

It seems to me it is a question that rises beyond whether we like the makeup of the Framers of the Constitution, but one of whether we will respect the integrity of the process they set in motion. And so, at least for me, I think the fundamental question that we will try and explore this week will be one of what kind of approach you will take in updating the Constitution and amending it, what your thoughts and philosophies are in that respect.

Once again, let me add a real sense of joy in the accomplishments you bring to this job. I think it is clear that you have the intellectual capacity to be a very distinguished member of the U.S. Supreme Court. I look forward to a chance to explore with you the issues that I think you will be facing in those years.

Thank you.

The CHAIRMAN. Thank you very much, Senator.  
Senator Simon.

#### OPENING STATEMENT OF SENATOR SIMON

Senator SIMON. Thank you, Mr. Chairman. And as I have listened to my colleagues, Judge Ginsburg, and I know of your interest in opera, it sounds not like the triumphal march of "Aida" but the triumphal march of Judge Ginsburg here. We welcome you, and particularly we welcome your son from Illinois here. [Laughter.]

As I have read your opinions and some of your writings, as you probably never anticipated U.S. Senators would read them, I have the impression of a solid scholar, but someone who is cautious. And my guess is that is the kind of Supreme Court nominee that you will be.

If I may comment, Mr. Chairman, just a moment on the process itself, I think first the President handled this properly in taking time, in consulting with members of this committee and consulting with legal scholars around the Nation.

It is very interesting, as you look at the history of nominations, when Presidents have acted quickly, with rare exceptions, the nominations have not been strong nominations. When Presidents have taken their time, there generally has been a superior quality to the nomination. And I think President Clinton and Attorney General Reno and his counsel, Bernie Nussbaum, are to be commended on the time that was taken.

The second thing I want to commend you on Mr. Chairman, is having one portion of the hearing a closed hearing where any negative charges, which may or may not have substance, are heard in that closed hearing. And then if there is something substantial, then the public can know about it. But if someone somewhere has a charge that a nominee embezzled \$50,000 10 years ago, we don't need that on national television immediately. That ought to be looked at in a private session. And then if there is substance, we look at it openly.

Judge Ginsburg, I think you are doing very well with this committee. In fact, maybe we ought to stop the hearings right here from your perspective. You face a much harsher judge, however, than this committee, and that is the judgment of history. And that judgment is likely to revolve around the question: Did she restrict freedom or did she expand it?

I am optimistic that the judgment of history will be a favorable one for you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Cohen, a new member of the committee and a very welcome member of the committee, although he has had experience in the past in the other body on the Judiciary Committee. It is nice to have you here, Senator, on this nomination.

#### OPENING STATEMENT OF SENATOR COHEN

Senator COHEN. Thank you very much, Mr. Chairman. Judge Ginsburg, welcome to this hearing.

Senator Brown suggested I might try to approach a discussion with you in a manner different than that pursued by all who have preceded me, and that is quite a challenge in itself. In preparing for the hearing, I was rummaging through the writings of Ambrose Bierce, an American writer and journalist, and I would note parenthetically the author of "The Devil's Dictionary," a book that many people in this country may feel we refer to in order to color and shade our words from time to time.

Bierce related the story of an Associate Justice of the Supreme Court who was sitting by the river when a traveler approached and said, "I'd like to cross. Would it be lawful to use this boat?" "It will," came the reply. "After all, it's my boat." The traveler thanked him, jumped in the boat, pushed it into the water, embarked and rowed away. The boat sank and the man was drowned.

"Heartless man," cried an indignant spectator. "Why didn't you tell the man that the boat had a hole in it?" "The matter of the boat's condition," said the great jurist, "was not brought before me."

Now, during the next several days, the committee hopes to bring before the American people the matter of your condition and that of your intelligence and competence and philosophy on the role and responsibility of the Court in our lives.

It is interesting that out of all the institutions in our three branches of government, the Supreme Court remains to most Americans the least well known, the least understood, and, perhaps not so paradoxically, the most revered. With the national press corps recording virtually every step or misstep that a President makes, the American people are fully aware that the Nation's Chief Executive is bound to be a colossus with imperfect feet, and it is no state secret that the American people hold the legislative branch in what we can only charitably call a minimum of high regard.

It is only the judicial branch, and particularly the Supreme Court, that has significantly grown in stature since its creation some 200 years ago. For the vast majority of people, the Justices, their deliberations, their decisionmaking processes, all remain shrouded in secrecy. There is almost an ecclesiastical aura and mystery that surrounds that temple where final and unreviewable power is exercised.

Prof. Laurence Tribe, who is no stranger to this committee, has described the profound nature of the Court's influence on our lives. He has written that: