

pack the court. No. In fact, the Court made that switch before it even knew that FDR had a court-packing scheme. The Justice—

Chairman SPECTER. Professor Reich, could you summarize your testimony at this point?

Mr. REICH. I will do it in one sentence. The Justice who made that switch was Justice Roberts, Justice Owen Roberts. And it would be a cruel joke of history if a namesake almost 60 years later turned the Court backward.

Thank you.

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

Chairman SPECTER. Thank you very much, Professor Reich.

Our next witness is Rabbi Dale Polakoff, President of the Rabbinical Council of America, whose membership consists of more than 1,000 ordained rabbis. He serves as Rabbi of Great Neck Synagogue, Long Island, a faculty member of the North Shore Hebrew Academy, a graduate of Yeshiva where he majored in psychology.

Thank you very much for joining us today, Rabbi, and we look forward to your testimony.

**STATEMENT OF RABBI DALE POLAKOFF, PRESIDENT,
RABBINICAL COUNCIL OF AMERICA, GREAT NECK, NEW YORK**

Rabbi POLAKOFF. Thank you, Mr. Chairman, and other distinguished members of the Committee. Good afternoon, or, perhaps, good evening. Thank you for inviting me to participate in these hearings.

The Rabbinical Council of America includes congregational rabbis, teachers and academicians, military chaplains, some of whom serve today in Iraq, Afghanistan, and other areas of the world, health care chaplains, organizational professionals, and others. I am here this afternoon to offer a statement of support for the nomination of Judge John G. Roberts to be Chief Justice of the United States.

My remarks about Judge Roberts begin this afternoon with broad brush strokes because the desired qualities of judges within the Jewish tradition are defined in just such broad brush strokes. We are enjoined to choose principled judges who refrain from showing favoritism to individuals or causes. We seek judges who are people of truth, whose words and decisions inspire confidence in those who rely upon them. Our tradition recognizes the tremendous responsibility borne by those who judge others and sees in their dispensing of truth and justice a divine partnership ensuring the continuation of a moral society.

At a time in which many in our society seek moral moorings and spiritual strength, I am certain that these broad values are also the values embraced by this great country in which we are privileged to live. Values of principle, values of truth, and values of responsibility are part of the foundation of religious ethics upon which our Nation has been built. And I am confident that Judge Roberts represents the embodiment of such values.

Within these broad brush strokes, though, are many hues of color, and it is the responsibility of this Judiciary Committee to try to determine how Judge Roberts sees those colors.

As a representative of the clergy of a minority faith community, I and my colleagues are also interested in an area of seminal importance to us, namely, the relationship between religion and state in society. In an effort to gain insight into Judge Roberts's understanding of that relationship, as defined by the Free Exercise and Establishment Clauses of the First Amendment, we were encouraged by a memorandum written to Counsel Fred Fielding on August 20, 1984, regarding remarks to be made by President Reagan to an ecumenical prayer breakfast. Then-Counsel Roberts suggested that the references to "church" or "churches" be changed to references to "religion" or "religions." He noted that, and I quote, "Many of our citizens do not worship in churches but in temples and mosques." We believe that this comment demonstrates a sensitivity and appreciation for the diversity of religious faith in America, and we hope is a harbinger of Judge Roberts's view in this crucial area.

There are those who suggest that Mr. Roberts's subsequent participation in presenting the view of the United States in several religion cases should be of concern. In this matter, we rely on the guidance of the Institute of Public Affairs of the Union of Orthodox Congregations of America, a sister nonpartisan religious organization. Their research indicates that in each of the cases, the positions advocated by the United States were neither extreme nor even unreasonable interpretations of the Religion Clause's requirements.

As members of this Committee are well aware, the contours of religious liberty in this Nation are still being shaped by the Supreme Court. Should the Senate confirm Judge Roberts, he will be on the Court this term, when, in the case of *Gonzales v. O Centro Espirita*, it will again examine the extent to which minority religions will have their religious liberty protected against Government interference, and Congress's ability to protect that liberty through laws like the Religious Freedom Restoration Act, which many of you championed a decade ago.

While we cannot be certain, we are optimistic that a Justice Roberts will be supportive and solicitous of religious liberty in America. His answers this week to questions you and your colleagues have asked him about the Constitution's Religion Clauses were indeed reassuring.

The Rabbinical Council of America has taken this public position of support for the nomination of Judge Roberts in the spirit of this year's celebration of 350 years of American Jewish history. The Jewish community, like so many other faith communities, has greatly benefited from the religious liberty guaranteed by our Constitution. We have been able to build houses of worship and study and to create communities reflective of our values and traditions. We believe it, thus, appropriate through our active participation in this process that we acknowledge our debt of gratitude to America, to a Nation that has pledged to uphold the conviction that liberty and equal justice under law are for all.

Thank you very much.

[The prepared statement of Rabbi Polakoff appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Rabbi.