalynn Carter assembled on the President's platform.

The 41st President of the United States, George H.W. Bush, and Mrs. Barbara Bush assembled on the President's platform.

The 42nd President of the United States, William Jefferson Clinton, and Senator Hillary Rodham Clinton assembled on the President's platform.

The children of the Vice President-elect, CPT Beau Biden, Hunter Biden, and Ashley Biden, accompanied by House Chief Administrative Officer Dan Beard, assembled on the President's platform.

Mrs. Marian Robinson and the daughters of the President-elect, Malia and Sasha Obama, accompanied by Assistant Secretary of the Senate Sheila Dwyer, assembled on the President's platform.

The First Lady, Mrs. Laura Bush, and the wife of the Vice President, Mrs. Lynne Cheney, accompanied by Secretary Chao, Mrs. Bennett, Mrs. Boehner, and Republican staff director of the U.S. Senate Committee on Rules and Administration, Mary Suit Jones, assembled on the President's platform.

Mrs. Michelle Obama and Dr. Jill Biden, accompanied by the Secretary of the Senate, Nancy Erickson; the Clerk of the House of Representatives, Lorraine Miller; Mr. Blum, Mr. Pelosi, and Mrs. Reid, assembled on the President's platform.

The President of the United States, the Honorable George Walker Bush, and the Vice President of the United States, Dick Cheney, accompanied by Senate Republican leader Mitch McConnell, Senator Robert Bennett, House Republican leader, Representative John Boehner, and Secretary for the minority David Schiappa, assembled on the President's platform.

The Vice President-elect of the United States, Joseph R. Biden, Jr., accompanied by the inaugural coordinator for the Joint Congressional Committee on Inaugural Ceremonies, Jennifer Griffith; Senate Deputy Sergeant at Arms Drew Wilson; House Deputy Sergeant at Arms Kerri Hanley; Senate majority leader, Senator Harry Reid; House majority leader, Representative Steny Hoyer, assembled on the President's platform.

The President-elect of the United States, Barack H. Obama, accompanied by the staff director for the Joint Congressional Committee on Inaugural Ceremonies, Howard Gantman; the Senate Sergeant at Arms, Terrence W. Gainer; the House Sergeant at Arms, Wilson Livingood; chairman of the Joint Congressional Committee on Inaugural Ceremonies, Senator Dianne Feinstein; Senator Robert Bennett; the Speaker of the House of Representatives, Nancy Pelosi; the Senate majority leader, Harry Reid; House majority leader, Representative Steny Hoyer; House Republican leader, Representative John Boehner, assembled on the President's platform.

Mrs. FEINSTEIN. Mr. President and Vice President, Mr. President-elect and Vice President-elect, ladies and gentlemen, welcome to the inauguration of the 44th President of the United States of America.

(Applause.)

Mrs. FEINSTEIN. The world is watching today as our great democracy engages in this peaceful transition of power. Here on the National Mall, where we remember the founders of our Nation and those who fought to make it free, we gather to etch another line in the solid stone of history. The freedom of a people to choose its leaders is the root of liberty. In a world where political strife is too often settled with violence, we come here every 4 years to bestow the power of the Presidency upon our democratically elected leader.

Those who doubt the supremacy of the ballot over the bullet can never diminish the power engendered by nonviolent struggles for justice and equality like the one that made this day possible. No triumph tainted by brutality could ever match the sweet victory of this hour and of what it means to those who marched and died to make it a reality. Our work is not yet finished, but future generations will mark this morning as the turning point for real and necessary change in our Nation. They will look back and remember that this was the moment when the dream that once echoed across history from the steps of the Lincoln Memorial finally reached the walls of the White House.

(Applause.)

Mrs. FEINSTEIN. In that spirit, we today not only inaugurate a new administration, we pledge ourselves to the hope, the vision, the unity, and the renewed call to greatness inspired by the 44th President of the United States, Barack Obama.

(Applause.)

Mrs. FEINSTEIN. Thank you, and God bless America.

(Applause.)

Mrs. FEINSTEIN. At this time I call upon Dr. Rick Warren, pastor of the Saddleback Church in Lake Forest, CA, to provide the invocation.

Pastor WARREN. Let us pray.

Almighty God, our Father, everything we see and everything we can't see exists because of You alone. It all comes from You. It all belongs to You. It all exists for Your glory. History is Your story. The scripture tells us: Hear, O Israel, the Lord is our God, the Lord is one. And You are the compassionate and merciful one, and You are loving to every one You have made. Now, today, we rejoice, not only in America's peaceful transfer of power for the 44th time, we celebrate a hinge point of history, with the inauguration of our first African-American President of the United States. We are so grateful to live in this land, a land of unequalled possibility, where the son of an African American can rise to the highest level of our leadership. And we know today that Dr. King and a great cloud of witnesses are shouting in heaven.

Give to our new President Barack Obama the wisdom to lead us with humility, the courage to lead us with integrity, the compassion to lead us with generosity. Bless and protect him, his family, Vice President Biden, the Cabinet, and every one of our freely elected leaders. Help us, O God, to remember that we are Americans, united not by race or religion or blood but to our commitment to freedom and justice for all.

When we focus on ourselves, when we fight each other, when we forget You, forgive us. When we presume that our greatness and our prosperity is ours alone, forgive us. When we fail to treat our fellow human beings and all the Earth with the respect that they deserve, forgive us.

As we face these difficult days ahead, may we have a new birth of clarity in aims, responsibility in our actions, humility in our approaches, and civility in our attitudes, even when we differ. Help us to share, to serve, and to seek the common good of all. May all people of goodwill today join together to work for a more just, a more healthy, and a more prosperous nation and a peaceful planet. And may we never forget that one day all nations and all people will stand accountable before You.

We now commit our new President and his wife Michelle and his daughters, Malia and Sasha, into Your loving care. I humbly ask this in the name of the one who changed my life, Yeshua, Esau, Jesus, Jesus, who taught us to pray: Our Father, who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done, on Earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation but deliver us from evil. For thine is the kingdom and the power and the glory forever. Amen.

(Applause.)

Mrs. FEINSTEIN. I am so pleased to introduce world renowned musical artist Aretha Franklin to sing "My Country 'Tis of Thee." (Performance by Ms. Aretha Franklin.)

Mrs. FEINSTEIN. Please join me in welcoming my colleague from Utah, the Honorable Robert Bennett.

Mr. BENNETT. It is my great honor to introduce Associate Justice of the Supreme

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Court of the United States John Paul Stevens, who will administer the oath of office to the Vice President-elect. Will you all please stand.

Associate Justice JOHN PAUL STEVENS administered to the Vice President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

"I, JOSEPH ROBINETTE BIDEN, JR. do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of my office on which I am about to enter. So help me God."

(Applause.)

Mrs. FEINSTEIN. It is my pleasure to introduce a unique musical performance: Mr. Itzhak Perlman, violinist; Anthony McGill, clarinet; Yo-Yo Ma, cellist; and Gabriela Montero, pianist, performing "Air and Simple Gifts," a composition arranged for this occasion by John Williams.

(Performance by Mr. Yo-Yo Ma, Mr. Anthony McGill, Ms. Gabriela Montero, and Mr. Itzhak Perlman.)

Mrs. FEINSTEIN. It is my distinct honor to present the Chief Justice of the United States, the Honorable John G. Roberts, Jr., who will administer the Presidential oath of office. Everyone, please stand.

The Chief Justice of the Supreme Court, JOHN G. ROBERTS, JR., administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

"I, BARACK HUSSEIN OBAMA, do solemnly swear that I will faithfully execute the office of President of the United States and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. So Help me God."

THE CHIEF JUSTICE. Congratulations, Mr. President.

(Applause.)

Mrs. FEINSTEIN. Ladies and gentlemen, it is my great personal honor to present the 44th President of these United States, Barack Obama.

(Applause.)

The PRESIDENT. Thank you. Thank you.

My fellow citizens, I stand here today humbled by the task before us, grateful for the trust you bestowed, mindful of the sacrifices borne by our ancestors. I thank President Bush for his service to our Nation, as well as the generosity and cooperation he has shown throughout this transition.

Forty-four Americans have now taken the Presidential oath. The words have been spoken during rising tides of prosperity and the still waters of peace. Yet, every so often, the oath is taken amidst gathering clouds and raging storms. At these moments, America has carried on not simply because of the skill or vision of those in high office but because we, the people, have remained faithful to the ideals of our forebears and true to our founding documents. So it has been. So it must be with this generation of Americans.

That we are in the midst of crisis is now well understood. Our Nation is at war against a far-reaching network of violence and hatred. Our economy is badly weakened, a consequence of greed and irresponsibility on the part of some but also our collective failure to make hard choices and prepare the Nation for a new age. Homes have been lost; jobs shed; businesses shuttered. Our health care is too costly; our schools fail too many; and each day brings further evidence that the ways we use energy strengthen our adversaries and threaten our planet. These are the indicators of crisis, subject to data and statistics. Less measurable but no less pro-

found is a sapping of confidence across our land, a nagging fear that America's decline is inevitable, that the next generation must lower its sights.

Today I say to you that the challenges we face are real. They are serious, and they are many. They will not be met easily or in a short span of time. But know this, America—they will be met.

(Applause.)

On this day, we gather because we have chosen hope over fear, unity of purpose over conflict and discord. On this day, we come to proclaim an end to the petty grievances and false promises, the recriminations and worn-out dogmas that for far too long have strained our politics. We remain a young Nation, but in the words of scripture: The time has come to set aside childish things. The time has come to reaffirm our enduring spirit, to choose our better history, to carry forward that precious gift, that noble idea passed on from generation to generation, the God-given promise that all are equal, all are free, and all deserve a chance to pursue their full measure of happiness.

(Applause.)

In reaffirming the greatness of our Nation, we understand that greatness is never a given. It must be earned. Our journey has never been one of shortcuts or settling for less. It has not been the path for the faint-hearted, for those who prefer leisure over work or seek only the pleasures of riches and fame. Rather, it has been the risk takers, the doers, the makers of things, some celebrated but more often men and women obscure in their labor who have carried us up the long rugged path towards prosperity and freedom. For us, they packed up their few worldly possessions and traveled across oceans in search of a new life. For us, they toiled in sweatshops and settled the West, endured the lash of the whip, and plowed the hard earth. For us, they fought and died in places like Concord and Gettysburg, Normandy and Khe Sahn.

Time and again, these men and women struggled and sacrificed and worked until their hands were raw so that we might live a better life. They saw America as bigger than the sum of our individual ambitions, greater than all the differences of birth or wealth or faction.

This is the journey we continue today. We remain the most prosperous, powerful Nation on Earth. Our workers are no less productive than when this crisis began. Our minds are no less inventive, our goods and services no less needed than they were last week or last month or last year. Our capacity remains undiminished, and our time of standing pat and protecting narrow interests and putting off unpleasant decisions—that time has surely passed. Starting today, we must pick ourselves up, dust ourselves off, and begin again the work of remaking America.

(Applause.)

For everywhere we look, there is work to be done. The state of our economy calls for action, bold and swift. And we will act, not only to create new jobs but to lay a new foundation for growth. We will build the roads and bridges, the electric grids and digital lines that feed our commerce and bind us together. We will restore science to its rightful place and wield technology's wonders to raise health care's quality and lower its cost. We will harness the Sun and the winds and the soil to fuel our cars and run our factories. And we will transform our schools and colleges and universities to meet the demands of a new age. All this we can do. All this we will do.

Now, there are some who question the scale of our ambitions, who suggest that our system cannot tolerate too many big plans. Their memories are short. For they have for-

gotten what this country has already done, what free men and women can achieve when imagination is joined to common purpose and necessity to courage. What the cynics fail to understand is that the ground has shifted beneath them, that the stale political arguments that have consumed us for so long no longer apply.

The question we ask today is not whether our Government is too big or too small but whether it works—whether it helps families find jobs at a decent wage, care they can afford, a retirement that is dignified. Where the answer is, yes, we intend to move forward. Where the answer is no, programs will end. Those of us who manage the public's dollars will be held to account—to spend wisely, reform bad habits, and do our business in the light of day—because only then can we restore the vital trust between a people and their Government.

Nor is the question before us whether the market is a force for good or ill. Its power to generate wealth and expand freedom is unmatched. But this crisis has reminded us that without a watchful eye, the market can spin out of control and that a nation cannot prosper long when it favors only the prosperous. The success of our economy has always depended not just on the size of our gross domestic product but on the reach of our prosperity, on the ability to extend opportunity to every willing heart—not out of charity but because it is the surest route to our common good.

(Applause.)

As for our common defense, we reject as false the choice between our safety and our ideals. Our Founding Fathers, faced with perils that we can scarcely imagine, drafted a charter to assure the rule of law and the rights of man, a charter expanded by the blood of generations. Those ideals still light the world, and we will not give them up for expedience sake. And so to all the other peoples and governments who are watching today, from the grandest capitals to the small village where my father was born, know that America is a friend of each nation and every man, woman, and child who seeks a future of peace and dignity and that we are ready to lead once more.

(Applause.)

Recall that earlier generations faced down fascism and communism not just with missiles and tanks but with sturdy alliances and enduring convictions. They understood that our power alone cannot protect us, nor does it entitle us to do as we please. Instead, they knew that our power grows through its prudent use. Our security emanates from the justness of our cause, the force of our example, the tempering qualities of humility and restraint. We are the keepers of this legacy. Guided by these principles once more, we can meet those new threats that demand even greater effort, even greater cooperation and understanding between nations.

We will begin to responsibly leave Iraq to its people and forge a hard-earned peace in Afghanistan. With old friends and former foes, we will work tirelessly to lessen the nuclear threat and roll back the specter of a warming planet. We will not apologize for our way of life, nor will we waiver in its defense. And for those who seek to advance their aims by inducing terror and slaughtering innocents, we say to you now that our spirit is stronger and cannot be broken. You cannot outlast us, and we will defeat you.

(Applause.)

For we know that our patchwork heritage is a strength, not a weakness. We are a nation of Christians and Muslims, Jews and Hindus, and nonbelievers. We are shaped by every language and culture, drawn from every end of this Earth. And because we have tasted the bitter swill of civil war and segregation and emerged from that dark chapter stronger and more united, we cannot help

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but believe that the old hatreds shall someday pass; that the lines of tribe shall soon dissolve; that as the world grows smaller, our common humanity shall reveal itself; and that American must play its role in ushering in a new era of peace.

To the Muslim world, we seek a new way forward based on mutual interest and mutual respect. To those leaders around the globe who seek to sow conflict or blame their society's ills on the West, know that your people will judge you on what you can build, not what you destroy.

(Applause.)

To those who claim power through corruption and deceit and the silencing of dissent, know that you are on the wrong side of history but that we will extend a hand if you are willing to unclench your fist.

(Applause.)

To the people of poor nations, we pledge to work alongside you to make your farms flourish and let clean waters flow; to nourish starved bodies and feed hungry minds. And to those nations like ours that enjoy relative plenty, we say we can no longer afford indifference to the suffering outside our borders, nor can we consume the world's resources without regard to effect. For the world has changed, and we must change with it.

As we consider the role that unfolds before us, we will remember with humble gratitude those brave Americans who at this very hour patrol far off deserts and distant mountains. They have something to tell us, just as the fallen heroes who lie in Arlington whisper through the ages. We honor them not only because they are the guardians of our liberty but because they embody the spirit of service, a willingness to find meaning in something greater than themselves. And yet at this moment—a moment that will define a generation—it is precisely this spirit that must inhabit us all. For as much as Government can do and must do, it is ultimately the faith and determination of the American people upon which this Nation relies. It is the kindness to take in a stranger when the levees break, the selflessness of workers who would rather cut their hours than see a friend lose their job which sees us through our darkest hours. It is the firefighter's courage to storm a stairway filled with smoke but also a parent's willingness to nurture a child that finally decides our fate.

Our challenges may be new. The instruments with which we meet them may be new. But those values upon which our success depends—honesty and hard work, courage and fair play, tolerance and curiosities, loyalty and patriotism—these things are old. These things are true. They have been the quiet force of progress throughout our history. What is demanded, then, is a return to these truths; what is required of us now is a new era of responsibility—a recognition, on the part of every American, that we have duties to ourselves, our Nation, and the world, duties that we do not grudgingly accept but, rather, seize gladly, firm in the knowledge that there is nothing so satisfying to the spirit, so defining of our character, than giving our all to a difficult task.

This is the price and the promise of citizenship. This is the source of our confidences—the knowledge that God calls on us to shape an uncertain destiny.

This is the meaning of our liberty and our creed—why men and women and children of every race and every faith can join in celebration across this magnificent Mall, and why a man whose father, less than 60 years ago, might not have been served at a local restaurant can now stand before you to take a most sacred oath.

(Applause.)

So let us mark this day with remembrance of who we are and how far we have traveled.

In the year of America's birth, in the coldest of months, a small band of patriots huddled by dying camp fires on the shores of an icy river; the capital was abandoned, the enemy was advancing, the snow was stained with blood; at a moment when the outcome of our Revolution was most in doubt, the Father of our Nation ordered these words be read to the people:

Let it be told to the future world . . . that in the depth of winter, when nothing but hope and virtue could survive . . . that the city and the country, alarmed at one common danger, came forth to meet [it].

America, in the face of our common dangers, in this winter of our hardship, let us remember these timeless words. With hope and virtue, let us brave once more the icy currents and endure what storms may come. Let it be said by our children's children that when we were tested, we refused to let this journey end, that we did not turn back, nor did we falter; and with eyes fixed on the horizon and God's grace upon us, we carried forth that great gift of freedom and delivered it safely to future generations.

Thank you. God bless you. And God bless the United States of America.

(Applause.)

Mrs. FEINSTEIN. I have the distinct pleasure of introducing an American poet, Elizabeth Alexander.

Ms. ALEXANDER. "Praise Song for the Day."

Each day we go about our business, walking past each other, catching each other's eyes or not, about to speak or speaking.

All about us is noise. All about us is noise and bramble, thorn and din, each one of our ancestors on our tongues.

Someone is stitching up a hem, darning a hole in a uniform, patching a tire, repairing the things in need or repair.

Someone is trying to make music somewhere, with a pair of wooden spoons on an oil drum, with cello, boom box, harmonica, voice.

A woman and her son wait for the bus. A father considers the changing sky. A teacher says, "Take out your pencils. Begin."

We encounter each other in words, words spiny or smooth, whispered or declaimed, words to consider, reconsider.

We cross dirt roads and highways that mark the will of some one and then others, who said I need to see what's on the other side.

I know there's something better down the road. We need to find a place where we are safe. We walk into that which we cannot yet see.

Say it plain: that many have died for this day. Sing the names of the dead who brought us here, who laid the train tracks, raised the bridges, picked the cotton and the lettuce, built brick by brick the glittering edifices they would then keep clean and work inside of.

Praise song for struggle, praise song for the day. Praise song for every hand-lettered sign, the figuring-it-out at kitchen tables.

Some live by love thy neighbor as thy self, others by first do no harm or take no more than you need. What if the mightiest word is love?

Love beyond marital, filial, national, love that casts a widening pool of light, love with no need to pre-empt grievance.

In today's sharp sparkle, the winter air, any thing can be made, any sentence begun. On the brink, on the brim, on the cusp,

praise song for walking forward in that light.

Mrs. FEINSTEIN. And now it is my privilege to introduce the Reverend Dr. Joseph E. Lowery to deliver the benediction.

Reverend LOWERY. God of our weary years, God of our silent tears, Thou who hast brought us thus far along the way, Thou who has by the might, led us into the light, keep us forever in the path we pray. Lest our feet stray from the places, our God, where we met Thee; lest our hearts drunk with the wine of the world we forget Thee, shadowed beneath Thy hand, may we forever stand true to our God and true to our native land.

We truly give thanks for the glorious experience we have shared this day. We pray now, O Lord, for your blessing upon thy servant, Barack Obama, the 44th President of these United States, his family and his administration. He has come to this high office at a low moment in the national and, indeed, global fiscal climate. But because we know you have got the whole world in Your hands, we pray for not only our Nation but for the community of nations. Our faith does not shrink, though pressed by the flood of mortal ills, for we know that, Lord, You are able and You are willing to work through faithful leadership to restore stability, mend our brokenness, heal our wounds, and deliver us from the exploitation of the poor, the least of these, as well as favoritism toward the rich, the elite of these.

We thank You for the empowering of Thy servant, our 44th President, to inspire our Nation to believe that, yes, we can work together to achieve a more perfect Union. While we have sown the wind of greed and corruption and even as we reap the whirlwind of social and economic disruption, we seek forgiveness and we come in the spirit of unity and solidarity to commit our support to our President by willingness to make sacrifices necessary to respect Your creation, to turn to each other and not on each other.

And now Lord, in the complex arena of human relationships, help us to make choices on the side of love not hate, on the side of inclusion not exclusion, tolerance not intolerance. And as we leave this mountain-top, help us to hold on to the spirit of fellowship, of koinonia, and the oneness of our family. And take that spiritual power back to our homes, our workplaces, our churches, our temples, our mosques, wherever we seek Your will.

Bless President Barack, First Lady Michelle, look over our little "angelics," Sasha and Malia. We go now to walk together, children, pledging that we won't get weary in the difficult days ahead. We know You will not leave us alone with Your hands of power and Your heart of love. Help us, then, now Lord, to work for that day when nation shall not lift up sword against nation, when tanks will be beaten into tractors, when every man and every woman shall sit under his or her own vine and fig tree, and none shall be afraid; when justice will roll down like water and righteousness as a mighty stream.

Lord, in the memory of all the saints who from their labors rest, and in the joy of a new beginning, we ask You to help us work for that day when Black will not be asked to get back, when Brown can stick around, when Yellow will be mellow, when the Red man can get ahead man, and when White will embrace what is right. Let all those who do justice and love mercy say amen. Say amen. And amen. Amen.

(Applause.)

Mrs. FEINSTEIN. Ladies and gentlemen, please rise for the singing of our national anthem by the U.S. Navy Sea Chanters Chorus. Following the anthem, please remain in place while the presidential party exits the platform. Thank you very much.

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CONGRESSIONAL RECORD — SENATE

January 20, 2009

(Performance by the U.S. Navy Sea Chanters.)

(The Inaugural ceremony was concluded at 12:36 p.m.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ADDITIONAL COSPONSORS

S. 249

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 249, a bill to amend the Internal Revenue Code of 1986 to qualify formerly homeless youth who are students for purposes of low income tax credit.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE SESSION

Mr. REID. Mr. President, I also express my appreciation to my Republican colleagues for the unanimous-consent request I am going to offer at this time, which has been approved, as I understand it, by the Republican leader and the other Senators.

Mr. President, as in executive session, I ask unanimous consent that tomorrow, January 21, at the hour of 12 p.m., the Senate proceed to executive session to consider the nomination of HILLARY CLINTON to be Secretary of State; that there be 3 hours of debate, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nomination of Senator CLINTON; that upon confirmation, the motion to reconsider be laid upon the table; that no other motions be in order; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

ORDER FOR RECESS

Mr. President, I further ask unanimous consent that the Senate stand in recess for our usual party luncheons, and that the recess begin, if it is appropriate with the distinguished Republican leader, at 12:45 p.m., rather than at 12:30, so some debate can move forward.

Mr. McCONNELL. Mr. President, if the majority leader would yield for a question?

Mr. REID. Mr. President, I would be happy to.

Mr. McCONNELL. Is the Senator suggesting that the time on Senator CLINTON's nomination run through the luncheons?

Mr. REID. Well, what I would like to do: We would stop at a quarter to 1 and come back at 2:15 to complete that debate at that time.

Mr. McCONNELL. That is fine.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

THANKING SENATOR ALEXANDER

Mr. REID. Mr. President, I express my appreciation to the distinguished Senator from Tennessee for his usual courtesies. He had to wait for me to get here, and I appreciate his withholding until the Republican leader and I got here. The Senator from Tennessee is always a gentleman, and even though he and I do not agree once in a while on political issues, we always agree he is a gentleman.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the majority leader for his remarks. Unless the Republican leader has some remarks, I would like to say a couple things.

AMERICA: A REMARKABLE COUNTRY

Mr. ALEXANDER. Mr. President, in August 1963, I was a law student and a summer intern in the U.S. Department of Justice here in Washington. I was standing at the back of a huge crowd on a hot day when Dr. King spoke of his dream that one day his children would be judged not "by the color of their skin, but by the content of their character."

The inauguration of our former colleague, Barack Obama, the day after Dr. King's birthday, symbolizes both remarkable progress on America's most intractable problem—race—and a reaffirmation of our country's most unique characteristic—a fervent belief that anything is possible.

I thought about this in the same way 4 years ago at almost this time. I formed a speech in my head that I wanted to make, but I did not make it. Senators are rarely guilty of unexpressed thoughts. I have said many things I wish I had not said, but this is one time I wish I had said, 4 years ago, what I was thinking. So I wish to say it today, right after President Obama's inauguration. And I am especially delighted Senator MARTINEZ happens to be here too.

What I was thinking 4 years ago as the new Senators were sworn in was that here were three Members of the new class who had especially unique characteristics, and they had special people in the gallery that day.

I, with Senator CARPER and some others, had been asked by the leaders

to work on the orientation for the new Senators. So we had gotten to know the new Senators, including SALAZAR and Obama and MARTINEZ, during that period of time.

So here is what I was thinking that day—and let's take them one by one. Here was Senator SALAZAR from Colorado with a Spanish surname, but he will be quick to tell you that his family has been here for 14 generations and helped to found Santa Fe. He has had a distinguished career here now. On that day 4 years ago, his mother was in the gallery.

Senator MARTINEZ was sworn in 4 years ago as a new Member of the Senate, in this case from Florida. His story, which he has just published in a remarkably good book which I have given to many of my friends, is the story of a young boy growing up very happily in Cuba whose parents took him to the airport one day, after having bought him a new suit, when he was 14 years of age, and put him on an airplane to Miami, not knowing if they would ever see him again. He was in a foster home there, then moved to Orlando. The story is all in the book. He went to Florida State, met his wife Kitty, became the mayor of Orlando, then became a member of President Bush's Cabinet, then a Member of the U.S. Senate. A very remarkable story. His mother, who put him on the airplane in Cuba, was here that day.

These same 4 years ago when we swore in these new Members of the Senate, we also had the Senator from Illinois. We all now know his story very well: a father from Kenya, a mother from Kansas. I don't need to repeat that extraordinary story, about which he has written so well in his autobiography. But what struck me was that his grandmother was in the gallery that day. It was either his grandmother or his grandfather, but I believe it was his grandmother. His father's parent was in the gallery that day on the first trip, I believe, from Africa to this country to see the son of an immigrant sworn into the U.S. Senate.

So I thought 4 years ago, and I think again today on this day on which we swear in Barack Obama as President, what a remarkable country this is. Here in this Senate 4 years ago, the 14th-generation American KEN SALAZAR is now going into President Obama's Cabinet as Secretary of the Interior. MEL MARTINEZ, having had a long career in public life as mayor in Orlando, as Secretary of Housing and Urban Development, as U.S. Senator, is going on to other things in his life. Former Senator Obama, of course, is now the President of the United States. But what was remarkable to me was 4 years ago they came to this Senate, and in that gallery were their parents—and in one case a grandparent—reaffirming what I think Barack Obama's inauguration represents for us today. It was historic in the sense that it helped us symbolize the overcoming of one of our most intractable problems, the problem of race. But just as

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Chronology

Inauguration Date	President	Location
April 30, 1789	<u>George Washington</u>	Balcony of Federal Hall, New York City
March 4, 1793	<u>George Washington</u>	Senate Chamber, Congress Hall, Philadelphia
March 4, 1797	<u>John Adams</u>	House of Representatives Chamber, Congress Hall, Philadelphia
March 4, 1801	<u>Thomas Jefferson</u>	Senate Chamber, U.S. Capitol
March 4, 1805	<u>Thomas Jefferson</u>	Senate Chamber, U.S. Capitol
March 4, 1809	<u>James Madison</u>	House Chamber, U.S. Capitol
March 4, 1813	<u>James Madison</u>	House Chamber, U.S. Capitol
March 4, 1817	<u>James Monroe</u>	In front of the Old Brick Capitol (current site of the Supreme Court)
March 5, 1821	<u>James Monroe</u>	House Chamber, U.S. Capitol
March 4, 1825	<u>John Quincy Adams</u>	House Chamber, U.S. Capitol
March 4, 1829	<u>Andrew Jackson</u>	East Portico, U.S. Capitol
March 4, 1833	<u>Andrew Jackson</u>	House Chamber, U.S. Capitol
March 4, 1837	<u>Martin Van Buren</u>	East Portico, U.S. Capitol
March 4, 1841	<u>William H. Harrison</u>	East Portico, U.S. Capitol
April 6, 1841	<u>John Tyler</u>	Brown's Hotel, 6th St. & Pennsylvania Ave., NW, Washington, D.C.
March 4, 1845	<u>James K. Polk</u>	East Portico, U.S. Capitol
March 5, 1849	<u>Zachary Taylor</u>	East Portico, U.S. Capitol
July 10, 1850	<u>Millard Fillmore</u>	House Chamber, U.S. Capitol
March 4, 1853	<u>Franklin Pierce</u>	East Portico, U.S. Capitol
March 4, 1857	<u>James Buchanan</u>	East Portico, U.S. Capitol
March 4, 1861	<u>Abraham Lincoln</u>	East Portico, U.S. Capitol

March 4, 1865	<u>Abraham Lincoln</u>	East Portico, U.S. Capitol
April 15, 1865	<u>Andrew Johnson</u>	Kirkwood Hotel, 12th St. & Pennsylvania Ave., NW, Washington, D.C.
March 4, 1869	<u>Ulysses S. Grant</u>	East Portico, U.S. Capitol
March 4, 1873	<u>Ulysses S. Grant</u>	East Portico, U.S. Capitol
March 5, 1877	<u>Rutherford B. Hayes</u>	East Portico, U.S. Capitol
March 4, 1881	<u>James A. Garfield</u>	East Portico, U.S. Capitol
September 20, 1881	<u>Chester A. Arthur</u>	Privately at his residence, 123 Lexington Ave., New York City
March 4, 1885	<u>Grover Cleveland</u>	East Portico, U.S. Capitol
March 4, 1889	<u>Benjamin Harrison</u>	East Portico, U.S. Capitol
March 4, 1893	<u>Grover Cleveland</u>	East Portico, U.S. Capitol
March 4, 1897	<u>William McKinley</u>	In front of the original Senate Wing, U.S. Capitol
March 4, 1901	<u>William McKinley</u>	East Portico, U.S. Capitol
September 14, 1901	<u>Theodore Roosevelt</u>	Ansley Wilcox residence, Buffalo, New York
March 4, 1905	<u>Theodore Roosevelt</u>	East Portico, U.S. Capitol
March 4, 1909	<u>William H. Taft</u>	Senate Chamber, U.S. Capitol
March 4, 1913	<u>Woodrow Wilson</u>	East Portico, U.S. Capitol
March 5, 1917	<u>Woodrow Wilson</u>	East Portico, U.S. Capitol
March 4, 1921	<u>Warren G. Harding</u>	East Portico, U.S. Capitol
August 3, 1923	<u>Calvin Coolidge</u>	His father's residence in Plymouth, Vermont
March 4, 1925	<u>Calvin Coolidge</u>	East Portico, U.S. Capitol
March 4, 1929	<u>Herbert C. Hoover</u>	East Portico, U.S. Capitol
March 4, 1933	<u>Franklin D. Roosevelt</u>	East Portico, U.S. Capitol
January 20, 1937	<u>Franklin D. Roosevelt</u>	East Portico, U.S. Capitol
January 20, 1941	<u>Franklin D. Roosevelt</u>	East Portico, U.S. Capitol
January 20, 1945	<u>Franklin D. Roosevelt</u>	South Portico, White House
April 12, 1945	<u>Harry S Truman</u>	Cabinet Room, White House
January 20, 1949	<u>Harry S Truman</u>	East Portico, U.S. Capitol
January 20, 1953	<u>Dwight D. Eisenhower</u>	East Portico, U.S. Capitol

January 20, 1957	<u>Dwight D. Eisenhower</u>	East Portico, U.S. Capitol
January 20, 1961	<u>John F. Kennedy</u>	East Portico, U.S. Capitol
November 22, 1963	<u>Lyndon Baines Johnson</u>	Conference room aboard Air Force One at Love Field, Dallas, Texas
January 20, 1965	<u>Lyndon Baines Johnson</u>	East Portico, U.S. Capitol
January 20, 1969	<u>Richard M. Nixon</u>	East Portico, U.S. Capitol
January 20, 1973	<u>Richard M. Nixon</u>	East Portico, U.S. Capitol
August 9, 1974	<u>Gerald R. Ford</u>	East Room, White House
January 20, 1977	<u>James E. Carter</u>	East Portico, U.S. Capitol
January 20, 1981	<u>Ronald W. Reagan</u>	West Front, U.S. Capitol
January 21, 1985	<u>Ronald W. Reagan</u>	Rotunda, U.S. Capitol
January 20, 1989	<u>George H. W. Bush</u>	West Front, U.S. Capitol
January 20, 1993	<u>William J. Clinton</u>	West Front, U.S. Capitol
January 20, 1997	<u>William J. Clinton</u>	West Front, U.S. Capitol
January 20, 2001	<u>George W. Bush</u>	West Front, U.S. Capitol
January 20, 2005	<u>George W. Bush</u>	West Front, U.S. Capitol
January 20, 2009	<u>Barack H. Obama</u>	West Front, U.S. Capitol

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 2009, I served the foregoing Supplemental Appendix for the Federal for the Federal Defendants/Appellees on all parties who are registered with the Court's CM/ECF system by filing the document on that system, and on any other parties, if any, by delivering one copy of the Supplemental Appendix to Federal Express for next-day delivery.

s/Lowell V. Sturgill Jr.

Lowell V. Sturgill Jr.