

The CHAIRMAN. Mr. Colley, it is a distinct pleasure to have you here and, quite frankly, somewhat reassuring. You have been, if I am not mistaken, president of a national bar. You have been a man deeply involved in civil rights issues all your life, and I am anxious to hear what you have to say about this gentleman.

Mr. COLLEY. Thank you very much, Senator Biden. It is a pleasure for me to be here also, and I can assure you that I would not be here if I didn't have reasonable cause to believe that Judge Kennedy will be an outstanding member of the Supreme Court of the United States.

I want to tell you that I am one of these people who have known him for a long, long time. I even go further than that; I knew his father. He practiced law in Sacramento. When I came to Sacramento there was some question, believe it or not, whether I should be admitted to the local bar association, even though I had passed the State bar examination.

The CHAIRMAN. What year was that?

Mr. COLLEY. This was in 1949. And it was Archibald Mull, a local lawyer, and Mr. Kennedy's father who at once took steps to see that there were no barriers placed before me, and in fact they encouraged me to apply for membership in the American Bar Association, and of course I was accepted. You will have to remember that at the time I am talking about black members were not welcome to the Los Angeles Bar Association. But in Sacramento, my welcome was complete and total from the beginning, largely through the work of two people. That was Archibald Mull and Mr. Anthony Kennedy Sr. Well, it is not senior because their middle initials are different. But anyway, I want to make that point very clear.

And, if Judge Kennedy went astray on racial issues, it happened to him long after he left home. Now, I heard that he went to Stanford. That might have had some influence on him adversely. I hope not.

The CHAIRMAN. Where did you go to school?

Mr. COLLEY. Well, first I went to Tuskegee, in Alabama.

The CHAIRMAN. Don't brag, just get to the end.

Mr. COLLEY. I went to Yale, but I went there because Stanford didn't welcome black people then, Columbia had a quota, and Harvard was too far from Harlem. So I went to Yale.

The CHAIRMAN. And if I am not mistaken, you graduated with distinction from Yale.

Mr. COLLEY. Well, yes. That is because—I want you to know that I am not from the Establishment. Everybody has been asking about the Establishment.

The CHAIRMAN. You are sure sounding like it, though.

Mr. COLLEY. No, I am not a part of the Establishment. I was born in rural Alabama, and I represent something I think is special in America; and that is, you can come from anywhere and go anywhere if you really try. And I came from rural Alabama where I was unfit for picking cotton from the very outset. My mother recognized this and she encouraged me to read books, and, of course, that was very important in my life. I ended up as an officer in the Army, for instance. You will never know how much trouble it gave me to lead a black company in the Solomon Islands and in the

Philippine Islands and in New Guinea, and people have asked me "Why are all the people in your company black?" And I also recognized racial segregation and the evils of it. I determined at that time that something had to be done about this, and so I made the bold move of deciding to go to law school.

Now, my very good friend Joe Rauh was here today and I saw him on the television screen. Joe and I served on a national board for more than a dozen years together, and I can't remember a time we differed. So when he testified this morning, I could only say, "Lord, forgive him for he knows not what he does." I know Judge Kennedy better than he does. He is drawing inferences from some writings. I am offering direct testimony of my own observations and my own beliefs.

I have a prepared statement, which I offer in evidence—I am not going to analyze again the cases of Judge Kennedy that I have analyzed in my paper. I will answer questions about them if anybody wants to ask me.

Judge Kennedy and I performed a service in Sacramento for many years. We are both adjunct professors at the local law school. He teaches constitutional law and I teach jurisprudence or philosophy. We often have the same students. There is a great interchange between our students. Only the better students want our courses anyway, because the other people are concerned about evidence and contracts and what they call bread and butter courses. I can tell you that from his students you get the best reports you get from anyone, and there is just no doubt about it whatsoever.

Now, I know Judge Kennedy has made mistakes in some of his decisions. I don't agree with all of them, and I say that in my prepared texts. But who is it among us who has never made a mistake? I don't know any such person as that.

With reference to his membership in private clubs, I can tell you that whenever he wanted to talk with me he would call me for lunch, but he never asked me to go to the Sutter Club, which is one of the clubs that has been mentioned, because he knew my views about that club. My views go back for many, many years, when they didn't tear it down in redevelopment. They tore down every other private institution but left the Sutter Club because of the power it represented. There is just no doubt about it.

But long before he was a candidate for the job he is now about to take he did, in fact, resign from the Sutter Club because of its discrimination against women. That seems to me a great plus because we have to realize that this business of not joining clubs which discriminate is a part of a new enlightenment. This hasn't always been the view in America. And, if we took from the Senate every member who had ever joined one of these clubs, I doubt whether you would get a quorum. And I know that is a distinguished body and I respect it tremendously.

So I don't think we need to take the past and transport it into the present and say that everybody now who did not have the views 10 years ago that we have now is some sort of bad person. That is bad reasoning.

I would submit my case and tell you, just by closing, that Judge Kennedy embraces *Brown v. School Board*. He has said so many times. He has never said anything to the contrary. And so far as

black people in America are concerned, that decision is our Magna Carta, and he who embraces it embraces us. I want to return a symbolic embrace of Judge Kennedy and ask you to do the same.
Thank you.

{The statement of Nathaniel S. Colley follows:}