

erly keynote our exchanges. Judges, I am mindful, owe the elected branches—the Congress and the President—respectful consideration of how court opinions affect their responsibilities. And I am heartened by legislative branch reciprocal sensitivity. As one of you said 2 months ago at a meeting of the Federal Judges Association, “We in Congress must be more thoughtful and more deliberate in order to enable judges to do their job more effectively.”

As for my own deportment or, in the Constitution’s words, “good Behaviour,” I prize advice received on this nomination from a dear friend, Frank Griffin, a recently retired Justice of the Supreme Court of Ireland. Justice Griffin wrote: “Courtesy to and consideration for one’s colleagues, the legal profession, and the public are among the greatest attributes a judge can have.”

It is fitting, as I conclude this opening statement, to express my deep respect for, and abiding appreciation to Justice Byron R. White for his 31 years and more of fine service on the Supreme Court. In acknowledging his colleagues’ good wishes on the occasion of his retirement, Justice White wrote that he expects to sit on U.S. courts of appeals from time to time, and so to be a consumer of, instead of a participant in, Supreme Court opinions. He expressed a hope shared by all lower court judges. He hoped “the Supreme Court’s mandates will be clear and crisp, leaving as little room as possible for disagreement about their meaning.” If confirmed, I will take that counsel to heart and strive to write opinions that both “get it right” and “keep it tight.”

Thank you for your patience.

[The prepared statement and the initial questionnaire of Judge Ginsburg follow:]

#### PREPARED STATEMENT OF JUDGE GINSBURG

Mr. Chairman, Senator Hatch, and other members of the Committee, may I say first how much I appreciate the time Committee members took to greet me in the weeks immediately following the President’s nomination. It was a particularly busy time for you, and I thank you all the more for your courtesy.

To Senator Moynihan, who has been at my side every step of the way, a thousand thanks could not begin to convey my appreciation. Despite the heavy demands on his time, during trying days of budget reconciliation, he accompanied me on visits to Senate members, gave over his own desk for my use, buoyed up my spirits whenever a lift was needed, and served as the kindest, wisest counselor a nominee could have.

Senator D’Amato volunteered to join Senator Moynihan in introducing and sponsoring me, and I am so grateful to him. I have had many enlightening conversations in Senate chambers since June 14, but my visit with Senator D’Amato was sheer fun. My children decided at an early age that their mother’s sense of humor needed improvement. They tried to supply that improvement, and kept a book to record their successes; the book was called: “Mommy Laughed.” My visit with Senator D’Amato would have supplied at least three entries for the “Mommy Laughed” book.

Representative Norton has been a professional colleague and friend since days when we were very young. As an advocate of human rights and fair chances for all people, she has been as courageous and vigilant as she is intelligent. I am so pleased that she is among my introducers, and so proud to be one of Eleanor’s constituents.

Most of all, the President’s confidence in my capacity to serve as a Supreme Court Justice is responsible for the proceedings about to begin. There are no words to tell him what is in my heart. I can say simply this: if confirmed, I will try in every way to justify his faith in me.

I am, as you know from my responses to your questionnaire, Brooklynite born and bred—a first generation American on my father’s side, barely second generation on my mother’s. Neither of my parents had the means to attend college, but both taught me to love learning, to care about people, and to work hard for whatever I

wanted or believed in. Their parents had the foresight to leave the "old country" when Jewish ancestry and faith meant exposure to pogroms and denigration of one's human worth. What has become of me could happen only in America. Like so many others, I owe so much to the entry this nation afforded to people "yearning to breathe free."

I have had the great fortune to share life with a partner truly extraordinary for his generation, a man who believed at age 18 when we met, and who believes today, that a woman's work—at home or on the job—is as important as a man's. I became a lawyer, in days when women were not wanted by most members of the legal profession, because Marty and his parents supported that choice unreservedly.

I have been deeply moved by the outpouring of good wishes received in recent weeks from family, neighbors, campmates, classmates, students at Rutgers and Columbia, law-teaching colleagues, lawyers with whom I have worked, judges across the country, and many women and men who do not know me. That huge, spirit-lifting collection shows that for many of our people, an individual's sex is no longer remarkable, or even unusual, with regard to his or her qualifications to serve on the Supreme Court.

Indeed, in my lifetime, I expect to see three, four, and perhaps even more women on the High Court bench, women not shaped from the same mold, but of different complexions. Yes, there are still miles in front, but what a distance we have traveled from the day President Thomas Jefferson told his Secretary of State: "The appointment of women to [public] office is an innovation for which the public is not prepared. Nor," Jefferson added, "am I."

The increasingly full use of the talent of all of this nation's people holds large promise for the future, but we could not have come to this point—and I surely would not be in this room today—without the determined efforts of men and women who kept dreams of equal citizenship alive in days when few would listen. People like Susan B. Anthony, Elizabeth Cady Stanton, and Harriet Tubman come to mind. I stand on the shoulders of those brave people.

Supreme Court Justices are guardians of the great charter that has served as our nation's fundamental instrument of government for over 200 years, the oldest written Constitution still in force in the world. But the Justices do not guard constitutional rights alone. Courts share that profound responsibility with the Congress, the President, the States, and the People. Constant realization of a more perfect union, the Constitution's aspiration, requires the widest, broadest, deepest participation on matters of government and government policy.

One of the world's greatest jurists, Judge Learned Hand, said that the spirit of liberty that imbues our Constitution must lie, first and foremost, in the hearts of the men and women who compose this great nation. He defined that spirit, in a way I fully embrace, as one which is not too sure that it is right, and so seeks to understand the minds of other men and women and to weigh the interests of others alongside its own without bias. The spirit Judge Learned Hand described strives for a community where the least shall be heard and considered side by side with the greatest. I will keep that wisdom in the front of my mind as long as I am capable of judicial service.

Some of you asked me, during recent visits, why I want to be on the Supreme Court. It is an opportunity, beyond any other, for one of my training to serve society. The controversies that come to the Supreme Court, as the last judicial resort, touch and concern the health and well-being of our nation and its people; they affect the preservation of liberty to ourselves and our posterity. Serving on this Court is the highest honor, the most awesome trust that can be placed in a judge. It means working at my craft—working with and for the law—as a way to keep our society both ordered and free.

Let me try to state in a nutshell how I view the work of judging. My approach, I believe, is neither "liberal" nor "conservative." Rather, it is rooted in the place of the judiciary—of judges—in our democratic society. The Constitution's preamble speaks first of We, the People, and then of their elected representatives. The Judiciary is third in line, and it is placed apart from the political fray so that its members can judge fairly, impartially, in accordance with the law and without fear about the animosity of any pressure group.

In Alexander Hamilton's words: the mission of judges is "to secure a steady, upright, and impartial administration of the laws." I would add that the judge should carry out that function without fanfare, but with due care: she should decide the case before her without reaching out to cover cases not yet seen. She should be ever mindful, as Judge and then Justice Benjamin Nathan Cardozo said: "Justice is not to be taken by storm. She is to be wooed by slow advances."

We—this Committee and I—are about to embark on many hours of conversation. You have arranged this hearing to aid you in the performance of a vital task—to prepare your Senate colleagues for consideration of my nomination.

The record of the Constitutional Convention shows that the delegates had initially entrusted the power to appoint federal judges, most prominently, Supreme Court Justices, not to the President, but to you and your colleagues—to the Senate, acting alone. Only in the waning days of the Convention did the framers settle on a nomination role for the President, and an advice and consent role for the Senate.

The text of the Constitution, as finally formulated, makes no distinction between the appointment process for Supreme Court Justices, and the process for other officers of the United States, for example, cabinet officers. But as history bears out, you and Senators past have sensibly considered appointments in relation to the appointee's task.

Federal judges may long outlast the President who appoints them. They may serve as long as they can do the job, as the Constitution says, they may remain in office "during good Behaviour." Supreme Court Justices, particularly, participate in shaping a lasting body of constitutional decisions; they continuously confront matters on which the Framers left many things unsaid, unsettled, or uncertain. For that reason, when the Senate considers a Supreme Court nomination, the Senators are properly concerned about the nominee's capacity to serve the nation, not just for the here and now, but over the long term.

You have been supplied, in the five weeks since the President announced my nomination, with hundreds of pages about me, and thousands of pages I have penned—my writings as a law teacher, mainly about procedure; ten years of briefs filed when I was a courtroom advocate of the equal stature of men and women before the law; numerous speeches and articles on that same theme; thirteen years of opinions—well over 700 of them—decisions I made as a member of the U.S. Court of Appeals for the District of Columbia Circuit; several comments on the roles of judges and lawyers in our legal system. That body of material, I know, has been examined by the Committee with care. It is the most tangible, reliable indicator of my attitude, outlook, approach, and style. I hope you will judge my qualifications principally on that written record spanning thirty-four years, and that you will find in it assurance that I am prepared to do the hard work, and to exercise the informed and independent judgment that Supreme Court decisionmaking entails.

I think of these proceedings much as I do of the division between the written record and briefs, on the one hand, and oral argument on the other hand, in appellate tribunals. The written record is by far the more important component in an appellate court's decisionmaking, but the oral argument often elicits helpful clarifications and concentrates the judges' minds on the character of the decision they are called upon to make.

There is, of course, this critical difference. You are well aware that I came to this proceeding to be judged as a judge, not as an advocate. Because I am and hope to continue to be a judge, it would be wrong for me to say or preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously.

Judges in our system are bound to decide concrete cases, not abstract issues; each case is based on particular facts and its decision should turn on those facts and the governing law, stated and explained in light of the particular arguments the parties or their representatives choose to present. A judge sworn to decide impartially can offer no forecasts, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process.

Similarly, because you are considering my capacity for independent judging, my personal views on how I would vote on a publicly debated issue were I in your shoes—were I a legislator—are not what you will be closely examining. As Justice Oliver Wendell Holmes counseled: "[O]ne of the most sacred duties of a judge is not to read [her] convictions into [the Constitution].” I have tried, and I will continue to try, to follow the model Justice Holmes set in holding that duty sacred.

I see this hearing, as I know you do, as a grand opportunity once again to reaffirm that civility, courtesy, and mutual respect properly keynote our exchanges. Judges, I am mindful, owe the elected branches—the Congress and the President—respectful consideration of how court opinions affect their responsibilities. And I am heartened by legislative branch reciprocal sensitivity. As one of you said two months ago at a meeting of the Federal Judges Association: "We in Congress must be more thoughtful and deliberate in order to enable judges to do their job more effectively."

As for my own deportment or, in the Constitution's words, "good Behaviour," I prize advice received on this nomination from a dear friend, Frank Griffin, a recently retired Justice of the Supreme Court of Ireland. Justice Griffin wrote: "Cour-

tesy to and consideration for one's colleagues, the legal profession, and the public are among the greatest attributes a judge can have."

It is fitting, as I conclude this opening statement, to express my deep respect for, and abiding appreciation to Justice Byron R. White for his thirty-one years and more of fine service on the Supreme Court. In acknowledging his colleagues' good wishes on the occasion of his retirement, Justice White wrote that he expects to sit on U.S. Courts of Appeals from time to time, and so to be a consumer of, instead of a participant in, Supreme Court opinions. He expressed a hope shared by all lower court judges; he hoped "the [Supreme] Court's mandates will be clear [and] crisp, \* \* \* leav[ing] as little room as possible for disagreement about their meaning." If confirmed, I will take the counsel to heart and strive to write opinions that both "get it right" and "keep it tight."