

If any Senator feels that a judicial nominee is so committed to a particular agenda that the nominee would not be fair and impartial, if he or she feels that the nominee would not protect fundamental rights of Americans, if he or she believes that the nominee would fail to respect the prevailing principles of constitutional law, that Senator not only has the right, that Senator really has a sworn duty to reject the nominee.

And during the consideration of Justice Rehnquist's nomination, each of us is going to have to evaluate the nominee. We will have special questions to answer pertinent to his nomination as Chief Justice. Can he carry out the administrative functions of that office? Can he exercise the requisite leadership?

We have, as Senators, a solemn responsibility that will affect this Nation, not only now, but way, way into the future, and will require our very best judgment, our most powerful scrutiny.

The Constitution demands no less nor would Justice Rehnquist expect any less from the U.S. Senate.

The CHAIRMAN. The able and distinguished assistant majority leader, Senator Alan Simpson of Wyoming.

STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator SIMPSON. Thank you, Mr. Chairman.

We're honored to welcome to the committee today, Bill Rehnquist and his fine wife and family. It is a pleasure to have you here.

It is a privilege for me to join with my colleagues in reviewing the career and the qualifications of the man nominated to be the 16th Chief Justice of the United States, a rather small number for a 210-year-old Nation. So we should be ever conscious of the importance of these proceedings and the long-term effect of this nomination upon the U.S. judicial system.

I think accordingly then that we must be very careful and alert to our duty to conduct these proceedings in a fair and balanced and civil fashion, seeking light and not heat, seeking information and not confrontation.

President Reagan was elected by a large majority. That has been discussed, he is one of our most popular Presidents. He has the right and the obligation to nominate qualified men and women who share the philosophy of this President.

There are also some troubling indications that I see publicly and privately—that events that occurred 20, 25, 35 years ago will be focused on here—possibly to the exclusion of this man's distinguished career on the bench since 1971.

I would hope we might receive the information which we are about to be presented as if it were fresh and timely and current and not yet displayed to the public. Then let us form our opinions about that information without the taint of what we called in the law business, "pretrial publicity." I have seen a lot of that manufactured around this burg these last few weeks.

Let us not neglect that extraordinary record which Justice Rehnquist has fashioned over his career, both before 1971 and after his appointment: The degrees at Harvard and Stanford where he grad-

uated first in his class—that escaped me in my legal student days, I may add; a policy position with the Department of Justice, confirmation to the Supreme Court by a Judiciary Committee whose majority party was not sympathetic at all to the nominee's legal philosophy. I think we want to remember that rather carefully.

Then, once on the Court, a widespread reputation as a man of legal brilliance and judicial integrity and unmatched lucidity of reasoning.

But, after all of that, hang on tight because here we go again. You saw the security there at the door. That is where they check you out, and actually I think they check the Constitution out there at that door, too. That is where witnesses check it in.

You will have to ask Ed Meese and Brad Reynolds and Mr. Manion. You are ready for this, I know. You have been out to Wyoming, and this week they have frontier days. This process will be much like coming out of chute No. 4 on a bull at frontier days. You will be ready for that.

It is not as bad as the CSU-Wyoming football game which you went to last fall, but here you are still going to see things that are called loose facts, maybe no facts. You are going to see hearsay—which we do not even call hearsay evidence. We leave off evidence. We just call it hearsay. That is the worst kind.

You will see nastiness and hype and hoorah and maybe even a little of hysteria. This is that other branch. We are not bound by the strictures of the law. The niceties and the nuances of the law are not always found in these surroundings, sadly enough. That is why we try to remove judges from politics.

Those are things we try to do because it is better for them. Who would want to go through it? You are headed into a process where appetite and ambition compete openly with knowledge and wisdom, a very imprecise operation I can assure you.

I know you are ready for all that. I think of Rudyard Kipling and his remarkable poem "If," which is worth reading whether you are 27 or 57 or whenever. One of the lines is, "If you can bear to hear the truth you have spoken twisted by knaves to make a trap for fools." You will need that one.

You must be ready to hear and listen—with these lights in your face and people watching—to listen and hear that you are a racist, an extremist, which has already been suggested time and time again clearly, a trampler of the poor, a sexist, a single dissenter, whatever that is, an unwell man, a crazed young law clerk who is about two tacos short of a combination plate, and a violator of the sacred ballot when all you were doing is what every Democrat and Republican at this table has done. It is called ballot security and appearing at the polls. We have all done that as politicians, young politicians.

Here it all comes, a violator of the sacred ballot, an assassin of the first amendment. And yet 35 or 30 or 20 years ago was a very different time. A snapshot of another era. Civil rights in 1952: That was a very different time before *Brown*; before the 1964 Civil Rights Act that was passed in this Senate in a dramatic fashion.

And there is one for you. There are men in this present Senate on both sides of the aisle who voted against that. Are they less honorable because they were on the other side of the Civil Rights Act?

Why do we ask a higher standard of them or a higher standard of a 27-year-old law clerk? Interesting issue, but it will come.

Well, I would hate to go back and drag up all my old red wagons. I was always in trouble. When something happened in my hometown, the cop car drove up to our house. It was a ritual, an absolute ritual. My mother gasped, my father sighed.

The collected mumbblings and memos of Al Simpson 35 years ago would be grotesque because change is the essence of life and creeping maturity is what we all had best be involved in. If I had not changed I would have been in the clink, and that is for sure. Check that record. It is a dazzler.

I am a birdwatcher here. I love this place. I love the Senate, but you are going to get a spirited exercise. I warn you of a bird of prey which is not in the Senate, and I describe it ornithologically. I have described it before; be on the lookout for them.

They are described best as a bug-eyed zealot, heavilylided, characterized by ruffled feathers and a pinched bill. They scratch for and dig up dusty facts from old dirt, and then make a continual thin whining noise whenever the President pulls one of his appointees out of the bag.

You want to watch for them. They are endemic to the process and a little spooky to observe, and they are out here right now. I have seen some of them today perched on the edge of their roost waiting to gin up more stuff as soon as we get to them here today.

So, I say to you, sir, it is a pleasure and distinct privilege to have you here and I know you are ready for this. It is an exercise which is not pleasant, and I hope that we will remember that you are a sitting Supreme Court Justice of the United States of America, not somebody that wandered in to be approved to the Federal bench in some State, district, or circuit court. You ought to receive that due acknowledgement.

We should review your work product carefully, exceedingly carefully, but we should not delay these proceedings unduly in a search aimlessly to get this man, and I will be proud to be a part of a swift and well-deserved confirmation of you as the 16th Chief Justice of the United States.

The Nation will be well served by you, sir. You are a splendid gentleman. I have no further comment.

The CHAIRMAN. The able and distinguished Senator from Alabama, Judge Howell Heflin.

STATEMENT OF HON. HOWELL HEFLIN, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator HEFLIN. First, I would like to welcome you personally to this hearing as well as your wife and family. I am not here to condemn you or to praise you but to try to endeavor to do my duty fairly and justly. I approach these committee hearings with a sense of awe. It is a privilege to participate in the process of nominating an individual who will probably become only the 16th Chief Justice in American history.

There have been only 15 before him during the 210 years of this Nation's existence. I feel a deep and an abiding sense of responsibility because, while it is a privilege, it is also a power, one man-