

of principle, it is vital to keep the activism out of the judicial line as much as is possible.

I have been very much impressed with the breadth of your writings and the openness and the candid approach which you have taken. When you talk about extension of benefits where there is an equal protection violation, and the Court then extends benefits to those not covered by legislation, you are candid in saying that you are legislating a bit. And any legislation by the Court is a matter of concern.

When you take up the equal protection issue and talk about bold interpretation and talk about judges being uneasy in the gray zone between interpretation and alteration of the Constitution, those raise concerns to me about where activism may lead.

Again, I repeat, I admire the positions you have taken and what you have achieved as a litigant and what you have done as a jurist. And I also say that on the bench you have not carried forward the lines which you have written. But as one of my colleagues has noted, when you are on the Supreme Court—how did my colleague put it?—you will have a free hand in doing a great deal more.

So I think these hearings are very important as we take a look at your record, as we take a look at what you have written and see how that may be applied. And as noted by a number of my colleagues, I think we are past the day where there is an issue about the propriety of inquiring into judicial philosophy, although we do not want you to answer how you are going to decide specific cases.

I have noted your writing that the second opinion by the Senate is a very important second opinion and your endorsement of the proposition that the Senators should have equal latitude with the President in deciding which nominees are good for the country.

Beyond those theoretical issues, there are many very important matters that are on the cutting edge of critical considerations for the American people, and I look forward to these hearings and hope that we will be able to have an open exchange where we will have some real idea as to how you see your role as a Supreme Court Justice contrasted with a court of appeals judge, where you will have a freer hand and where there will be a question as to how you will apply the writings on legislation and expansive interpretation of constitutional rights.

Thank you very much.

The CHAIRMAN. Thank you very much, Senator.

Senator Heflin.

#### OPENING STATEMENT OF SENATOR HEFLIN

Senator HEFLIN. Judge Ginsburg, I welcome you and congratulate you on your selection as a nominee for the U.S. Supreme Court.

Over the years, I have had the opportunity to participate in the confirmation process of a number of nominees for our Nation's highest court. I have during past hearings seen the organized distortions of interest groups, heard the roars of extreme party loyalists, and witnessed the divisiveness of politics. I have in a sense seen blood shed during past confirmation hearings.

This time I believe we will see a process remarkably free of acrimony and partisan bickering. Already there is a noticeable dif-

ference. What a change of atmosphere from that of the recent past: Congeniality prevails over confrontation; back-slapping has replaced back-stabbing; inquiry is the motivation rather than injury. While it remains to be seen whether this climate of goodwill will last, at least for now we are scaling the heights of bipartisan cooperation.

Judge Ginsburg, you deserve much of the credit for this fresh new atmosphere. The excellence of your record has itself made your nomination a source of consensus. Much of the credit must also go to my Republican colleagues for their approach to this process. Too often in the past, both parties have suffered from the nearsightedness that sometimes comes from wearing the blinders of partisan allegiance. Finally, a large share of the credit must also go to the President for avoiding a selection based on litmus tests or ideology.

This respite of goodwill is a gift to all of us. Indeed, it is a rare opportunity for this committee and the public we represent to engage in an enlightened dialog with, in my judgment, a future member of our highest court. Freed of the turmoil that has often marred the confirmation process, this committee and the full Senate will have an opportunity to more properly and objectively play the advisory role with which the Constitution charges us.

In that spirit, let me add that my own review of your record leaves me highly impressed. I find particularly encouraging your writings on the need for collegiality and consensus in deciding cases, while adhering to principle. You have also said that a judge's role is to see beyond the often misleading claims of ideological labels. You observe, for example, that a description like "judicial activism" can be a battle cry for both the right and the left, and that a phrase like "original intent" is a signpost along an unending and uncertain road.

I welcome this insightful candor on your part. It reveals a healthy disdain for ideological dogma and a fresh receptiveness to intellectual challenge.

If these instincts are any guide, your service on the Supreme Court would honor that institution and our Nation. You have the potential to break free from the polarization of the left and the right. You offer the promise of reflective, nonideological, and fair jurisprudence. And I for one know of no other values more vital to a sound judicial temperament.

I am optimistic that your brand of judicial decisionmaking will set a standard, and I am also hopeful that the spirit of goodwill that has graced this process so far will set a standard for appointments to come. I look forward to your testimony and to a discussion of your vision, philosophy, and values over the next few days.

I welcome you today and wish you well.

[The prepared statement of Senator Heflin follows:]

#### PREPARED STATEMENT OF SENATOR HEFLIN

Judge Ginsburg, I welcome you and congratulate you on your selection as a nominee to the United States Supreme Court.

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