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UNITED STATES DISTRICT COURT

DISTRICT OF NEBRASKA

INSTALLATION OF HONORABLE ALBERT G. SCHATZ

as

UNITED STATES DISTRICT JUDGE

for the

DISTRICT OF NEBRASKA

DATE:

May 25, 1973

TIME:

2:00 o'clock p.m.

PLACE:

United States District
Court Room
Omaha, Nebraska

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THE UNITED STATES MARSHAL: Hear Ye!
Hear Ye! Hear Ye! This ceremonial sitting of the
Federal Judges of the United States District Court for the
District of Nebraska will now be in session.

God Save the United States and its Courts.

CHIEF JUDGE URBOM: It is fitting to take note that
the opening of the court could not be done today by our
United States Marshal because of his wounding. We are
sorry that that is true.

We are gathered for the purpose of
administering the oath of office to one who has been
appointed by the President of the United States to fill the
vacancy left by the death of the late and honored Judge Dier.
It is the information of the Court that the President of the
United States has nominated Albert G. Schatz to be United
States District Judge. The Senate of the United States has
confirmed that nomination and the appointment has now
been made.

The commission which has already gone to Mr.
Schatz and will be retained by him temporarily is in the
hands of the Clerk of the Court, and I will ask the Clerk
now to read that commission.

MR. RICHARD PECK: If it please the Court:

1 RICHARD NIXON

2 President of the United States of America.

3 To all who shall see these Presents, Greetings:

4 KNOW YE: That reposing special trust and

5 confidence in the Wisdom, Uprightness, and

6 Learning of ALBERT G. SCHATZ of Nebraska,

7 I have nominated, and, by and with the advice

8 and consent of the Senate, do appoint him United

9 States District Judge of the District of

10 Nebraska, and do authorize and empower him

11 to execute and fulfil the duties of that Office

12 according to the Constitution and the laws of the

13 said United States, and to Have and to Hold the

14 said Office, with all the powers, privileges and

15 emoluments to the same of right appertaining,

16 and unto Him, the said Albert G. Schatz

17 during his good behavior.

18 IN TESTIMONY WHEREOF, I have caused these

19 letters to be made patent and the seal of the

20 Department of Justice to be hereunto affixed.

21 Done at the City of Washington this 11th day of

22 May, in the year of Our Lord One

23 Thousand Nine-Hundred and Seventy-Three, and

24 of the independence of the United States of

25 America, the 197th.

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(Signed) Richard Nixon.

(Countersigned) Richard D. Kleindienst,
Attorney General.

JUDGE URBOM: Thank you, Mr. Peck.

Mr. Schatz, are you now ready to receive
the oath of office?

MR. SCHATZ: Yes, Your Honor.

JUDGE URBOM: Ladies and gentlemen, will you
stand, please?

Raise your right hand, sir, and repeat after
me:

I, Albert G. Schatz, do solemnly swear that I
will administer justice without respect to persons
and do equal right to the poor and to the rich, and
that I will faithfully and impartially discharge and
perform all of the duties incumbent upon me as
United States District Judge, according to the best
of my abilities and understanding, agreeably to the
Constitution and laws of the United States; 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

1 of evasion; and that I will well and faithfully
2 discharge the duties of the office upon which I
3 am about to enter.

4 SO HELP ME GOD.

5
6 JUDGE URBOM: Judge Schatz, I now invite you to
7 take the robe of your office with the assistance of Mr.
8 Harry Welch, your former law partner, and your son,
9 Greg.

10 JUDGE SCHATZ: Thank you.

11 JUDGE URBOM: You may be seated.

12 Ladies and gentlemen, I apologize for not
13 having mentioned it earlier. Photographs are not
14 permitted during the ceremony. When the ceremony is
15 completed and the court is recessed, you then may take
16 photographs, and not until.

17 Judge Schatz, will you join us at the bench,
18 please.

19 Judge Schatz, I am particularly pleased to be
20 able to welcome you as a member of the federal judiciary
21 of Nebraska.

22 I want to read to you a poem. It says two
23 things to me, which I shall mention when I have completed
24 the poem, and I hope those two things may be meaningful
25 to you, as well.

1 Carl Sandburg wrote this:

2
3 "What is a judge? A judge is a seated torso and
4 head sworn before God never to sell
justice nor play favorites while he
umpires the disputes brought before him.

5 "What is a judge? The perfect judge is austere,
6 impersonal, impartial, marking the line of
right or wrong by a hairsbreadth.
7 Before him, bow humbly, bow low, be a pilgrim,
light a candle
8 For he is a rara avis, a rare bird, a white
blackbird, a snowwhite crow.

9 "What is a judge? One may be the owner of himself
10 coming to his decisions often in a blur of
hesitations knowing by what snarled courses
11 and ropes of reason justice operates, with
reservations, in twilight zones.

12 "What is a judge? Another owns no more than the
13 little finger of himself, others owning him,
others having placed him where he is,
14 others telling him what they want and getting
it, others referring to him as 'our judge'
15 as though he is measured and weighed
beforehand the same as a stockyards hog,
16 others holding him to decisions evasive
of right to wrong, others writing his
17 decisions for him, the atmosphere hushed
and guarded, the atmosphere having a fain
18 stockyards perfume.

19 "What is a Judge?

20 He is a man.

21 Yes, after all, and no matter what,
and beyond all procedures and investitures,
22 a judge is nothing more nor less than a man --
one man having his one-man path, his
one-man circle and orbit among other
men each of whom is one man.

23 Therefore should any judge open his mouth
24 and speak as though his words have an
added light and weight beyond the speech
25 of one man?"

1 I suggest that that says two things:

2 It says that a judgeship is measured by the
3 man. The dimensions of your judgeship, Judge Schatz,
4 will be your dimensions. I grant that a judgeship gives
5 more to a man and to his decisions than the man alone
6 gives, but what it gives principally is magnification.
7 What he does is felt more widely and deeply because he is
8 a judge, but no judgeship lifts the man materially. He is
9 no better and no wiser because of his wearing his robe.

10 Secondly, I think this poem suggests the
11 aloneness of the decisions you make. They will be your
12 decisions. And that at once is both frightening and
13 exhilarating.

14 I guess I might try to give you the assurance,
15 however, that however responsible you alone are for those
16 decisions you will make, you have available, at least, the
17 thoughts that other judges have had touching the subjects
18 that you must wrestle with in your judgeship. To that
19 extent, you are not alone.

20 More than that, I want to pledge to you the
21 full assistance of every United States District Judge in
22 Nebraska, and I think I fairly can pledge to you the
23 wholehearted support of every United States District Judge
24 in the United States of America for anything that you need.
25 It is that kind of group, Judge Schatz, where nothing is held

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back and all is presented to you if you will ask for that assistance.

I want to now call upon and recognize Judge Donald P. Lay of the Eighth Circuit Court of Appeals.

Judge Lay.

JUDGE LAY: May it please the Court, Judge Urbom, Ladies and Gentlemen:

I bring greetings of the Court of Appeals of the Eighth Circuit. I speak here today not only for myself, but for each member of the Circuit Court of Appeals.

Chief Judge Matthes of St. Louis has asked me to read excerpts from a letter that he has written to me dated May 22nd:

"Regretfully, I am not able to attend the induction ceremony for the Honorable Albert Schatz on May 25, 1973. I am desirous, however, of extending to Judge Schatz my warm and sincere congratulations upon his appointment as a judge of the United States District Court for the District of Nebraska. I am sure that Judge Schatz will add lustre to the District Court of Nebraska, which I regard as one of the strong district courts in our circuit.

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"Please convey best wishes to Judge Schatz,
his family and his many friends for a long
and rewarding tenure on the federal bench.

"Very sincerely yours, M. C. Matthes."

This is an exciting day. It is not only a
momentous occasion for Judge Schatz and his family, but
it is also a rewarding occasion for all of his friends who
share pride in his attainment. Equally significant, it is an
exciting event for all of the members of the federal
judiciary. Those of us who have worked and been
associated with Judge Schatz, both as a friend and as a
lawyer, share the knowledge that a truly great lawyer, a
learned craftsman of the law, ascends the bench.

I speak from the well of this Court, a position
with which Judge Schatz is so familiar, for it is here and from
here that the advocate toils. I know that it is undoubtedly
a sad and nostalgic experience for him to visualize that he
will never assume that important role again. Yet, in
balance, although it is vitally important that there be able
lawyers at the bar, it is more important that only the most
gifted, only the most skilled, be selected to serve in the
capacity of a federal district judge. In the judgment of
many, this has happened today. Not only does Judge Schatz
bring the empirical wisdom of twenty-five years service as

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a trial lawyer, but more critically, he brings those characteristics so necessary to the fulfilment of his duties.

In assessing the seven years I have served on the Court of Appeals, it is my opinion that the role of the federal district judge provides the most difficult challenge and requires the greatest personal responsibility of any judicial office in the United States. In saying this, I do not intend to bemean my brethren serving on the circuit court or make light of the responsibilities of a supreme court justice. However, the womb of justice lies in the trial court. It is here where the fabric of the law is weaved. It is here where a judicial officer must determine how long a convicted individual must resign his liberty. It is here where justice of the people and to the people is either delayed or denied.

The judge of this court must be a man of seasoned judgment, of impeccable integrity, of dedicated industry, and above all else, he must be a man of conscience.

In my book, this describes my friend, and now my fellow judge, Albert Schatz. I wish him well.

JUDGE URBOM: Thank you, Judge Lay.

One of our Senior United States District Judges in Nebraska, is the Honorable Richard E. Robinson.

1 You will now hear from him.

2 JUDGE ROBINSON: Judge Urbom, Judge Schatz,
3 Fellow Judges, Senator Hruska, Your Excellency Bishop
4 Sheehan, Members of the Bar, and Friends all of Judge
5 Schatz:

6 My brothers Urbom and Lay talked about
7 what is a judge. I have always liked to think that this
8 beautiful courtroom is a temple of justice where everyone
9 has equal rights. You will observe that when the Marshal
10 opened court today, he said, "Hear Ye! Hear Ye!
11 Hear Ye!" with solemnity and dignity. Let me assure you
12 that is not for the person occupying the bench. It is for
13 the institution.

14 Judge Schatz, lest one, as all of us are
15 inclined to do at times, gets to thinking that maybe we are
16 something above and beyond the normal pattern, there are
17 humbling experiences that one may have that I am sure
18 will dispel that illusion. Judge Estes from Dallas, Texas,
19 tells the story about the time that he was going out into
20 the hinterland to hold court. His regular staff was not
21 with him, so he imported a grocery clerk, or someone, to
22 cry the opening of the court. Judge Estes had furnished
23 him with a very well documented note that he could study
24 over the evening, but apparently the next morning at the
25 appointed time, when he rapped the gavel, he had a lapse

1 of memory. He rapped the gavel and said, "Hear Ye!
2 Hear Ye! Hear Ye! Here he is. God save the United
3 States."

4 I am delighted and personally honored to
5 respond on behalf of the Court on an occasion as important
6 as this is in the life of Judge Schatz and, indeed, of the
7 Court itself. My thoughts naturally return to the time of
8 my own installation ceremony some seventeen years ago.
9 The proceedings which took place then seem to me to be
10 about the same as those scheduled for today. In matters
11 of this kind it is no surprise to find Courts faithfully
12 following their own precedents. But how the faces have
13 changed in that period of time.

14 Seventeen years ago Judges Woodrough and
15 Johnsen represented this State on the Eighth Circuit Court
16 of Appeals. It is marvelous to think that Judge Woodrough,
17 although slowed down a bit by his 100 years, can share
18 with us today his joy and pride in having one of his
19 former law clerks ascend the bench which he first
20 presided over. Judge Johnsen, though bearing the title
21 now of Senior Circuit Judge, has not slowed down one bit
22 these past six years from the prodigious pace he was
23 keeping when I moved in next door. In fairly recent
24 years we have been fortunate to see Judges Lay and Ross
25 join and add distinction to that bench. Many in this room

1 must share my feelings that it seemed like "only
2 yesterday" when we were attending either one of their
3 installation ceremonies; although the more recent of the
4 two - Judge Ross - was over two and one-half years ago.
5 How time flies.

6 When I was appointed to succeed Judge
7 Donohoe, the only other district judge was the late,
8 magnificent Judge Delehant. Now he is gone, and his
9 successor, Judge Van Pelt, like myself, has taken senior
10 status. In our stead are Chief Judge Urbom, Judge
11 Denney and now Judge Schatz. Recently this Court lost a
12 vigorous and dedicated colleague for whom we all had
13 deep affection and high regard. This Court will soon hold
14 a memorial service for Judge Dier. It is not my purpose
15 here to anticipate the remarks that will be made then about
16 him. I only observe in passing the unusual phenomenon of
17 a three-judge district court so contemporaneous in
18 character and so unweighted down by seniority. It must
19 be unique in the country for a district as old as ours. What
20 a potential it suggests for responding to the challenge
21 facing this - and every other - court in the area of
22 judicial administration.

23 By recalling these changes and reciting these
24 developments, you can understand why I approach my
25 task of responding for the Court somewhat hesitantly.

1 First of all, all of us recognize that I am addressing a
2 fairly seasoned audience when it comes to the matter of
3 installation ceremonies. In fact, you are probably a
4 little jaded by the experience at this point. Tradition
5 requires some appropriate, if not pontifical, statements
6 which I am perfectly capable of making, although it is
7 doubtful if I can add anything to the record at this point
8 that you will not consider accumulative.

9 Then, again, my job is not made easier by
10 the fact that the main attraction of this ceremony is a
11 man whose second home for nearly two decades has been
12 the courtroom. There is not much, if anything, that I
13 could say to him about the law or the trial practice that he
14 doesn't know a whole lot better than I. Judge Schatz is a
15 thorough gentleman, and he would hear me out with a
16 patience and attentiveness that will commend him to you
17 when he goes to work behind this bench next week, but I
18 am kidding myself - or you - if I thought I would be
19 edifying him by any such discourse this afternoon.

20 The final difficulty I have to acknowledge is
21 that Judge Schatz knows a great deal, as well, about what
22 makes judges tick. I mean, from watching them from
23 this side of the bench as well as the other. You are
24 probably aware his first job after graduation from law
25 school was a law clerkship with Judge Woodrough. Any

1 mystique which the federal judiciary - at least in this
2 Circuit - might have in that regard would be dissipated
3 after a tour of duty with "Woody." There wasn't a more
4 earthy, unpretentious and forthright jurist that ever
5 graced this bench. Judge Schatz* years with him will have
6 given him a pretty candid view of what is behind - or
7 underneath - these robes. Now, admittedly, Judge Schatz
8 is going to have to relearn some of the lessons that were
9 taught him in Judge Woodrough's chambers. He has to
10 correct his perspective, so to speak. You know that we
11 trial judges pride ourselves in the fundamental
12 distinction between the district and the circuit courts.
13 We, as trial judges, seek the truth, while they only look
14 for error.

15 Having now demonstrated and documented how
16 difficult my task is this afternoon, what can I say by way of
17 an appropriate response that will ring and will continue to
18 ring in Judge Schatz' ears in the months and years ahead?
19 I made a serious study of the question of what
20 Polonius-like advice I could hand him at this moment of
21 his oath-taking. I noticed that, by actual count, the most
22 popular theme in the-advice-to-newly-installed-judge's
23 category centered around how hard a trial judge's life
24 was, appearances to the contrary notwithstanding. There
25 is invariably a tinge of sadness connected with the message,

1 as if this would come as a surprise to, not to mention a
2 new experience for, anyone who was leaving the practice of
3 law. I thought, perhaps, I could add a helpful footnote to
4 that theme but, before I do, let me briefly quote from one
5 of the most polished utterances that typifies what I mean.
6 A distinguished district judge has written:

7
8 "Perhaps one of the first things I came to
9 appreciate as I came to the bench was how little the public
10 generally, and, in fact, the bar itself, really knows about
11 judges. I know my own impression as a trial lawyer was
12 that a judge's work began when he ascended the bench
13 sometime shortly after ten o'clock in the morning, and
14 that it ended when he left the court at about four o'clock in
15 the afternoon. I was under the impression that a judge
16 learned all the law by some process of absorption when he
17 assumed his robes and that a judge really led a rather easy
18 life, with plenty of time for golf, skiing, bridge, or
19 whatever his particular interests might be.

20 "I can assure you that whatever illusions I may
21 have had along similar lines were quickly dissolved. My
22 golf game has suffered. I have given up all hope of
23 mastering the ski slopes. And I may add that my wife has
24 abandoned her efforts to get me to do those long-deferred
25 household chores. The truth of the matter is, as my

1 "colleagues on the bench are well aware, that the hours
2 we spend on the bench constitute a very small part of our
3 working day. Innumerable hours must be expended in an
4 infinite variety of administrative and judicial matters, in
5 chambers and at home, in checking the law, in studying
6 briefs and records, in preparing charges, in writing
7 opinions, in conferences, in a vast amount of reading, and
8 in correspondence."

9
10 Now, Judge Schatz, accepting that this
11 wisdom is appropriate, albeit conventional, you may be
12 having second thoughts about your new career. How are
13 you going to budget your time and energies to keep
14 pressing administrative matters under control, to keep on
15 top of all of the advance sheets, to digest the briefs and
16 records which will pour in on you, to get your charges
17 ready on time, to prepare your opinions on some
18 reasonable schedule, to keep track of your conferences,
19 to do your reading and to answer your mail?

20 Well, the answer is easy. You take advice
21 somewhat in the fashion suggested by Sir Joseph in his
22 celebrated song in Gilbert and Sullivan's H. M. S. Pinafore
23 as to how he became the Ruler of the Queen's Navee.
24 You will find, Judge Schatz, that you don't have to look for
25 advice. It comes from all directions. There will be lots

1 of advice from the Administrative Office of the United
2 States Courts. Pay very close attention to it. A second,
3 rich source of advice is your law clerks. That, you will
4 find, is inexhaustible. Then, in a particularly sticky or
5 colorful case, you may get lots of advice from the
6 newspapers and television stations. Fortunately, the
7 Barristers will give you good advice on a regular basis.
8 Finally, without attempting to exhaust the list, you will get
9 an occasional bit of advice from the Eighth Circuit.
10 Frequently it is very subtle advice, but I can assure you
11 that they will leave enough clues so you won't miss it.
12 Usually the tip-off comes in the form of a little, one-liner
13 at the end of a decision. The language reads something
14 like this:

15 "Reversed and remanded to the trial court
16 for action in accordance with this opinion."

17 So my advice to you, Judge Schatz, as you
18 approach your new office is simply:

19 Heed all of the good advice which will be
20 given you. You should have plenty of time for golf,
21 skiing, bridge, or whatever your particular interests
22 might be - at least as much time as you had for such
23 pursuits when you were practicing law.

24 On behalf of the Court, Judge Schatz, I
25 welcome you. You will soon discover, as each of us in our

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turn has, that your years on the bench will be among the most interesting and satisfying experiences of your life.

JUDGE URBOM: Thank you, Judge Robinson.

The Installation Committee should now be identified. I will do that by reading their names, only, and then calling upon one of them to introduce other persons who will make responses and statements this afternoon.

The Installation Committee consists of:

- Patrick L. Cooney
- Robert G. Frazer
- Edward G. Garvey
- John T. Grant
- H. Jerome Kinney
- David S. Lathrop
- Thomas F. Leary
- Francis P. Matthews
- Raymond E. McGrath
- Richard C. Peck
- Harold L. Rock.

Mr. Rock was the chairman. He could not be here today, as I understand it, and thus I will call upon Mr. John T. Grant.

MR. GRANT: Judge Urbom, May it please the Court, and Judge Schatz - the first official recognition from a lawyer, anyway.

1 I am Jack Grant, president-elect of the Bar
2 Association. In Harold Rock's absence, I have been asked
3 to chair this meeting the rest of the way now that we have
4 gotten rid of the judges. Harold did a lot of work, and we
5 thank him, as we do Jerry Kenney, and the barristers for
6 their efforts.

7 First of all, I would like to identify Judge
8 Schatz's family.

9 Behind every man, of course, there is a
10 woman. I would like you to see and meet Jean Schatz, the
11 Judge's wife. Would you stand, Jean?

12 I know, Jean, that you are just as glad as the
13 rest of us that Duke finally got regular work after all
14 those years up there.

15 The Judge's children are also present. I
16 will introduce them in descending order.

17 Greg Schatz and his wife, Julie. Would you
18 stand, please?

19 Greg is a lawyer in the city now and is
20 taking after his father.

21 Tom Schatz and his wife, Sharon. Would
22 you please stand?

23 Tom is teaching at Creighton Prep.

24 Phil Schatz. Would you please stand?

25 The Judge's three daughters:

1 Mary, would you please stand?

2 Ann, would you please stand?

3 Jane, would you please stand?

4 Additionally, there are here today to witness
5 the ceremonies, Jean's sister, Isabelle Leighton, and her
6 husband, Lou, from Fort Dodge, Iowa. Also, Jean's
7 sister, Barb Henningsen, and her husband, Don, from
8 Atlantic, Iowa.

9 That identifies the family of Judge Schatz,
10 with the exception of his mother, Elizabeth Schatz, who is
11 temporarily indisposed and couldn't be here.

12 I will now call upon the Senior Senator from
13 Nebraska, The Honorable Roman L. Hruska.

14 SENATOR HRUSKA: Honorable Chief Judge, and
15 may it please the Court, Ladies and Gentlemen:

16 In the words of the Chief Judge and of the
17 Senior Judge who spoke, I think all of us who are members
18 of the Bar found a great deal of comfort. We also found in
19 the levity, and the attempts at levity, as well as the
20 wisdom of those remarks, a great deal of assurance that,
21 notwithstanding the black robes, they are still a man in
22 the terms of Carl Sandburg's definition of a judge -- each
23 of them.

24 My pride in my profession, and the
25 profession of most of us in this audience, has been a

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sustained one and it has certainly been increased and reassured by today's ceremony.

I might say that in the daily work in which I engage there is much that has replaced my active years in the practice of the law by reason of the many attempts to improve the judicial machinery and our system of jurisprudence. Certainly, when we consider such tremendous tasks as the revision of Title 18, the Criminal Code; when we attempt the task of redrawing the boundaries of the several circuit courts of appeal and seek a revision of the federal appellate courts system in the form of efforts of a Presidential Commission of 16 members; when we consider the merits of a federal jurisdiction bill that will try to cope with the diversity of citizenship, for example, and many other parts of the federal-state relationships, and that bill is now on the calendar of the Senate; and when we seek to pass judgment upon the rules of evidence which were struggled with for almost a decade by a committee which had as one of its members another of our senior judges in the person of the Honorable Robert Van Pelt; when we consider bills to abolish the three-judge court -- and that bill is also on the calendar of the Senate awaiting debate and disposition -- and other topics of a similar nature, all of which have emanated from the work of the bar associations and the

1 bar, and the work of the committees of the Senate and of
2 the House; when we consider all of these by way of review,
3 we know that things are in ferment. They are being
4 worked upon because of the great demands that have thrust
5 themselves upon our country not only in terms of our
6 legal system but almost in every one of the aspects of our
7 society. It occurred to me, and does again now, that all
8 of those efforts must be predicated upon the existence and
9 the maintenance of a bench that will be equal to the task
10 of using not only the tools and implements that are now
11 available, but who will avail themselves of those tools and
12 implements which are in the process of formulation and
13 transmission into law and as a part of our judicial
14 system.

15 It occurred to me, too, that our state of a
16 little over 100 years ago now finds itself in a most
17 enviable position to continue that fine tradition in the
18 judicial system of America by having three relatively
19 young men to fill the position of trial district judges in
20 this district, flanked by two senior judges who complement
21 and who stabilize and reassure not only their colleagues
22 of junior status, but also the bench, the bar and the public
23 at large, and that there would be a continuance of the
24 drawing upon the wisdom and the experience of the past in
25 the context of those things which are continuing to unfold in

1 new color and new shape and new form as we go along.

2 Those things are reassuring.

3 Seated, as we are, far away from the field
4 of the battle of the courtrooms, the trial as well as the
5 appellate, it is heartening to come to a scene like that
6 which we have here today.

7 It is with these thoughts and in this spirit,
8 Judge Schatz, that Senator Curtis and I extend our very
9 best wishes for a brilliant career as a jurist.

10 MR. GRANT: Thank you, Senator.

11 Senator Curtis was not able to be with us
12 today. As Senator Hruska has indicated, he sends his best
13 wishes to the Judge, and is sorry for his absence.

14 I would like to have the Honorable Robert
15 Smith, representing the Nebraska Supreme Court,
16 address the group.

17 Judge Smith.

18 JUDGE SMITH: May it please the Court:

19 Judge Schatz and I have been well
20 acquainted since his admission to the practice of law.
21 In the defense of personal injury actions during the years
22 1962 through 1964, he appeared in civil jury trials
23 presided over by me in the District Court for Douglas
24 County. I ranked him a member of a small class of the
25 best defense lawyers in the state of Nebraska. Judge

1 Schatz brings to the bench a wealth of knowledge of trial
2 practice and a dedication to diligence.

3 Almost all of us judges go to our graves
4 without having possessed any knowledge respecting the
5 value of our judicial services. There is no formula for
6 success. No certain court or no name of a court can
7 guarantee it. I believe that in the frame of reference,
8 Judge Schatz will rule wisely and serve well.

9 MR. GRANT: Thank you, Judge Smith.

0 We are honored today by the presence of a
1 lawyer from St. Paul, Minnesota, who has served for
2 more than four years on the American Bar Association
3 Standing Committee on the Federal Judiciary doing
4 Yeoman work at the request of the Attorney General in
5 investigating candidates and possible candidates to the
6 federal judiciary. He has been tireless in his efforts in
7 that direction and has rendered a great service to the
8 bench and the bar.

9 I would like for you to meet Richard E. Kyle
10 from St. Paul, Minnesota.

11 MR. KYLE: May it please the Court, Chief Judge
12 Urbom, Distinguished Judges, state and federal,
13 Senator Hruska, Fellow Members of the Bar and Ladies
14 and Gentlemen:

15 It gives me great pleasure to come to

1 Omaha on this happy occasion as the official
2 representative of the American Bar Association and of the
3 Association's Standing Committee on the Federal
4 Judiciary to participate in the induction of Judge Schatz.

5 For the benefit of those present who may not
6 be familiar with the work of the American Bar Association's
7 Standing Committee, I should like to say a few words about
8 it.

9 The purpose of the Committee is to assist
10 the President of the United States and the United States
11 Senate in the selection of qualified persons for
12 appointment as judges of the federal courts throughout the
13 United States. The Committee is composed of twelve
14 members, one member from each of the eleven federal
15 judicial circuits, and a chairman who is a member at
16 large. For the past five years, I have served as a
17 member for the Eighth Circuit which, as most of you
18 know, includes the states of Minnesota, North and South
19 Dakota, Iowa, Nebraska, Missouri and Arkansas. Our
20 Committee does not suggest nor propose the names of
21 lawyers for appointment to federal courts. Only when we
22 are requested by the Attorney General, and such request
23 is made in connection with all lifetime appointments to the
24 district courts and the courts of appeal, our Committee
25 makes a careful, thorough, complete investigation of the

1 professional qualifications of persons who are being
2 considered for appointment.

3 The Committee operates upon the theory that
4 litigants and the public at large are entitled to have well
5 qualified federal judges and that capable judges must first
6 have been capable and experienced lawyers. It is our
7 considered judgment that no other segment of the
8 population is better qualified to recognize and evaluate
9 good judge material than the lawyers and judges living in
10 the area where the candidate has practiced his profession.
11 It is the practice of the Committee to obtain, as far as
12 possible, a cross-section of views of the judges and
13 lawyers acquainted with the person being investigated
14 regarding his professional qualifications. When this
15 investigation is completed, all twelve members of the
16 Committee participate in making an evaluation of the
17 prospective judges' qualifications, and the Committee's
18 evaluation is then transmitted to the Attorney General.
19 The Committee is the conduit through which the informed
20 opinion of the judges and lawyers in the area, carefully
21 weighed by the Committee, is conveyed to the President
22 through the Attorney General. We believe that the
23 Committee, through its collective experience, has the
24 ability on a national scale to determine whether lawyers
25 being considered for appointment possess the necessary

1 professional qualifications. After the name of the
2 candidate is sent to the Senate, the Chairman of the
3 Judiciary Committee normally asks for a report on the
4 qualifications from our Committee.

5 I am pleased to report that the members of
6 our Committee were unanimous in their determination
7 that Judge Schatz is well qualified for this appointment.

8 One of the satisfactions of working on this
9 Committee is to have a small share in the responsibility
10 for putting qualified men on the federal courts. Judge
11 Schatz is such a man. Most of you know him better than
12 I do. He is a man of outstanding ability, experience,
13 integrity, and unquestionably possesses in a high degree
14 all the essential qualifications of a good judge.

15 It has been said that the highest reward that
16 can be bestowed on a lawyer is the esteem of his fellow
17 lawyers and of the judges before whom he practices. In
18 my investigation of Judge Schatz, I found that without a
19 single exception every lawyer and judge I talked with held
20 him in the highest esteem. I predict that he will be an
21 outstanding judge.

22 In conclusion, I would like to extend my
23 personal congratulations to the new judge and the
24 members of his family and to wish him many happy years
25 of rewarding service as a judge of this court.

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Thank you.

MR. GRANT: Thank you, Mr. Kyle.

We are now going to listen to a man who is here in two capacities, President of the Nebraska Bar Association and a former partner of Judge Schatz. Mr. Harry Welch.

MR. WELCH: Chief Judge Urbom, Members of the Court, Judge Schatz, Distinguished Guests and Ladies and Gentlemen:

The Nebraska State Bar Association is very proud to give to the federal judiciary one of its most distinguished members, and I should say a favorite son. Judge Schatz has been most effective as a worker for the Bar Association and for its interests. I particularly refer to the work he has done in the last two years on the Automobile Reparations Committee which, as the working lawyer knows, is somewhat of a lifeline of the Bar Association and its work. This was tremendously effective and helpful not only on a state level but, as Senator Hruska knows, on the federal level and on the national level as well. His replacement on this committee will be very difficult. His work has been so effective, so outstanding, that we feel that we have the problem well in hand, at least for the time being.

It is, of course, a great honor for me to

1 congratulate Judge Schatz and Jean and his family for his
2 membership on this court, and in behalf of the Bar, I wish
3 for him and his family Godspeed.

4 MR. GRANT: Thank you, Mr. Welch.

5 We would like to hear a few words from the
6 chairman of the local Federal Bar Association, the United
7 States Attorney for the District of Nebraska, Mr.
8 William Schaphorst.

9 MR. SCHAPHORST: Thank you, Mr. Chairman.

10 May it please the Court, Senator Hruska,
11 Ladies and Gentlemen:

12 On behalf of the Federal Bar Association and
13 the Department of Justice, I want to welcome you, Judge
14 Schatz, to the bench of the District of Nebraska, and
15 express our wishes to you for a long and successful
16 career as a federal jurist.

17 The Federal Bar Association membership
18 consists of the many attorneys who necessarily give form
19 to the policies of government. In this country of ours,
20 the rule of government is the rule of law. The
21 Department of Justice is the agency that appears when
22 governmental activity is called into question by litigation.
23 It is our wish and pledge that the government's legal work,
24 as it appears in your court, will be an example to all.

25 MR. GRANT: Thank you, Mr. Schaphorst.

1 We would like to hear from Jerry Kinney
2 speaking on behalf of the Omaha Barristers.

3 MR. KINNEY: May it please the Court, Chief
4 Judge Urbom:

5 On behalf of the Omaha Barristers Club, I
6 would like to extend our congratulations and best wishes to
7 Judge Schatz, and although I am sure he will be sorely
8 missed by all members of the Bar, I think that we can all
9 feel fortunate to have a man of his ability on our Federal
10 District bench.

11 MR. GRANT: Thank you, Jerry.

12 Now I get to say a few words.

13 I think I have known Judge Schatz about as
14 long as anybody. As has been previously mentioned,
15 Judge Schatz was formerly a law clerk to Judge Joseph
16 W. Woodrough, as was I. As a matter of fact, I
17 succeeded Duke.

18 When you stop to think that Judge Woodrough
19 was appointed to the United States District bench by
20 Woodrow Wilson, and to the Court of Appeals of the
21 Eighth Circuit by Franklin D. Roosevelt, and now to have
22 his law clerk here, gives one sort of a sense of history.

23 I have Judge Schatz' permission to read a
24 letter he received from Judge Woodrough. As I read it,
25 you might keep in mind that the Judge is either 100 years

1 old or 101. I think he just sticks with 100, but he is of
2 somewhat advanced age. He writes this letter to Judge
3 Schatz:

4 May 15, 1973.

5 Dear Judge Schatz:

6 I am proud and happy to be on the list of those
7 invited to your installation as district judge. You do me
8 proud, and I would really love to be present to congratulate
9 you and extend my best wishes. It is a glorious job and
10 you are the right man for it. I am too old and feeble to be
11 going places, but the spirit is willing, although the flesh
12 is weak.

13 With all my heart and confidence in you, I am
14 pulling for you.

15 Yours truly, Will Woodrough.

16 I imagine he just tortured himself trying to
17 figure out how to sign this letter, and he came up with
18 "Will Woodrough." Judge Schatz, I think that is a great
19 honor.

20 I am going to make a few remarks.

21 I think the lawyers in Omaha will not be hurt
22 if I say anything somewhat personal. I know that they
23 could say much the same thing.

24 I think that Judge Schatz has whipped me
25 about every way that a man can be whipped and still not

1 bleed to death right in front of everybody. He has turned
2 me inside out and round-about, and I can absolutely
3 guarantee you that he is some lawyer. If he is anywhere
4 near the judge that he was a lawyer, we are all as
5 fortunate as can be.

6 I would say that Duke Schatz as a lawyer
7 was tougher than ninety days in jail. He had man-handled
8 me so badly that the last time it happened, I developed a
9 new theory. Unfortunately, I never had a chance to put it
10 to trial. When he was giving me the kind, old cowboy
11 treatment one day, I told Tom Kelley, "I think what I'll do
12 is to reach under the table and kick him in the shins just
13 as hard as I can and see if he won't swear at me, or
14 something. I had tried everything else."

15 I won't go into a lengthy dissertation, but
16 this was kind of funny as to how adroit he was. I
17 represented a gentleman who had gone to a tavern to relax,
18 or whatever one does in taverns. On a trip to the men's
19 room, he unfortunately opened the basement door and fell
20 down and broke his ankle. I devised a theory, which the
21 Judge didn't think a whole lot of. No particularly large
22 offer had been made, so we went to bat and began to
23 quarrel with one another. I had this wonderful line, and I
24 still lost. Judge Schatz said to this man on
25 cross-examination:

1 "Well, now, sir, you opened this door, did you?

2 "Yes, I did.

3 "Was there a hand rail there?

4 "Yes, there was.

5 "Did you use the hand rail?

6 "Not on the way down."

7

8 I only tell that because, by George, I took a
9 shot like that, and I still couldn't win.

9

10 The lawyers of Omaha are pleased and
11 delighted to have a man of Judge Schatz' caliber on the
12 bench. I think the practicing lawyers have a little selfish
13 interest, too. For myself, I am happy for him that he has
14 this good job, and I rather believe that he is no longer
15 going to be in my hair, because I have had about enough.

15

16 I think the last official function of mine is to
17 thank the guests for coming. Judge Schatz will have some
18 rebuttal time, although I don't know why he would want to
19 disturb what has gone on before. Judge Schatz will be
20 happy to greet everyone at the conclusion of the ceremony.
21 It is my understanding that, except for lawyers who have
22 particularly delicate matters, that there is no need to
23 genuflect before the Judge.

23

24 Judge Schatz, we congratulate you. We are
25 proud of you.

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JUDGE URBOM: Thank you, Mr. Grant.

Judge Schatz, surely after this torrent of advice and praise that has been heaped upon you, you must have some kind of a speech, and if you do, we want to hear you.

JUDGE SCHATZ: Judge Urbom, and about the last time I can say "May it please the Court," Senator Hruska, Federal and State Court Judges, Ladies and Gentlemen and all my Friends:

I can't help but say, after Mr. Grant's talk, that I noticed immediately that there are two big differences. First, I get to sit down to give this final argument, and secondly, at this stage of the proceeding what I would say usually was in final argument or rebuttal, but now it is much more pleasant and requires thanks and appreciation instead of rebuttal.

It would be impossible for me to express my gratitude for all the kind words that have been said today. I do want each and every one of you to know of my deep appreciation and thanks for your expression of friendship and for coming here today. I am sorry that some of you had to stand. I am sure I won't get this crowded courtroom again. I am especially grateful to those of you who have traveled far and wide to be with me and with us today.

1 I am aware, and I appreciate, that the
2 tributes that are given today are to the office and the
3 dignity of the office to which I have been fortunate enough
4 to be appointed. Whatever honor may come to me is by no
5 means mine, or mine alone, but is one that I most
6 gratefully and sincerely share with many, many others.
7 If you will indulge me for a moment, I briefly would want
8 to give thanks that is due to so many persons along the way
9 who have helped me and advised me so soundly and with
10 such great wisdom down through the years.

11 First, to my mother, who isn't able to be
12 here today because of health reasons. She has unselfishly
13 helped me and encouraged me through the years. My
14 wife, Jean, and my sons, Greg, Tom and Phil, and my
15 daughters, Mary, Ann and Jane. They have all been most
16 patient and understanding with me, particularly Jean, who
17 has been my staunchest helpmate and has unselfishly
18 stood by me and accepted the fact, especially married to
19 a trial lawyer, that the law indeed is a jealous mistress.
20 She has never begrudged that time.

21 I would want to share this honor with Judge
22 Woodrough, whom you have heard about today and for
23 whom I did serve as law clerk for almost three years
24 after graduating from the Creighton University Law
25 School. The Judge was an excellent and patient teacher,

1 and from him I first learned the really true feeling of
2 reverence and respect for the law and for the courts.

3 One of my principal hopes is that not only the
4 wisdom to use some good judgment and sense, but also a
5 capacity for compassion and understanding has, in some
6 degree, rubbed off onto me from this great, kind and
7 gentle man.

8 I would want to share this honor today with
9 my partners and my associates and with our office
10 personnel, with some of whom I have practiced and been
11 associated with for almost twenty-three years, and
12 especially my partners, Harry Welch, Joe Vinardi and
13 Harold Kauffman who not only, over this long span of
14 time, have been loyal and true partners, but they have all
15 been my good friends. My one regret today is that three
16 of my former partners could not have lived to be here
17 with us, including Dan Gross. I would especially want to
18 share this honor with Dan, who taught me a deep respect
19 for the practice of the law, the lawyers and the judges.
20 The practice of the law to Dan was the zenith of anybody's
21 career or anybody's occupation.

22 I want to share this honor with the many
23 judges, state and federal, before whom I have practiced
24 through the years, and throughout a great part of this
25 state, all of whom, without exception, have always been

1 most kind and courteous to me. I just hope that I can
2 measure up to the fine example they have shown me. I
3 would especially include Judge Dier, Dick Dier, whom I
4 am succeeding, and just in passing, note that almost a
5 year ago right to this day, I had the privilege of trying a
6 jury case to Dick here in this very courtroom, and I hope
7 I can measure up to his ideals and to his thinking of what
8 a good judge should be and should do.

9 I want to express my very deep gratitude and
10 sincere thanks to Senators Roman Hruska and Carl Curtis
11 who had the faith and the confidence in me to submit my
12 name to the President for nomination to this office. I want
13 to especially thank Senator Hruska for his kindness and
14 his moral support and thoughtfulness during the pendency
15 of my appointment.

16 So far as my own feelings are concerned, at
17 this moment I feel very small and inadequate to tackle the
18 job that lies ahead. I would repeat to you, in substance,
19 my response to President Nixon when I learned he had
20 appointed me to this office; namely, that I assure you I
21 will do my utmost to help to continue to carry on the
22 system of justice and the administration of justice that we
23 have achieved in this great nation.

24 Justice Oliver Wendell Holmes, the famous
25 and well-known Supreme Court Justice of the United States,

1 once stated, toward the twilight of his career, and I quote:

2 Whether a man accepts from Fortune
3 her spade and will look downward and dig, or
4 from Aspiration her axe and cord, and will
5 scale the ice, the one and only success which
6 is his to command is to bring to his work a
7 mighty heart.
8

9 With the help of the good Lord and with the
10 help of the lawyers and others, which I know I will need,
11 I will try to bring as strong a heart as possible to this
12 task, and I hope to the enviable degree that my
13 predecessors and my brethren now on this court have
14 done before me.

15 I thank the Installation Committee for all the
16 help and advice they have given me, and for your chairing
17 the committee today, Jack. I also thank the barristers
18 and Jerry Kinney for all the help you have given me. I
19 thank you all again for coming, especially on this Friday
20 afternoon of a holiday weekend.

21 JUDGE URBOM: Ladies and gentlemen, this
22 completes the ceremony. We will stand in recess. I
23 will say to you that the rules of the court do permit the
24 taking of photographs after the ceremony is completed,
25 and it is only a matter of arranging it. If you can

1 persuade Judge Schatz to come wherever you want him and
2 get him to stand long enough to take a picture, you are
3 entitled to do so. I leave it simply to you.

4 The Marshal may announce the closing of
5 the Court.

6 THE MARSHAL: Court will now be in recess.
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