

give voice within the Court to the aspirations and hopes of the forgotten members of our society.

As a member of the Supreme Court, you will have a historic chance to nurture our living Constitution, and I use that word deliberately. In so doing, you will serve the people of this great Nation. Your rise to this position will, therefore, be our country's gain and we will all be the better for it.

I again would like to extend my congratulations to you. I look forward to the substantive part of the hearings and very much welcome you and your family to this hearing today.

[The prepared statement of Senator Moseley-Braun follows:]

PREPARED STATEMENT OF SENATOR MOSELEY-BRAUN

Mr. Chairman, I am truly honored to have the opportunity to participate in these hearings. One of a Senator's most solemn responsibilities is the duty to offer advice and consent in the nomination of a Justice to the United States Supreme Court. One of the most precious privileges an American citizen can have is to play a role in that process.

Indira Gandhi once said that "If you study history, you will find that where women have risen, that country attained a high position, and wherever they remained dormant, that country slipped back."

Regrettably, history teaches us that many obstacles have been placed in the way of progress for women in this country. Judge Ginsburg's own personal history—including rejection by leading law firms and by the very court to which she is nominated today—demonstrated vividly the nature of gender discrimination in this country's recent past. Now, in 1993, thanks in no small part to Judge Ginsburg's efforts as an advocate for women, many—but not all—of the formal, legal obstacles to the advancement of women have been eliminated by legislative action and by judicial decisions.

Judge Ginsburg, today marks only the second time in our nation's history that a woman has appeared before the Senate Judiciary Committee as a nominee to the Supreme Court. It is also the first time that any woman, let alone two, has sat as a member of this all-important body.

A year ago, I watched Senate confirmation hearings with a sense of helplessness and exclusion. Our democracy once again responded, and the people of Illinois have given me the unique privilege of participating today.

This is the greatest country in the world. And I believe the United States Constitution to be finest exposition of democratic principles ever written. I make these statements, Mr. Chairman, fully aware of the fact that in its original form, the Constitution included neither this Senator, as an American of African descent, nor our distinguished nominee, as a woman, in its vision of a democratic society.

But the greatness of the Constitution lies in the fact that it is a living document, or as Dr. Martin Luther King Jr. once said, a "declaration of intent" regarding America's unlimited potential. A document that through an often painful process of amendment and interpretation has broadened its reach to extend to the previously excluded its promise of equality and justice for all.

Over the years the Supreme Court has played a glorious role in that process. It was the Justices of our Supreme Court, in their bold, independent and faithful interpretations of our Constitution, who outlawed racial segregation in our schools, guaranteed indigent criminal defendants the right to counsel, brought wiretapping within the restrictions of the fourth amendment, demanded freedom of speech, and recognized a woman's fundamental right to control her reproductive destiny.

In some of the most difficult eras of our history the Supreme Court has shown the courage to give life to the promise of the Constitution. A central issue of our time is whether that courage has been lost to timidity and partisan politics.

It is troubling that the court's general approach to constitutional interpretation—the willingness of some recent nominees to embrace the jurisprudence of so-called "strict construction" and "original intent"—all too often has resulted in a narrow reading of the Constitution that has curtailed, rather than expanded, individual rights and has left those who are not rich, powerful or privileged with fewer rights under our precious Constitution. Regular working men and women can no longer be sure that the Supreme Court will be their champion of last resort.

It is time for the Court to embark upon a bold new era, Judge Ginsburg. It is time for a new vision.

Over the next few days, this committee will have the opportunity to explore some of the most complicated doctrines of constitutional law with a brilliant jurist and legal scholar. These discussions are designed to illuminate Judge Ginsburg's judicial philosophy and temperament. But even as we engage in what may sometimes become a highly technical dialogue, Mr. Chairman, let us never forget that the Supreme Court does not belong to the Senate Judiciary Committee, nor to this country's 800,000 lawyers, nor even to the nine distinguished Justices themselves. No, Mr. Chairman, the Court belongs to the American people. And the Court belongs to the American people for one very simple, yet profound reason: Because the Constitution belongs to the American people.

Judge Ginsburg, in your very eloquent remarks accepting your nomination, you said that you hoped to work "to the best of my ability for the advancement of the law in the service of society."

I salute your aspirations, Judge Ginsburg. But, I also hope that you will bring more than your ability to the High Court. I hope that you will also bring your heart, your history, and your humanity.

Because on this historic occasion, I cannot help but recall the words of one distinguished American jurist, who said, "I often wonder whether we do not rest our hopes too much upon Constitutions, upon laws, and upon courts. These are false hopes; believe me these are false hopes. Liberty lies in the hearts of men and women * * * when it dies there no constitution, no law, no court can save it."

This great nation is about to entrust its Constitution, its laws and its highest court to you, Judge Ginsburg. So I hope that liberty—and equality and opportunity—lie within your heart. Because the hopes of millions of Americans depend on it. And if liberty and equality and a love of the law live in your heart, then the President, this committee, and the American people have made the right choice.

It is my hope, Judge Ginsburg, that you will pick up the mantle of Justices Brennan and Marshall and that you will once again give voice within the Court to the aspirations and hopes of the forgotten members of our society.

The CHAIRMAN. Well stated, Senator. I thank you very much.

Let me take one brief moment to explain how Senator Hatch and I have concluded we will pursue the schedule for the remainder of the day. Very briefly, I will ask Judge Ginsburg to rise and be sworn and introduce her family to us, and then invite her to make an opening statement.

At the conclusion of that statement, we will recess for lunch. There have been five votes ordered to be voted in succession beginning at 2:15 this afternoon, so we will not reconvene the hearings until 3:15.

At 3:15, when we reconvene, I have a very brief statement of less than a couple minutes on process, how the remainder of the hearing will be conducted from a procedural standpoint, and I will begin the first round of questions. Each Senator will be given an opportunity to have an exchange with the witness, the nominee, up to 30 minutes, at which time we will conclude the questioning of that Senator. We will not have an opportunity to have every Senator ask their first round of questions today.

It is my intention to have the hearings recess approximately at 6:30, and we will reconvene then at 10 o'clock on Wednesday morning, picking up with whoever was the next questioner in line. So that is how we will proceed from a schedule standpoint.

Judge, I now ask you to stand with me and be sworn: Judge, do you swear that the testimony you are about to give will be the whole truth and nothing but the truth, so help you God?

Judge GINSBURG. I do, Mr. Chairman.

The CHAIRMAN. Thank you.