

THE WHITE HOUSE  
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MEMORANDUM FOR THE CHIEF OF STAFF

FROM: PATRICK J. BUCHANAN <sup>RSB/K</sup>

SUBJECT: Supreme Court

The battle for control of the Supreme Court appears imminent (attached). Given the current partisan environment in the U.S. Senate, the President should be ready with an agreed-upon nominee, the moment Justice Powell's letter arrives at the White House.

The stakes here are immense - whether or not this President can leave behind a Supreme Court that will carry forward the ideas of the Reagan Revolution --- into the 21st century.

In selecting the nominee (a process that should begin now, if not completed already) we ought to keep in mind that:

A) Any friend of the President's who can be painted as a "crony", will be torn to pieces in a style that makes the Devine-Reynolds treatment appear benign;

B) The President's best bet for confirmation is a sitting jurist --- who has already run the gantlet of the Judiciary Committee and the full Senate;

C) Constitutionalist credentials will not be enough; the President will have to have an individual of acknowledged brilliance and proven integrity, whom the bar associations will be forced to give the highest grades --- a la Rehnquist --- no matter how much they wish him defeated;

D) This narrows it down, it seems to me, to a Federal Appellate Judge, among the thing most impressive, even to critics, are Bork, Posner and Antonin Scalia. While Bork is ex-Marine and a brilliant Judge, I would lean to Scalia for the first seat. He is an Italian-American, a Roman Catholic, who would be the first Italian ever nominated --- a tremendous achievement for what is America's largest ethnic minority, not yet fully assimilated into the melting pot --- a minority which provides the GOP its crucial margins of victory in New Jersey, Connecticut and New York.  
(Mario Cuomo, years ago, begged the Democrats to be the first to

nominate an Italian-American Justice);

E) An ancillary benefit of such a nomination would be to contradict the vicious but popular libel that Italian-Americans are somehow a hoodlum-prone people;

F) Given the cruciality of the Supreme Court to the Right-to-Life Movement, to the School Prayer Movement, to the anti-pornography people etc. --- all of whom provide the Republicans with the decisive Presidential margins --- the significance of this first nominee is not easy to exaggerate.