

INVESTITURE SPEECH

I. Opening

Thank you.

I am happy that this ceremony is being held in our beautifully restored State Capitol. It's a wonderful building that serves both as a monument to those who built Texas in the 1800s and as a fully functional center of state government for today's Texans.

II. Thank you

I want to thank my family, friends and supporters who are here today, especially Mark Hernandez who traveled a long distance to give today's invocation. Thank you all for your attendance and support.

I also want to publicly thank some people who made it possible for me to attain this position:

First, I thank my mom and dad. Generally, for their constant encouragement through the years and, specifically, for the sacrifices they made so that I could attend college and law school.

I also thank my wife, who works part-time as an attorney for the Texas Education Agency. I litigated the Hopwood case without pay for nine years, and had to virtually stop practicing law to run for this office. Her steadiness both at work and at home made it possible for me to pursue those endeavors.

Finally, my campaign team: David Rogers, Tom Elia and Shaan Shirazi. Without question, we made some mistakes. But we also did a lot of things right. I appreciate your hard work on my behalf.

III. Judicial Conservative

I campaigned for this office as a "judicial conservative." I want to spend most of my allotted time discussing that term.

A judicial conservative is not simply a social or political conservative who is a member of the judiciary. For example, before his appointment to the United States Supreme Court in 1939, Felix Frankfurter was a politically active liberal. Among other things, he was a trusted advisor to F.D.R., and had co-founded the A.C.L.U. However, on the Supreme Court, Frankfurter was a strong proponent of judicial self-restraint.

In the 1942 case of *West Virginia State Board of Education v. Barnette*, in which the Court struck down a World War II inspired requirement that students salute the flag while reciting the pledge of allegiance, Justice Frankfurter dissented, stating:

“Were my purely personal attitude relevant I should wholeheartedly associate myself with the general libertarian views in the Court’s opinion, representing as they do the thought and action of a lifetime. But as judges we are neither Jew nor Gentile, neither Catholic nor agnostic. We owe equal attachment to the Constitution and are equally bound by our judicial obligations whether we derive our citizenship from the earliest or the latest immigrants to these shores. As a member of this Court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard.”

Later in the dissent, Justice Frankfurter stated:

“[T]his Court has from time to time set its views of policy against that embodied in legislation by finding laws in conflict with what was called the ‘spirit of the Constitution.’ Such undefined destructive power was not conferred on this Court by the Constitution. Before a duly enacted law can be judicially nullified, it must be forbidden by some explicit restriction upon political authority in the Constitution.... As appeal from legislation to adjudication becomes more frequent, and its consequences more far-reaching, judicial self-restraint becomes more and not less important, lest we [] enter social and political domains wholly outside our concern.”

While campaigning, I often discussed judicial restraint. In my view, it means striking down legislation as unconstitutional only if it clearly violates a specific provision of the federal or state constitution, giving primacy to the original meaning of the text when interpreting the meaning of either a constitutional or statutory provision and, finally, leaving substantial changes in the common law to the Legislature.

IV. Close

I understand the important responsibility that this office entails, and am committed to doing the best job that I can.

I am fortunate to have inherited an excellent staff. Together, I believe that we will serve Texas well during the remaining 24 months of my term.

Thank you.