

Senator McCONNELL. I do not see any point, particularly being this far down the seniority scale, in reiterating all those criteria. We will go into them at length later. I also came back and worked with you, if you will recall, when your own nomination was before the Senate Judiciary Committee.

In the meantime, I, like everyone else, have had a chance to observe your work for the last 15 years, and I want to just tell you, Mr. Justice Rehnquist, it is a privilege to have known you before your nomination, to have worked with you on frequent occasions in those days; to watch the humility, grace, and dignity with which you have handled your position on the U.S. Supreme Court for the last 15 years.

There is no man in the entire country, or woman, in the entire country, in my opinion, better suited for this job, at this particular time, than you are. And so I am excited to support your nomination. It is a thrill to be here and to see you before this group, being proposed for the Chief Justice position, and you can count on my support.

Mr. Chairman, I also had an opening statement which I would also like inserted in the record.

The CHAIRMAN. Without objection, so ordered.

Senator McCONNELL. Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MITCH McCONNELL

Mr. Chairman, I would like to add my voice today in wholehearted support of the nomination of William Hobbs Rehnquist to be Chief Justice of the United States. I commend and fully endorse President Reagan's selection of Mr. Justice Rehnquist, and urge my colleagues on this committee to expeditiously report out this nomination recommending confirmation without reservation.

After careful consideration of those factors I believe ought to be weighed in evaluating Presidential nominations to the Supreme Court, I have come to the conclusion that Mr. Justice Rehnquist is, professionally, exceptionally well qualified to lead our Nation's highest court. Furthermore, I am pleased to be able to add my personal endorsement of this nominee as well as a man of great integrity, wisdom and foresight. I can assure my colleagues that Bill Rehnquist will not only serve the Court to the utmost of his vast abilities, but perform those duties with distinction.

In 1970, when I served as chief legislative assistant to the then junior Senator from Kentucky, Marlow W. Cook, I had the opportunity to express my views on the judicial selection process in a Kentucky Law Journal article. The occasion for my reflection then was the nominations of Judges Haynsworth and Carswell to the Supreme Court and subsequent Senate action on these nominations. The views I expressed some sixteen years ago continue to guide by thoughts on the judicial selection process today.

At the time, I set forth five criteria by which the qualifications of a Supreme Court nominee might be judged. I said then, and continue to believe now, that our constitutional role in providing the President with our advice and consent in respect to nominations to our Nation's highest court is frankly the most important role the Senate plays. For it is the Supreme Court which guards the most fundamental fabric of our society—the rule of law.

First and foremost, a nominee must be judged competent. Like all nominees to the Federal bench, Justice Rehnquist has been evaluated by the American Bar Association's Standing Committee on the Federal Judiciary. The fourteen members of that committee are charged with evaluating on a professional and objective basis the qualifications of a nominee. That committee, by the way, is also the only non-governmental group that has direct input into the evaluation of a potential Federal judge. In the case of Justice Rehnquist, the ABA committee will have had two separate opportunities to evaluate his qualifications.

In 1971, the ABA committee concluded that:

"Mr. Rehnquist meets high standards of professional competence, judicial temperament, and integrity. To the committee this means that from the viewpoint of

professional qualifications, Mr. Rehnquist is one of the best persons available for appointment to the Supreme Court."

Mr. Rehnquist's tenure as Associate Justice of the Supreme Court has certainly substantiated this evaluation. And I am confident that when the ABA committee's present evaluation is presented to this committee, it will not only equal but surpass the previous finding.

The second criterion I proposed to apply to Supreme Court nominees was based upon achievement. Sixteen years ago, in referring to the nomination of one candidate for the Supreme Court, I noted that "[A]fter all, it is the Supreme Court the Senate is considering not the police court in Hoboken, N.J. or even the U.S. district or circuit courts." Our Nation's highest court demands the highest level of excellence. Mr. Chairman, this nominee has more than amply demonstrated that level of excellence.

Mr. Rehnquist has consistently demonstrated a level of professional achievement that all members of the legal profession may envy. After graduation, Mr. Rehnquist served as a law clerk to Mr. Justice Robert H. Jackson. After his clerkship with Justice Jackson, Mr. Rehnquist entered private practice in Phoenix. When he left Phoenix in 1969, to serve in the Justice Department, he was rated at the highest level in Martindale-Hubbell. I can testify from personal knowledge as to his ability as an Assistant Attorney General of the United States. And as the record of this hearing will amply demonstrate, Mr. Justice Rehnquist has excelled as a member of the Supreme Court. Mr. Chairman, I can think of no man better qualified to serve as Chief Justice of the United States.

Third, judicial temperament is vitally important. Service on the Supreme Court demands that an individual possess the highest degree of fairness, integrity, and courtesy. I know from my own experience, that Bill Rehnquist certainly conforms to these standards. As an aside, although I would not characterize it as being a formal prerequisite to service on the Court, I would mention Bill's well developed sense of humor. I am sure that sense of humor has and will continue to promote the necessary comradery among nine individuals engaged in such stressful and intense responsibilities.

The final two criteria I would apply to nominees require that the nominee must have violated no standard of professional conduct rendering him unfit for confirmation, and nor committed any serious impropriety in private life. While I, regretfully, anticipate attempts to cast doubt on Mr. Rehnquist's character on the basis of events delved into at length in his prior confirmation hearing, I am absolutely confident that these attempts will necessarily fail. These allegations speak more to the politics of the confirmation process than to the personal integrity and professional competence of the nominee. The "evidence" brought forward to date has failed to raise even a scintilla of doubt in this Senator's mind. Fortunately, we have not reached the day, I hope, when trial by media rules the confirmation process.

I was particularly troubled by a series of recent articles focused on memoranda produced by Justice Rehnquist during his clerkship with Justice Jackson. In a letter to the editor of the Washington Post, John G. Kester, a former clerk for Justice Jackson, discussed how faulty this line of attack has been. It is precisely a sense of conviction and strength of opinion that makes a clerk valuable to a Justice. I would urge my colleagues to focus on the relevant body of writing—Justice Rehnquist's opinions for the Supreme Court.

While I fully respect the opinions of my colleagues who disagree with the choice of Mr. Rehnquist, and who would have made a different choice, I believe that a heavy burden must be met by those who would have this nominee rejected. Under the Constitution, our duty is to provide advice and consent to judicial nominations, not to substitute our judgement for what are reasonable views for a judicial nominee to hold. I believe that if this nomination proceeds on the merits, William Hobbs Rehnquist will be quickly confirmed as our next Chief Justice of the United States.

The CHAIRMAN. The able and distinguished Senator from North Carolina, Mr. Broyhill.

STATEMENT OF HON. JAMES T. BROYHILL, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator BROYHILL. Thank you very much, Mr. Chairman I appreciate the opportunity to participate in this historic event. In his