

cans in need of more resources, when given the opportunity to interpret statutes to let us into court, in general the nominee has argued against the use of courts.

There has been some shorthand in these hearings for some of those decisions. I feel obliged to mention at least one other. There is a case called *Booker*, which is about a problem all of us face, where the courthouse door is closing on us because we have cell phones and credit cards that mandate we go to arbitration. There is an Equal Action to Justice case, there are several others. There are many instances in the record in which, at least thus far, the nominee has not—

Chairman SPECTER. Professor Resnik, would you summarize your testimony, please?

Ms. RESNIK. I am just closing right now. What we are looking for in the Chief Justice is a person who will celebrate courts and the role they play in a vital, economically stable democracy. And that is the question before the Senate: Is this person's record the one to commend this person for that job?

Thank you.

[The prepared statement of Ms. Resnik appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Professor Resnik.

Our next witness is Professor Christopher Yoo, professor at Vanderbilt University Law School, a distinguished academic record, a graduate of Harvard, an MBA at the Anderson School at UCLA and Northwestern Law School, clerked for Justice Kennedy, and practiced with Hogan & Hartson.

Thank you very much for coming in, Professor Yoo, and the floor is yours for 5 minutes.

**STATEMENT OF CHRISTOPHER S. YOO, PROFESSOR OF LAW,  
VANDERBILT UNIVERSITY LAW SCHOOL, NASHVILLE, TENNESSEE**

Mr. Yoo. Thank you, Mr. Chairman, members of the Committee. It is an honor to be here to testify in support of John Roberts's nomination as Chief Justice of the United States.

I have had the chance to observe Judge Roberts from three different vantage points—first as an associate working the appellate group of Hogan & Hartson, second as a law clerk watching Judge Roberts argue before the Supreme Court of the United States, and third as a member of the faculty of the Vanderbilt University Law School reading his judicial opinions.

Because there are many other colleagues here in a position to testify to his excellence as an appellate advocate and to his performance on the Court of Appeals, I will focus my remarks on the time Judge Roberts and I spent at Hogan & Hartson. I am sure Senator Biden will be gratified to hear that, during his time at Hogan & Hartson, John Roberts demonstrated to me an open-mindedness, an ability to bring people together, that would serve him well as Chief Justice. He also treated everyone around him with respect and decency. I had the chance to witness these qualities first-hand in the support and compassion that he showed to me when a tragedy struck my family.

Judge Roberts's open-mindedness is evident in his decision to join Hogan & Hartson when leaving the White House Counsel's Office in 1986. Hogan has long prided itself on its ability to embrace attorneys from across the political spectrum. To cite just two prominent examples, its ranks include former House Minority Leader Bob Michel and such leading Democrats as former Chairman of the House Subcommittee of Health and the Environment, Paul Rogers. It is also a firm that takes seriously the bar's obligation to provide free legal services to public interest organizations and to individuals who are unable to afford them. Judge Roberts was exceptionally well-liked throughout the firm. His regular lunch partners reflected the underlying diversity of the firm itself.

Even more telling is his decision to return to Hogan after his successful stint as Principal Deputy Solicitor General. At a time when firms were lining up for the chance to hire him, including firms that attract those who wish to surround themselves with like-minded colleagues, Judge Roberts preferred to return to a more balanced and politically diverse environment.

Judge Roberts's open-mindedness can also be seen in the manner in which he developed Hogan's appellate practice. Although the practice group was never large, the attorneys he hired reflected the diversity of the entire firm. Indeed, I suspect that he takes considerable pride in the fact that nearly half of the associates brought into the appellate group under his leadership were women, and that the women with whom he worked most closely on Supreme Court and appellate matters are now partners in the appellate group.

He also represented a broad range of clients with diverse and even conflicting ideologies without requiring that every client's position match his own personal views. His reputation for fairness and willingness to engage all viewpoints were so well-established that Democratic attorneys general and Governors did not hesitate to hire him to represent their interests. In the process, he successfully advocated positions on behalf of clients, on environmental protection, and race-conscious remedies that did not match what many might regard as the standard conservative position on those issues.

The pattern of fairness and open-mindedness that is apparent in his professional decisions is consistent with my own experiences working with Judge Roberts. He brought the same probing intellect and a rigorous professionalism to every aspect of each case, searching through every possible viewpoint in the process of deciding how best to approach it. Simply put, Judge Roberts's tenure at Hogan & Hartson suggests a person who is fair and who is willing to engage and consider all points of view before making up his mind.

My other memory of Judge Roberts from our time together at Hogan is the respect with which he treated everyone around him, from senior partners to secretaries and paralegals to law students who were only working at the firm for a summer. He was always supportive and encouraging even while holding us to the highest professional standards.

He also never forgot the personal side of the people who worked for him. I had the chance to see this aspect of Judge Roberts's character first-hand shortly after I rejoined the firm after my Supreme Court clerkship. I was working full-bore on a slate of cases. My fa-

ther-in-law had just arrived in the D.C. area to celebrate the recent birth of my second son, Brendan. Shortly after my father-in-law arrived, he was admitted to the intensive care unit of Arlington Hospital. After a three-and-a-half-month battle for his life, he eventually died.

Judge Roberts reacted the way we wish everyone would. The minute he found out about my father-in-law's illness, he offered his sympathy and support. He rearranged my assignments to make it possible for me to make my family my first priority. He often checked in on me, always with a thoughtful gesture and a kind word. And when my father-in-law passed away, he released me from all of my assignments on a moment's notice, placed me on paid leave of absence so I could take care of my family when it needed me, even though I was facing a number of deadlines and doing so would mean taking on considerable work himself.

When I returned, he welcomed me back with open arms, without a single word about the problems caused by the abruptness of my departure. For John Roberts, it was all very simple. It was just the right thing to do.

At the same time, Judge Roberts has a humility that is somewhat surprising in someone so accomplished.

Chairman SPECTER. Professor Yoo, would you please summarize at this point?

Mr. YOO. In short, I am convinced that John Roberts possesses the open-mindedness, compassion, and humility that the Senate seeks in the members of our Nation's highest court. He combines these qualities with a respect for the law and for the Supreme Court as an institution that leave no doubt in my mind that he would make an admirable Chief Justice.

Thank you.

[The prepared statement of Mr. Yoo appears as a submission for the record.]

Chairman SPECTER. Thank you, Professor Yoo. That was a good transition, to ask you to summarize and to go right to "in short."

Our next witness and final one on this panel is Professor David Strauss. And extraordinary academic background. A member of the Magna Cum Laude Harvard Law School Club—not too many of you. Judge Roberts is one. Two years at Oxford. An attorney advisor in the Carter Justice Department. Worked on the Judiciary Committee here as special counsel during the Justice Souter nomination proceedings. And has been at the University of Chicago for some time, 18 cases before the Supreme Court.

You're on, Professor Strauss.

**STATEMENT OF DAVID STRAUSS, HARRY N. WYATT PROFESSOR OF LAW, UNIVERSITY OF CHICAGO LAW SCHOOL, CHICAGO, ILLINOIS**

Mr. STRAUSS. Thank you very much, Mr. Chairman, members of the Committee. It is an honor to appear before you.

My purpose here is, really, not to pass judgment on John Roberts, someone I admire very much in many ways, but rather to speak about a development in the subject I teach and study, constitutional law, something that has happened in that area in the last generation that is very significant and directly relevant to this