

bench indicates that he sees it as his duty to apply the law and not to make it.

This nomination, Mr. Chairman, would be widely acclaimed at any time. It is a most propitious nomination today. A large space exists in the Court. I believe that John Paul Stevens can fill it. And therefore, Mr. Chairman, I urge this distinguished committee to act favorably and with as much dispatch as the gravity of its duty permits on the nomination of John Paul Stevens to serve as an Associate Justice of the Supreme Court.

Chairman EASTLAND. Thank you, Senator Percy and Senator Stevenson.

Are there any questions?

The Chair hears none.

Judge Stevens, will you stand please?

TESTIMONY OF JOHN PAUL STEVENS, NOMINEE TO BE A JUSTICE OF THE SUPREME COURT

Chairman EASTLAND. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Judge STEVENS. I do.

Chairman EASTLAND. Senator McClellan.

Senator MCCLELLAN. Thank you very much, Mr. Chairman, for yielding to me.

First, Judge Stevens, I wish to congratulate you upon receiving this high honor and great distinction.

I am confident that you realize fully the responsibilities, that are the gravest responsibilities in government in my judgment, to be a member of the Highest Court in the Nation and to undertake to resolve the many highly complex and difficult issues that come before the Court.

Mr. Chairman, with your permission, I will read a very brief statement, and then I will leave for Judge Stevens a few questions which he can answer for the record at his leisure.

I will not be able to remain, Mr. Chairman, during the rest of the hearings today because I must preside at a conference with Members of the House of Representatives on the Defense appropriation bill.

Because some of the questions I have may require somewhat lengthy answers, out of deference to my colleagues I will read a brief statement and submit the questions for the judge to answer for the record.

Mr. Chairman, on other occasions I have expressed the view that in considering the confirmation of a nomination to the Supreme Court there are three basic questions pertaining to the nominee's qualifications that must be answered in the affirmative.

First, does the nominee have personal integrity?

Second, does he have professional competence?

And third, does he have an abiding fidelity to the Constitution?

Out of proper deference to the nominee himself, and to the judgment and choice of the President of the United States, the strongest possible presumption that the nominee possesses all three of these fundamental qualifications should be indulged, and in this instance, as to Judge Stevens, I entertain no expectations whatsoever that there will be any discoveries or developments during the course of these hear-

ings and in the other proceedings on his confirmation that will in any way vitiate that assumption.

After personal integrity and professional competence, what is most important, in my judgment, is the nominee's fidelity to the Constitution, to its text, to its intent, and to its development through judicial interpretations and precedent throughout the history of our Nation.

The record of Judge Stevens on the U.S. Court of Appeals Seventh Circuit during the past 5 years will give us some insight into his powers of reason, his judicial wisdom, and his philosophy.

I have not yet had the opportunity to examine that record thoroughly, but I expect to do so before this committee takes action upon his confirmation. In the meantime, I would like to explore briefly and in a general way, your understanding of the role of the Court and what should be the attitude of the men who serve on it as the ultimate guardians of the Nation's basic charter.

Judge Stevens, I will submit to you the following questions. Some of them, I think, require discussion, and I will ask you, after answering the question, to discuss the subject matter fully because I think they are basic and fundamental to a proper judicial temperament and attitude with respect to our Constitution and how it should be interpreted and administered. I will appreciate your doing that, and I will also appreciate, when you prepare the answers, your sending a copy to me when you send the answers to the committee.

Thank you very much, Mr. Chairman, and thank you Judge Stevens. Should the hearings continue beyond today, I hope I will be able to return and I may have some other brief questions. But I do not think that would take very long.

Thank you very much, Mr. Chairman.

[The questions submitted by Senator McClellan and the replies subsequently received from Judge Stevens follow:]

QUESTIONS SUBMITTED BY SENATOR MCCLELLAN

(1) As a member of the Court, would you feel free to take the text of the Constitution and particularly such broad phrases as "due process" and "unreasonable search and seizure"—just as illustrations—and read into it your personal philosophy either liberal or conservative?

(2) Do you believe that a member of the Court should disregard the intent of the framers of the Constitution in giving interpretation to its meaning and in its application in order to achieve a result that he thinks might be desirable in, or for, our modern-day society?

(3) To phrase it another way, if you believe that a particular interpretation or construction in keeping with the intent of the framers of the Constitution would not get the results that you felt were more desirable and advantageous for our modern-day society, which factor would be most persuasive with you in arriving at your decision—the intent of the framers of the Constitution or that which would be most desirable or advantageous in our modern-day society?

(4) One former Associate Justice of the Supreme Court has said:

"In interpreting the Bill of Rights, I willingly go as far as a liberal construction of the language takes me, but I simply cannot in good conscience give a meaning to words which they have never been thought to have, and which they certainly do not have in common with ordinary usage. I will not distort the words of the [Fourth] amendment in order to 'keep the Constitution up to date' or to bring it into harmony with the times: it was never meant that this Court have such power, which in effect would make us a continuously functioning constitutional convention." (Mr. Justice Black in *Katz v. United States* 389 U.S. 347, 373 (1967)).

May I most respectfully ask, "Do you share this philosophy? Would you be willing to give a new interpretation, not previously thought of, to change the impact of the Constitution simply to try to 'keep the Constitution up to date' or to bring it into 'harmony with the times,'" please discuss fully.