

minorities from serving on a jury. In the *Keyes* case, his dissent supported the view that segregation in one part of a school district does not justify a presumption of segregation throughout the district.

America can be thankful that in the difficult and turbulent years since World War II, we have had a Supreme Court that has been right on race, right on equal rights for women, right on apportionment, and the separation of power, right on free speech, and right on separation of church and state.

Imagine what America would be like if Mr. Rehnquist had been the Chief Justice and his cramped and narrow view of the Constitution had prevailed in the critical years since World War II. The schools of America would still be segregated. Millions of citizens would be denied the right to vote under scandalous malapportionment laws. Women would be condemned to second class status as second class Americans. Courthouses would be closed to individual challenges against police brutality and executive abuse—closed even to the press. Government would embrace religion, and the walls of separation between church and state would be in ruins. State and local majorities would tell us what we can read, how to lead our private lives, whether to bear children, how to bring them up, what kind of people we may become.

In these ways and in so many others, a Court remade in the image of Justice Rehnquist would make the Constitution, whose bicentennial we celebrate next year, a lesser document in a lesser land.

It would no longer be the bold charter of freedom, equality and justice that has made America great, but a structure for government decree and bureaucratic efficiency, a structure so suffocating to liberty that the Nation's founders—the patriots who fought a revolution to secure their freedom—would not recognize the reactionary revolution we had wrought.

That is not a vision of America I can support, nor is it a vision that the vast majority of our people would support. Justice Rehnquist is outside the mainstream of American constitutional law and American values, and he does not deserve to be Chief Justice of the United States. To paraphrase John Marshall, we must never forget that it is a Chief Justice we are confirming.

The CHAIRMAN. The able and distinguished Senator from Nevada.

STATEMENT OF HON. PAUL LAXALT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator LAXALT. I thank the Chairman.

I would like to join with the Chairman and the other members of the committee in welcoming Justice Rehnquist on the occasion of his confirmation proceeding.

When he joined the Court in 1971, Justice Rehnquist brought to the bench a brilliance of intellect, an independence of thought, and a soundness of judgment that superbly qualifies him, in my opinion, to be the next Chief Justice of the United States.

Any questions regarding his competence, his temperament, and judicial outlook have certainly been answered in his 15 years on the Court.

I believe that he is an excellent choice for the highest judicial position in our Nation.

The occasion of these hearings, as my colleagues have indicated, is an important one. The constitutional role of the Senate in the confirmation process is that of an independent assessor of judicial candidates. This is the time and the place for the important questions about the nominee to be asked and answered.

The hearings present the Senate and the American people with the best opportunity to assure ourselves of the fitness of this man for this appointment. The hearings should be thorough, and the hearings should be fair. I am personally confident that they will confirm my belief that the President chose the very best candidate to be Chief Justice.

Justice Rehnquist, I welcome you to these hearings, and I wish you well.

I thank the Chairman.

The CHAIRMAN. The able and distinguished Senator from Ohio, Senator Metzenbaum.

STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Thank you, Mr. Chairman.

I want to join my colleagues in welcoming Justice Rehnquist to this hearing, and opportunity to discuss some of the issues concerning the confirmation process with the Justice directly. I'm grateful to him for taking the time to meet with me for that purpose.

In exercising our advice and consent role, the Senate has three distinct obligations. We must evaluate the nominee's competence; we must assess his or her integrity; we must determine whether the nominee will be faithful to the law and the fundamental values upon which our constitutional system is based.

I am not concerned about whether Justice Rehnquist is a political conservative. Political philosophy should not be a determinant in our evaluation. My principal concern is whether confirming this nominee as Chief Justice could affect the basic constitutional protections that Americans have enjoyed: the right to a fair trial; protection from discrimination; the right to privacy; the right to practice religion free of government interference.

That is what this hearing is about—not one man, not a President's choice, but the day-to-day rights and privileges of every person in this country.

Frankly, there is cause for concern.

Some of the positions Justice Rehnquist has taken, both before and after he went on the bench, suggest that he holds views so extreme that they are outside the mainstream of American thought and jurisprudence. In examining the record, we find that Justice Rehnquist has been the sole dissenter 54 times, more than any other sitting Justice, and to the best of my knowledge, more than any other Justice in history.