

One final thought. In a just and healthy society, both righteousness and justice travel together. Righteousness is the knowledge of right from wrong, good from evil, and that is something that is written on our hearts. Justice is the application of that knowledge.

Everybody in our representative form of Government tries to do both of these, righteousness and justice, within the boundaries set for each of us. No one branch has unlimited control. The Supreme Court has boundaries, too. There are checks and balances on what it can deal with and what it can do. For instance, the Court cannot appropriate money. That power is specifically left to the Congress in the Constitution, no matter how right or just the Court may view the cause.

We all are constitutional officers, sworn to uphold the Constitution. Yet each branch has separate functions, which the other branch can check and balance. The total system functions best when each branch does its job but not the other's.

We have arrived at an important moment with your nomination to serve as Chief Justice of the United States, that is quite a title. Will you serve, as Hamilton assured the people, by exercising judgment rather than will? My review of your many legal writings over the past quarter-century leads me to believe that this is the case. I hope that this instinct will be proven correct during the days to come, that you, Judge Roberts, will be confirmed to serve as the first Justice among equals and that the noble legacy of the Justice that you once served will be honored.

God bless you and your family.

Chairman SPECTER. Thank you, Senator Brownback.
Senator Coburn?

**STATEMENT OF HON. TOM COBURN, A U.S. SENATOR FROM
THE STATE OF OKLAHOMA**

Senator COBURN. Thank you, Senator. First of all, I would like to thank you and your staff, as well as all the staff of this Committee. While we were traveling in August, they were laboring diligently to help prepare us for these hearings.

I also think everybody should know that Senator Brownback is entering his fifth decade, so he can catch up with the rest of us.

And finally, I am somewhat amused at the propensity for us to project your life expectancy. I met with you twice, and as the only physician on this panel and one of the few non-lawyers on this panel, I find it somewhat amusing that we can predict that without a history, a physical exam, or a family history. But we will let that pass.

I am a physician, and up until the end of this month and, hopefully, after that, I will continue to practice. This weekend I had the great fortune of delivering two little girls. And I have had the opportunity to talk with people from all walks of life as a physician—those that have nothing and those that have everything. And I believe the people in our country, and in my State in particular, are interested and concerned with two main issues. One is this word of judicial activism that means such a different thing to so many different people. And the second is the polarization that has resulted from it, and the division that occurred in our country that separates us and divides us at a time when we need to be together.

We each have our own definition of judicial activism. Essentially, the Court will not become an activist court if it adheres to its appropriate role and does not attempt to legislate or create policy. There always will be and should always be checks on each of the different branches of Government. Yet look where we are today. Decades of judicial activism have created these huge rifts in the social fabric of our country. Whether we are on one side or the other, it is a tension pulling us apart rather than a tension pulling us together.

I believe we have seen Federal and State legislators' responsibility usurped by the Court, especially to make important decisions, and I think that is what has created a lot of the division within our country. And I believe it is time that that stop, and a limited role for the Supreme Court. I think we are willing to debate as a country what judicial activism is, but we are also wanting someone who will listen to both sides of that and, in a measured and balanced way, knowing what the Constitution says and the restraint that our forefathers have written about, will take that into consideration.

I am deeply heartened in that I have read many statements that you have made, where you indicate a more proper role for that of the judiciary, and I believe in our discussion, a super-legislator body is not what the Court was intended to be.

When I ponder our country and its greatness, its weaknesses, its potential, my heart aches for less divisiveness, less polarization, less finger pointing, less bitterness, less mindless partisanship, which at times sounds almost hateful to the ear of Americans. The problems before our country are enormous. Our family structures have declined. Our dependency on Government has grown. The very heritage of our country, which was born out of sacrifice by those who preceded us is at risk. We are all Americans. We all want the greatest future for the generations to come, protection for the innocent and the frail, support for those less fortunate. But most of all we want an America that will live on as a beacon of hope, freedom, kindness and opportunity.

America is an idea. It is not competing ideologies. It is an idea that has proven tremendously successful, and when we reduce it to that of competing ideologies, we make it less than what it is. I believe the genius of our Founders is that they recognized that individual rights were derived from a creator, not a king, not a court, not a legislature or a state. Our Founders were concerned that if our rights derived from the state or a court, they could be taken away by a state or a court. Our Constitution enshrines this idea and gives its meaning in the rule of law. That is why it is important for us to respect the words of that Constitution.

I would hope, as we conduct these hearings over the next few days, our tendency as politicians to be insensitive, bitter, discourteous and political, will surrender to the higher values that define us as a Nation. We have an opportunity to lead by example, to restore the values and principles that bind us together. How we conduct ourselves and how we treat you, Judge Roberts, can be a great start towards reconciliation in our country.

I want one America. An America that continues to be divided is an America that is at risk. Our country waits for its leaders at all

levels to rise to the occasion of rebuilding our future by placing our political fortunes last and constitutional principles first, and working diligently to reconcile each and every American to the freedom and responsibility that our republic demands.

May God bless our efforts.

Chairman SPECTER. Thank you very much, Senator Coburn.

We now move to the presenters, Senator Lugar, Senator Bayh and Senator Warner, and then the administration of the oath to Judge Roberts, and then Judge Roberts's opening statement.

Welcome, Senator Lugar, as the senior presenter, elected in 1976, Indiana's senior Senator. We have allotted 5 minutes each to the presenters, and Senator Lugar, you are now recognized.

PRESENTATION OF JOHN G. ROBERTS, JR., NOMINEE TO BE CHIEF JUSTICE OF THE UNITED STATES, BY HON. RICHARD G. LUGAR, A U.S. SENATOR FROM THE STATE OF INDIANA

Senator LUGAR. Mr. Chairman, let me first ask that a copy of my full statement appear in the Committee record.

Chairman SPECTER. Without objection, your full statement will be made a part of the record.

Senator LUGAR. Thank you, Mr. Chairman. It is a genuine privilege and pleasure to appear before you, Senator Leahy, and my other distinguished colleagues who serve on this important Committee.

I am pleased to introduce the President's nominee to serve as the 109th Justice of the Supreme Court and the 17th Chief Justice of the United States, John G. Roberts, Jr.

Judge Roberts was born in Buffalo, New York, but moved at age 8 to Indiana. The Roberts's family settled in Long Beach, a small Hoosier community on the shores of Lake Michigan. John attended local schools there in nearby LaPorte, and in 1973 was graduated first in his high school class of 22, having also excelled in numerous extracurricular activities, including co-captaining the football team, despite his self-described status as a slow-footed halfback.

I know Committee Members will understand my observing that our State takes a certain pride of its own nomination by the President to lead the Nation's highest court. Simply put, John Roberts is a brilliant lawyer, a jurist with an extraordinary record of accomplishments in public service. This exceptional blend of professional and personal qualifications is especially important now, given the further responsibilities Judge Roberts has been called upon to assume on the passing of the Chief Justice.

I know Judge Roberts is keenly and humbly aware of the large shoes he has now been asked to fill, the more so since the late Chief Justice was his own initial boss when he arrived in Washington a quarter century ago. All Americans can be grateful that Judge Roberts not only learned, but has lived the lessons taught by his mentor and his role model. In my judgment, he is extremely qualified to carry forward the tradition of fair, principled and collegial leadership that so distinguished the man for whom he once worked, and has now been nominated to replace.

Under the judicial confirmation standards that prevail throughout most of our history, my remarks could appropriately end at this point, and the Committee and the Senate as a whole could proceed