

**Transcript of Senator Lindsey Graham's Remarks to the Opening  
Assembly of the ABA 2012 Annual Meeting in Chicago**

(APPLAUSE)

SENATOR GRAHAM: Thank you all. Why'd I have to follow the choir? (laughter) The talent portion is now over. Thank you for a kind introduction. I'm from the Federal Government, here to help you. (laughter) If you didn't laugh you need to be leaving about right now. (laughter) Or you're not watching any TV either. I just can't thank you enough for having me here. Lawyers and politicians in one room at the same time... I hope you got good security. It's so bad in the Senate that I tell people I'm a lawyer. Uh... (laughter) And you know... you know what I mean. I just can't thank you enough. It's been fun. Bill and Joan, thank you for your year. You've done a great job. I really appreciate your service to the ABA. I got to meet him on a golf course, which means he's a good guy and that's a good place to meet me. If you want to take me playing golfing, just... just call me. Bob and Joan Clifford, who have organized this... he took me to Medinah today. We played out there where the Ryder Cup will be and that was a ton of fun. Steve Zack and Marguerite, we played golf in Miami. You getting the theme here? (laughter) I just can't... and Laurel, well, you can take me to play golf, too. (laughter) But William and his lovely wife Hubbard from... from South Carolina is going to be... I think you all got this figured out. You know who's going to be

President when. I wish we could do that in Washington, but we can't. You all have got... you all figured this stuff out. I just can't thank you enough for inviting me and... and the reason I'm here, I guess, beyond any other reason is because of Jack Rives. It's hard for me to call him Jack because when I first came in the Air Force he was a Colonel and I was a Captain. Your Executive Director is quite a guy. When I was in college my mom died in my senior year and my first year of graduate school my dad died, 15 months apart. And I finally got in law school and when I graduated my sister was about 15 and I was due to go overseas. And Jack called me, I didn't call him. He said, "I know it's been tough. Would it be better if we put you in South Carolina?" And I said, "I would appreciate that to see my sister graduate and get her through high school." He is one decent fellow. And when he was the Judge Advocate General of the United States Air Force it was in the middle of Abu Graib scandal. Remember that? Waterboarding. Jack and his other military counterparts from the other branches came to the Congress, to the Senate and said without hesitation, no matter what you think about waterboarding, we believe it to be wrong. (APPLAUSE) And we've got my current boss here, the current Judge Advocate General. So I just wanted to share that with you. The ABA, from a Republican point of view is an interesting organization. You all provide a great service to the Judiciary Committee. The rating systems matter to us. You're the gold standard and I had a chance to meet with the... with that part of the ABA and I told each person... and they spend a lot of time of their

own time going through the process of trying to interview and, you know, rate Judges and candidates in terms of their qualifications. That service you provide to the United States Senate is invaluable because in these politically charged times in which we live, you're a filter, a sort of a wall between people who are politically connected and somebody who should be on the bench. Thank you very much to the ABA. (APPLAUSE) And I'm trying to tell my Republic colleagues about all the good service you do. You know why I'm a member of the ABA? It's incredibly cheap. It's like \$35. (laughter) But I wanted to show... I wanted to show that I consider the organization to be very valuable to the American legal system. And the more bipartisan support, the better. A couple things you're doing I think are gonna be very important in the next decade. Have you noticed the downturned economy? (laughter) Yeah, yeah, if your... your clients have noticed it, too. The budgets are under siege at the federal level and the state and local level and the easiest thing for a politician to do is cut the budget where the people complain the least. And I worry about access to justice all over this country. And... (APPLAUSE) ... and you all are doing a good job. Ted Olson and his counterpart, they... they go all over the... the country talking about budgets. And in South Carolina we have more cases per Judge, I think, than anyplace in the country and our Chief Justice, Jean Toal, who is a former member of the Legislature, has done a good job trying to convince politicians, don't take the rule of law for granted. And you can do a great service for the country. The organization... Bill, you all have done a really

good job. Laurel, keep this up. If the ABA doesn't speak out for access to justice, who will? And from the politicians' point of view, it is easy to take that 1 or 2% of the budget and just let it atrophy. And I worry a great deal about that. The other thing I worry about is an independent judiciary. I traveled to Afghanistan, a lot of places with a stan behind it. These are very tough places. I've been to Iraq a bunch. I spent a lot of time trying to follow the Arab spring and the American Bar Association's mentoring programs have been invaluable. You supplement what our military and our State Department does. Keep it up because the one thing missing in the Mideast and developing nations is the rule of law. So when you have a presence, when you mentor young lawyers and young Judges you're doing the world a great service. But an independent judiciary here at home is at risk in a couple of ways. We need to pay Judges more, not less, even though we're broke. (APPLAUSE) Apparently all of you all want to be Judges. One thing about picking Judges, I've learned. Senator Thurmond... have you ever heard of Strom Thurmond? Yeah, I took his place. We change Senators every 50 years in South Carolina, believe it or not. (APPLAUSE) Let me tell you, you know, you had your first meeting in Chicago in 1889? I'm sure Strom was here. (laughter) I was born in '55, he was elected in '54. One of my favorite jokes that I can tell in public here about Senator Thurmond was... he was a sitting Judge in World War II when the war started, so he was exempt from serving. He asked to go into the military. He landed on V Day in the first wave in 1944 and fought 'til the Germans quit, went

over to Japan, fought 'til they quit. Fast forward 50 years later, they're getting a delegation from the U.S. Congress to go back over to the 50<sup>th</sup> anniversary of the D Day Landing, so they asked Strom to head the delegation because it was the oldest anything and he writes back, "Glad you asked, can't go, got a kid graduating high school." (laughter) I got a tough job. (laughter) But one more South Carolina story. I love my state. Any of you ever done family law? Yeah, that's a fancy term for divorce law. That's why I'm still not married, by the way. I did a few divorces early on. And the first case I had when I got out of the Air Force and came back to Walhalla, South Carolina was a divorce case. And I was all excited, coming back home to practice law. And the guy looked me dead in the eye and he says, "I've got a question." I said, "Good, that's what you're paying me to do is answer your questions. What is it? Don't hold back." He says, "If we get divorced will me and my wife still be cousins?" (laughter) And I'm here to tell you, the answer is yes. (laughter) So this is one of the reasons I got in politics. (laughter) The questions haven't gotten any better, by the way. (laughter) So the independent judiciary is at risk because we don't pay people enough and 30 years ago two out of three Federal Judges came from the public... the private sector. Today two out of three nominees come from the public sector. There's nothing wrong with being a public sector lawyer, but we want to keep that balance. So if you're a 35, 40 something year old lawyer out there and you got a couple kids, excuse me, you want to send to college, that's a problem. So, one, we need to adjust the pay. Two, we need to

stop the politics around being a Judge. How many of you would like to come to the Senate... (APPLAUSE) ... and have to deal with us? I'm afraid we're going to drive the best and brightest away from the confirmation process to the pay. Now, listen, I... you know, I hope Romney wins. I'm a Republican, proud of it, but we're going to have an election that'll be behind us here soon. I'm the conservative. I'd like to have conservative Judges. But how can I get conservative Judges and always vote against liberal Judges? The question is are you qualified to be a Judge? And the Senate in the last 10 or 20 years has taken a very, I think, detrimental turn. Used to be you voted on qualifications. You didn't substitute your judgment or your philosophy with that of the President. That's one of the prizes of winning the presidency. So, ladies and gentlemen, I'm really worried about the way we're... we're doing confirmation. It's... it's politics in another form. I know that the people who voted for Justice Alito and Roberts on the Democratic side, they got a lot of push back. I can guarantee you if you voted for Sotomayor and Kagan you got a lot of push back because I was the only one that voted for them. And it shouldn't be about me, it should be about whether the Judge is qualified. And right now Judicial confirmations, particularly for the Supreme Court, are becoming real political events. And anything you can do to help us get back to the traditional way of doing business will be a Godsend because you don't want to drive the best and the brightest away. And it's stupid to bring up what you said in law school and to pick one phrase here and one phrase there. And... and so I'm really worried

about it. I was in the gang of 14, remember that? You know, when we were about to change the rules of the Senate. That sure sounded good at the time, but I didn't want the Senate to change its fundamental structure and go to the neutral option because I do try to look ahead. I don't have many Republicans saying, boy, I wish we just had 51 votes to confirm a Judge now. More than anything else I'm not so much worried about judicial activism as I'm worried about Senate activism. The confirmation process has really gotten off script and to my conservative friends, if President Obama wins a second term it is not appropriate for us to try to stop all of his nominees because we don't adhere to his philosophy. It's only appropriate... (APPLAUSE) ... it's only appropriate when the person's not qualified for the job. And Justice Ginsburg and Scalia are best friends. That's an interesting combination, isn't it? (laughter) Doesn't that make you feel pretty good that you can have... yeah, it makes me feel good. (APPLAUSE) Now, how can a conservative say Justice Ginsburg is not qualified? If she were going through the system today it would be one hell of a fight. Can you imagine what they would say about Scalia? He's pretty opinionated. (laughter) And I don't want milque toast Judges. I don't want someone coming to... to the Senate who's never had an independent thought, never been in an argument before. So at the end of the day an independent judiciary is the heart and soul of democracy. Saddam Hussein allowed voting. He got 99% every year. I have yet to be able to do that. (laughter) But the one thing that I know is missing in the Mideast that could become missing here is an

independent judiciary. Why do so many countries have militias? Because you don't trust the cops. You know, we're Republicans and Democrats, Independents and vegetarians (laughter) but 5/4... 500 votes decided the Bush/Gore election in Florida. 5/4 decision of the Supreme Court and everybody said okay. Not one shot was fired. Do you realize how many people would love to live in a country like that? Let's make sure... (APPLAUSE) ... let's make sure we do not lose it here at home. Now, we need your help in a couple areas. Laurel and I talked about cyber security. I've got a flip phone. I'm about the least technological Senator since Senator Thurmond. (APPLAUSE) I don't want to know what you're doing for supper. I don't care what you eat. You know, and if you have children, that's great. You all have fun. I don't read Facebook, I don't do all that stuff. I don't need to follow people every 30 seconds. I don't Twitter, somebody Twitters for me. (laughter) I hope they know what the hell they're saying. But, uh... (laughter) But our nation... there were 330 bank robberies last year. If you represent bank robberies, business is down. (laughter) There were... there were like 50,000 cyber attacks against financial institutions. I'm here to tell you, one of the biggest threats we face as a nation is a major cyber attack from people who hate our guts. They can shut down our grids, they can make planes fall out of the sky, they can open up dams, create chemical spills, and this is an area of the law where you've got to balance privacy, information sharing between competitors in business and the government. This is a complete, absolute new territory and

the American Bar Association needs to help the United States Senate. (APPLAUSE) On the detainee front, we've been at war now for over a decade. First the difference between an enemy combatant captured in America and one captured in Afghanistan. How long can you hold someone as an enemy combatant if you have the military intelligence, without destroying our values of a rule of law nation? What law applies? Is it domestic criminal law, is the law of war? When do you read someone their rights? When is it time to turn them over to CIA? All of these things are complicated and I can tell you, your subdivision, the American Bar Association, regarding the military law has been great, greatly helpful to us in trying to find a system we can be proud of that balances the needs to gather intelligence from an enemy who will kill us all if they could and being Americans. And I get a lot of push back from both sides. I do believe that the rule of law we should be applying is a hybrid form of military law because I think we're at war. I think Al Qaeda and subdivisions of Al-Qaeda are military threats, not common criminal threats. But, having said that, we're still Americans. So from the right, why do you want to give them a lawyer? Why don't you do to them what they do to us? Why are you spending all this time in court? They would kill us all. Well, because we're better than they are. There's not a shortage of people in the world who will cut your head off. There's a shortage of people in the world who will give you a fair trial even though you've been mean and cruel. (APPLAUSE) So, ladies and gentlemen, we live in incredibly dangerous, fast-paced, changing times with threats today

that couldn't have been envisioned just a few years ago. The war on terror goes on. It morphs itself. Every day is a challenge to keep us safe. And this debate between security and our values is a constant struggle. Help us where you can. And I would like to end with this thought. The rule of law to me at its most basic level is if you find yourself in a courtroom it will be about what you allegedly did, not who you are. Not your party, not your religion, not your income. That's a noble concept that's always tough to make a reality even in a developed nation like the United States. I like politics. I love the law. And I want to make sure that on my watch that we preserve the integrity of an independent judicial system, that the moment you go through those courtroom doors that every American will have a sense of confidence that I'm going to be judged fairly by someone who is qualified, who has common sense, that I will be vigorously represented, that if I'm the richest guy in town I don't have to pay because I can afford to, I only pay because I should. If I'm the poorest person in town, I've got a shot against the biggest guy on the block. You represent that. What you do day in and day out... most Americans make a lot of fun of our profession and we give them some ammunition. But when they get in trouble, when their grandson is stopped for a DUI, they want all of these rules, they want the best lawyer they can find. The rule of law is at risk here at home. It's nonexistent in many places in the world today. Let's protect it and nurture it here at home. Let's spread it throughout the world. Because the only way a militia group is gonna lay down their guns is when they believe the cops are

fair-minded and the Judge is not corrupt. I hope and pray that as my profession gets more and more polarized and it seems to be no end to this that there will be a wall we will not cross and we will not adulterate what I think has become the finest legal system and the best hope of mankind. To the American Bar Association, be the guiding light, the voice of reason, speak truth to power. We've never needed you more than we do now. God bless.

(APPLAUSE)