

Justice Marshall drew his line, yet we confirmed him by a vote of 69–11. Justice Sandra Day O'Connor drew her line, yet we confirmed her by a vote of 99–0. Justice Kennedy drew his line, yet we confirmed him by a vote of 97–0. Justice Ginsburg drew her line, yet we confirmed her by a vote of 96–3. Justice Breyer drew his line, yet we confirmed by a vote of 87–9.

We must use a judicial rather than a political standard to evaluate Judge Roberts's fitness for the Supreme Court. That standard must be based upon the fundamental principle that judges interpret and apply, but do not make the law.

Judge Roberts, as every Supreme Court nominee has done in the past, you must decide how best to honor your commitment to judicial impartiality and independence. You must decide when that obligation is more important than what Senators, including this one, might want to know. As the Senate has done in the past, I believe we should honor your decision and make our own.

Judge Roberts, you have a tremendously complex and important and honorable record, from law school through the various positions in Government that you held, to the judge on the U.S. Circuit Court of Appeals for the District of Columbia to now. We have a great deal of respect for you. We expect you to make a great Justice, and I just want to congratulate you on your nomination.

[The prepared statement of Senator Hatch appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Senator Hatch.

I know Senator Warner is with us, one of the introducers, and, of course, he is welcome to stay. But the timing, we will move to him at about 3:20, approximately.

Senator Kennedy?

**STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR  
FROM THE STATE OF MASSACHUSETTS**

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

Judge Roberts, I join in welcoming you and your family to this Committee and to this famous room—the site of so many historic hearings.

Today, our Nation's flags are at half mast to honor the memory of Chief Justice Rehnquist and his deep dedication to his beloved Supreme Court. We know that Judge Roberts was especially close to him, and our thoughts and prayers go to the Rehnquist family and all who knew him.

As we are all aware, the Senate's action on this nomination is profoundly important. It is a defining opportunity to consider the values that make our Nation strong and just, and how to implement them more effectively, especially the guiding principle of more than two centuries of our history—that we are all created equal.

Our commitment to this founding principle is especially relevant today. Americans are united as rarely before in compassion and generosity for our fellow citizens whose lives have been devastated by Hurricane Katrina.

That massive tragedy also taught us another lesson. The powerful winds and floodwaters of Katrina tore away the mask that has hidden from public view the many Americans who are left out and

left behind. As one Nation under God, we cannot continue to ignore the injustice, the inequality, and the gross disparities that exist in our society.

Across the years, we have experienced times of great turmoil and great triumph as each succeeding generation struggled to live up to our founding principle and give it meaning for everyone. Americans have shed blood, campaigned, and marched. They have worked in countless quiet ways, as well, to see that every one of our citizens is part of our democracy and has an equal opportunity for a good education, a good job, and a good life.

Today, grandparents who were denied the right to vote expect their grandsons and granddaughters to be able to cast a ballot without discrimination or intimidation. And our society is better because of that progress.

Today, fathers and mothers expect their daughters to have the same opportunities as their sons to attend college, play sports, and earn fair pay. And our society is better because of that progress.

Today, parents expect their disabled children to live in hope—to receive an education that draws out their talent, enables them to reach for their dreams like all other Americans. And our society is better because of that progress.

Too many have sacrificed too much, worked too hard, come too far, to turn back the clock on that progress. Americans today expect their elected representatives to carry on the great unfinished business of making America the land of opportunity for all, and we expect our courts to defend our progress as their constitutional responsibility.

The challenge today is especially difficult because of the vast global economic changes and major new threats to our national security, and we need the ingenuity and innovation and commitment of every American.

Our military leaders are the first to say that highly qualified, racially diverse Armed Forces are essential to defend our country and the cause of freedom at home and abroad.

Every citizen counts, and we must continue to remove barriers that hold back millions of our people. We must draw strength from our diversity as we compete in a new world of promise and peril.

So the central issue before us in these hearings is whether the Supreme Court will preserve the gains of the past and protect the rights that are indispensable to a modern, more competitive, more equal America. Commitment to equality for all is not only a matter of fairness and conscience. It is also our path to sustained national strength and purpose.

We also are a Government of the people in which citizens have a strong voice in the great issues that shape our lives. Our system of checks and balances was drawn up in full awareness of the principle that absolute power corrupts absolutely and was designed to make sure that no branch of Government becomes so powerful that it can avoid accountability. The people have a right to know that their Government is promoting their interests, not the special interests, when it comes to the price of gasoline and the safety of prescription drugs, the air we breathe and the water we drink, and the food and other products we buy. The people have a right to

keep Government from intruding into their private lives and most personal decisions.

But the tragedy of Katrina shows in the starkest terms why every American needs an effective national Government that will step in to meet urgent needs that individual States and communities cannot meet on their own.

Above all, the people and their Congress must have a voice in decisions that determine the safety of our country and the integrity of our individual rights. We expect Supreme Court Justices to uphold those rights and the rule of law in times of both war and peace.

All this—and more—will be before the Supreme Court in the years ahead, and its judgments will affect the direction and character of our country for generations to come.

Judge Roberts, you are an intelligent, well-educated, and serious man. You have vast legal experience and you are considered to be one of the finest legal advocates in America. These qualities are surely important qualifications for a potential Supreme Court Justice. But they do not end the inquiry or our responsibility. This Committee and the full Senate must also determine whether you have demonstrated a commitment to the constitutional principles that have been so vital in advancing fairness, decency, and equal opportunity in our society.

We have only one chance to get it right, and a solemn obligation to do so. If you are confirmed, you could serve on the Court for a generation or more, and the decisions you make as a Justice will have a direct impact on the lives of our children, our grandchildren, and our great-grandchildren.

Because of the special importance of an appointment like yours, the Founders called for shared power between the President and the Senate. The Senate was not intended to be a rubber stamp for a President's nominees to the Supreme Court—and, as George Washington himself found out, it has not been.

Judges are appointed "by and with the advice and consent of the Senate," and it is our duty to ask questions on great issues that matter to the American people, and to speak for them. Judge Roberts, I hope you will respond fully and candidly to such questions, not just to earn our approval, but to prove to the American people that you have earned the right to a lifetime appointment to the highest court in the land.

Unfortunately, Mr. Chairman, there are real and serious reasons to be deeply concerned about Judge Roberts's record. Many of his past statements and writings raise questions about his commitment to equal opportunity and to the bipartisan remedies we have adopted in the past. This hearing is John Roberts's job interview with the American people. He will have a fair chance to express his values, state his views, and defend his record. The burden on him is especially heavy because the Administration, at least so far, has chosen not to allow the Senate to have access to his full record. We can only wonder what they don't want us to know.

In particular, we need to know his views on civil rights, voting rights, and the right to privacy—especially the removal of existing barriers to full and fair lives for women, minorities, and the disabled.

From the start, America was summoned to be a shining city on a hill. But each generation must keep building that city. Even in this new century, some Americans are still denied a voice at the ballot box because of their color, denied a promotion because of their gender, denied a job because of their age, denied hope because they are gay, or denied an appropriate education because they are disabled. Long-established rights to privacy are under heavy siege.

We need a Chief Justice who believes in the promise of America and the guarantees of our Constitution, a person who will enter that majestic building near here and genuinely believe the four inspiring words inscribed in marble above the entrance: "Equal Justice Under Law."

I look forward to hearing from Judge Roberts about whether, if he joins the Supreme Court, he will uphold the progress we have made and will guarantee that all Americans have their rightful place in the Nation's future.

Thank you, Mr. Chairman.

[The prepared statement of Senator Kennedy appears as a submission for the record.]

Chairman SPECTER. Thank you, Senator Kennedy.

Senator Grassley?

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR  
FROM THE STATE OF IOWA**

Senator GRASSLEY. Judge Roberts, I welcome you and congratulate you on your nomination. I think it is fitting that you have been nominated to replace a mentor of yours, Chief Justice Rehnquist. You obviously have a tough act to follow, and that is because Chief Justice Rehnquist was a great Supreme Court Justice. He believed in the strict application of the law and the Constitution and was a consistent voice for judicial restraint. And we will all miss his leadership.

Judge Roberts, we had a good personal meeting in my office a little over a month ago, and based on our discussions and what I have reviewed, you appear to be extremely well qualified. At our meeting, I was encouraged by your respect for the limited role of the courts as an institution in our democratic society. I look forward to asking more questions about your record and qualifications, as well as your judicial approach. I also look forward to asking you about what you think are priorities for the Federal judiciary, as you now lead that branch.

Of course, as we reflect on the enormous build-up to this day and the packed hearing room filled with media lights and cameras, it is worth recalling the fact that judicial nominees never appeared before the Senate until 1925. Ever since then, for the most part, the hearings were not public spectacles. In 1962, for example, when Byron White was nominated to the Supreme Court by President Kennedy, the hearing before the Judiciary Committee lasted all of 15 minutes and eight questions. And it seems to me that the Senate sure got it right within Justice White. And Justice White went on to serve then for a generation.

Of course, all this was before we had televised hearings, which has encouraged ratcheting up the rhetoric to play to various constituencies. Furthermore, Judge Roberts, you are the first nominee