

So the kind of things you did to break into what had been a closed world before, these are things you cannot learn about in a book and you can't read about and you can't write about. You had to do it, and you did.

I was moved that day in the Rose Garden, when I stood there with you and President Clinton and you spoke about the experiences of your mother. These were not words that just come from a page. They come from the heart and they come from a lifetime of experience, and I think they moved every single person, no matter what their political background, in that gathering in the Rose Garden.

I think of cases like *Reed*, *Frontier*, *Wiesenfeld*, and *Goldfarb*. These are legendary cases. There isn't a law student who can get through law school without reading them. They came from your briefs.

Judge, as I said before, the Senate's duty to advise and consent is an extremely important charge, but in exercising this responsibility, we have to consider certain threshold qualities—judgment, temperament, experience, intellectual distinction, moral fiber. But we also go into the judicial philosophy.

We will have meaningful questions and I believe meaningful answers, and we will ask you what you think and what kind of a Justice you want to be. But I think that you will also remember, when you go on the Court—as I know you will—what the Court means to everyday, ordinary people, like Sharron Frontiero and Stephen Wiesenfeld, your former clients, but also to others, like Barbara Johns and Clarence Earl Gideon. Barbara Johns attended classes in makeshift tar-paper shacks in a segregated high school in Virginia, but her case was one of five that we now know as *Brown v. Board of Education*. Clarence Gideon, who couldn't afford a lawyer, was convicted of breaking into a pool hall, but he said, "I am innocent." And the Supreme Court took up his handwritten petition, scrawled on plain paper. And as we know from "Gideon's Trumpet," Gideon got a lawyer, was acquitted of the charges against him, and changed the whole way our criminal justice system works.

That is what the Supreme Court stands for in this country, and that is the Court where we expect people can go and say, "My rights are being trampled, and you, you nine people, are the only people that can guarantee the Constitution means what it says to us." That is the kind of Supreme Court Justice we want; not a Republican, not a Democrat, not a liberal and not a conservative, but somebody who looks first and foremost at the rights of ordinary people.

Thank you, Mr. Chairman.

[The prepared statement of Senator Leahy follows:]

PREPARED STATEMENT OF SENATOR LEAHY

We are a nation blessed in many ways. But our greatest blessings are the individual liberties guaranteed by our Constitution. The nine men and women who serve as justices of the Supreme Court are the final guardians of these freedoms.

Because of all that is at stake, a lifetime appointment to this bench is perhaps the most sacred trust that can be bestowed on an individual. Because of what is at stake, the Senate's responsibility of advice and consent in these proceedings is perhaps its most important duty.

Judge Ginsburg, reviewing your record over these past weeks, I have been struck by its breadth and distinction. But perhaps your proudest achievements are the

landmark Supreme Court cases you fought that literally changed the destiny of women in this country. Much has been made said about these victories, and much more will be said throughout the course of these hearings. So let me just add this:

I think I speak for most parents in my State of Vermont when I thank you—personally—for helping to contribute to a world where someday my daughter will have opportunities equal to those open to my sons. Without your pioneering efforts, there is no guarantee that the progress that has been made so far would have occurred. All of us owe you a great debt of gratitude.

You come before this Committee with sterling qualifications. In your 13 years on the D.C. Circuit Court of Appeals, and before then teaching at Columbia and Rutgers, you have distinguished yourself as a top flight legal scholar. Along with having the reputation as a fair and thoughtful jurist, colleagues from the bench, scholars who comment on your work and lawyers who appear before you point to your keen intellect and ability for astute legal analysis.

But a brilliant legal mind and volume of circuit opinions are far from the only requirements that go into making a proper Justice of the Supreme Court. And they are far from the only attributes you offer. You also possess the life experience that makes you know the world of most people is more troubled than the confines of the courthouse or academia.

Your mother—like so many women of her generation—led a hard life. She was a motivated student—graduating from high school at age fifteen. But she went to work in New York's garment district to put her brother, not herself, through college.

You yourself, the first man or woman to be a member of both the Harvard and Columbia Law Reviews, graduating tied for first in your Columbia Law School class with impeccable credentials, could not find a law firm in New York that would offer you a job.

Prestigious judges and justices made no bones about denying you clerkships, just because you were a woman.

When you worked in a Social Security office while your husband, Martin, served in the military, you were forced to accept a lower-paying job because you were pregnant.

Your experiences breaking into what was—and to a surprising degree still is—a man's world are credentials that cannot be attained from books or briefs. You know what it means to be excluded, what it means not to be taken at your worth as a full member of society. And it is these experiences, I suspect, that you still draw upon every time you have to decide a truly tough case. Listening to your comments in the Rose Garden, I could tell especially how your mother's spirit inspires you to this day.

These experiences also spurred your pathbreaking role in litigating the major Supreme Court cases that advanced constitutional protections against sex discrimination. *Reed*, *Frontiero*, *Wiesenfeld*, *Goldfarb*—all legendary cases that every law student now reads in constitutional law class. From your briefs and arguments, they have become some of the Supreme Court's most revered works.

Judge Ginsburg, as I said before, the Senate's duty to advise and consent is an extremely important charge. In exercising this responsibility, the Senate must of course consider certain threshold qualities—judgment, temperament, experience, intellectual distinction, moral fiber.

But we must look beyond that, probing the nominee's judicial philosophy—how she thinks—how she views the role of the Constitution in society. Does she—like so many great conservative and liberal justices who have come before—regard the Constitution as an unbreachable wall separating the state from our liberties? Or does the nominee have a narrow, crimped view of our founding principles?

Judge Ginsburg, during these hearings, you will be pressed on many important issues. That is our responsibility. While it is inappropriate for you to be asked about specific cases that may be pending before the Court, the Committee cannot satisfy its constitutional obligation unless it can learn what your constitutional vision is—how you think about the great issues of the day.

This requires asking meaningful questions and receiving meaningful answers. The Committee's weighty responsibility for advice and consent is constant.

Judge Ginsburg, I am sure you have thought over the past weeks at least, what kind of a justice you want to be on the Supreme Court. When you are confirmed, as I expect you will be, I hope you will remember what the Court means to everybody, ordinary people like Sharron Frontiero and Stephen Wiesenfeld, your former clients, and to others like Barbara Johns and Clarence Earl Gideon.

Barbara Johns attended classes in makeshift tar-paper shacks in a segregated high school in Virginia. Barbara Johns knew that separate would never mean equal and, with her parents, resolved to fight for her rights. Her case was one of five that together we now know as *Brown v. Board of Education*.

Clarence Gideon, who could not afford a lawyer, was convicted of breaking into a pool hall and stealing money out of a jukebox. "I am innocent," he claimed. The Supreme Court took up his petition, scrawled by hand on plain paper, listened to his arguments, and gave his constitutional rights content and meaning. Thanks to the Supreme Court, Gideon got a lawyer and was acquitted of the charges against him.

This is what the Supreme Court stands for in our country. Sharron Frontiero, Barbara Johns and Clarence Gideon were hardly powerful or well connected, but they could rely on the Supreme Court to listen fairly to their pleas for justice. The Supreme Court is the institution—really unique in the world—all of us, rich or poor, famous or forgotten, can look to for justice; The place where anyone can go to and say, "I will be heard, and I will have my rights."

Let me conclude my remarks where I began. The Constitution is the soul of this country. I will be looking during these hearings for the intensity of your feelings about the liberties that make this country special, and your devotion to the Court as the protector of those rights. I want you to be a justice who recognizes the importance of this role—a justice who perceives your pivotal place in the history of our democracy, and the great trust that has been placed in your care.

I would not expect you to be outspoken on this score—your nature is to let your actions from the bench speak for themselves. But I do expect—really I know—that in the days ahead we will get a sense of your quiet determination and inner zest for the cause of justice—a cause to which you have dedicated your life.

Welcome to you and your family. I look forward to discussing these issues with you in the days ahead.

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

OPENING STATEMENT OF SENATOR SPECTER

Senator SPECTER. Thank you very much, Mr. Chairman.

Judge Ginsburg, I welcome you here with my colleagues, and I compliment you on an outstanding academic, professional, and judicial record—some 322 opinions and still counting, and 79 articles.

Notwithstanding that outstanding record, I do express concern that some of my colleagues have expressed virtual approval of your nomination even before the hearings have begun, and I believe that that raises some significant problems.

I think that, first, there is a tendency to look at the hearings as pro forma or perhaps just going through the motions with confirmation a virtual assurance. Second, I am concerned about the real risk of undermining public confidence that the Senate will vigorously discharge its constitutional duty of advice and consent on a nominee who will have such a profound effect on the daily lives of more than 250 million Americans, with so many 5-4 decisions on the crucial issues of the day.

I have long expressed my own concern about judicial activism and the Supreme Court being a superlegislature, with the concern about undermining the vital constitutional principle of separation of powers.

At the outset let me say that, as I read your writings, I agree with much of what you say; and that if you were a Senator offering your ideas and legislation on the Senate floor, I would be inclined to cosponsor a good bit of what you articulate.

But the difficulty with judicial activism, as I see it, is that it is fine when we agree with your activism, but it is very problematic if the principle is established that judicial activism is appropriate.

One of my colleagues referred to the agenda of the nominees of two Republican administrations and made it plain that he doesn't favor that kind of judicial activism. And I believe that, as a matter