

The CHAIRMAN. Thank you, Senator. The Senator from Ohio, Senator Metzenbaum.

Senator METZENBAUM. Thank you, Mr. Chairman.

We begin these hearings almost 6 months after Justice Powell announced his retirement. I believe all of us on the committee are optimistic that the long struggle to fill this vacancy is nearing its conclusion. Nevertheless, this committee owes it to the Senate, and the American people, to conduct fair and thorough hearings, and I am confident we will do so.

I did not intend to address myself to this particular point, but my distinguished colleague from Utah I think was advising you not to answer some questions and to resist the temptation to explore with us some of the issues that we on the committee will inquire about.

I would hope that you would disregard that advice, and that you would follow your own judgment, which has been previously stated to many of us, and that is that the answers will be forthcoming.

I think, indeed, we have not only a right, but an obligation to inquire of your philosophy, and your approach, and your thinking. We do not have a right to ask of you how you will vote in connection with any particular case, or how you would have voted.

Judge, you are clearly qualified by ability and temperament to sit on the Supreme Court. In addition, the record suggests that you are a traditional conservative in your approach to constitutional and statutory interpretation.

I will be frank with you. I do not necessarily agree with all of your decisions. I would have been happier if you had reached different results in certain cases. I would have been pleased if you had resigned earlier from clubs that excluded women, though it is fair to point out that you did take affirmative steps, somewhat belatedly perhaps, to change the policy of those clubs.

In short, I am not going to say to you, Judge Kennedy, that you are my ideal nominee. But the choice is not ours in the Senate to make. On the basis of what we now know, you appear to be an acceptable nominee. Only after the hearing is concluded can we make that final assessment.

We have undergone a lengthy and exhausting struggle over who will become the next Supreme Court Justice.

The public is entitled to ask, "Has it really been worth this much trouble?" Without question, it has. We have had a national referendum on the kind of Constitution this country wants. The result has been an overwhelming endorsement for the one we have now.

The Senate and the American people rejected a nominee who believed individual freedoms can be found only in the fine print of the written Constitution. The Senate and the American people reaffirmed the value of broad constitutional protections for individual liberties, and strong guarantees of equal protection.

If this hearing demonstrates that you do indeed support these fundamental values—and I fully expect that it will—these months of struggle will pay rich dividends far into the future for our country.

Thank you, Mr. Chairman.

[The statement of Senator Metzenbaum follows:]