

And then the future Justice writes:

In the case of the Supreme Court, the something more which Borah spoke of comes into play. I would prefer to interpret this phrase not as meaning that it takes more ability to be a Justice of the Supreme Court than a judge of the lower federal courts but rather that there are additional factors which come into play in the exercise of the function of a Supreme Court Justice.

If greater judicial self-restraint is desired or a different interpretation of the phrases "due process of law" or "equal protection of the laws," then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to inquire of men on their way to the Supreme Court something of their views on these questions.

It makes a pretty good, solid analysis. The questions that I am concerned about are these. First, what is the role of the Chief Justice and particularly Justice Rehnquist, what is your vision of that?

One of the things that hit me as I was reading, one of the things I just somehow thought picking the Chief Justice was in the Constitution that the President is supposed to do that. It is a statutory thing.

I am not at all sure when this is all over that we should not be looking at whether we really ought to be involved in this. The President should be involved or whether the Justices themselves in the future should not be selecting the Chief Justice.

I think it is basic as Senator Grassley has just said that the Chief Justice be a person of ability and integrity. I think the other questions I have that I would like to probe during the course of these hearings, one, is the nominee open-minded? Two, can he be a symbol of fairness to all people in this country, because the Chief Justice is not only an administrator but a symbol for the country?

Three, does he show a sensitivity in this whole area of civil liberties? Related to that is, four, basic respect for the Constitution, how we view church-state issues, first amendment issues, and other issues?

And on those areas I have questions and concerns. There is a fifth one that I think is also extremely important. Does he have the courage to be unpopular? Some of my colleagues view the numbers of dissents that Justice Rehnquist has made as a liability.

I think we ought to examine the content but frankly, I view it as an asset that someone shows the courage to stand up. As you view the history of the Court, occasionally the Court has not had the power, the courage to be unpopular.

One example in my lifetime, a tragic example is when Japanese Americans were taken from the West Coast and the U.S. Supreme Court bowed to public opinion rather than the Constitution.

But does the nominee have the courage to be unpopular? I think that is another important question. These are the things I am going to weigh as I consider how to vote.

Thank you, Mr. Chairman.

The CHAIRMAN. The able and distinguished Senator from Alabama, Mr. Denton.

STATEMENT OF HON. JEREMIAH DENTON, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator DENTON. Thank you, Mr. Chairman.

It is indeed a great honor and a pleasure to welcome Mr. Justice Rehnquist before this committee, and I offer you my personal con-

gratulations, sir, on your nomination to serve as the 16th Chief Justice of the United States.

It is most appropriate at this time that we also take a moment to pay tribute to the retiring Chief Justice, Warren Burger. He has devoted 17 tireless years to the Supreme Court.

Throughout that time, he strived to make an overburdened judicial system more efficient and innovative and has unflinchingly spoken out against the misuse of the law to delay or deny justice.

In a recent television interview he eloquently spoke of the importance of the upcoming 200th anniversary celebration of the U.S. Constitution. Indeed, it will be a time to honor a document which has guided us so well and a time for Americans to pause and ponder the freedoms and liberties which we hold so dear.

Chief Justice Burger will make yet another indelible mark on America's history as he presides over that great celebration and we wish him the very best as he devotes his full time and energy to the bicentennial of America's Constitution.

Mr. Chairman, in my belief we have before us today a man whose distinction in jurisprudence has quickly established him as one of the great jurists of our time. He is recognized as a keen intellect on the Court and one who discharges his duties with alacrity and skill.

It is a tribute to our President to have chosen such a highly qualified man to serve as the first among equals for the U.S. Supreme Court.

I feel sure that his vitae have been reviewed. I will ask that my complete statement be included in the record, Mr. Chairman.

The CHAIRMAN. Without objection, so ordered.

[The prepared statement follows:]

PREPARED STATEMENT OF HON. JEREMIAH DENTON

Mr. Chairman: It is indeed a great honor and a pleasure to welcome Mr. Justice Rehnquist before this committee. I offer my personal congratulations to you, Justice Rehnquist, on your nomination to serve as the sixteenth Chief Justice of the United States.

It is most appropriate at this time that we also take a moment to pay tribute to retiring chief Justice Warren Burger. He has devoted seventeen tireless years to the Supreme Court. Throughout that time he has strived to make an overburdened judicial system more efficient and innovative, and has unflinchingly spoken out against the misuse of the law to delay or deny justice.

In a recent television interview, Chief Justice Burger eloquently spoke of the importance of the upcoming 200th anniversary celebration of the United States Constitution. Indeed it will be a time to honor a document which has guided us so well, and a time for Americans to pause and ponder the freedoms and liberties which we hold so dear. Chief Justice Burger will make yet another indelible mark on America's history as he presides over this great celebration, and we wish him the very best as he devotes his full time and energy to the bicentennial of America's Constitution.

Mr. Chairman, we have before us today a man whose distinction in jurisprudence has quickly established him as one of the great jurists of our time. Justice Rehnquist is recognized as a keen intellect on the Court, and one who discharges his duties with alacrity and skill. It is a tribute to our great President to have chosen such a highly qualified man to serve as the "first among equals" for the United States Supreme Court.

William Rehnquist was graduated first in his class from Stanford Law School in 1952, where he also served as Editor of the Law Review. One of his law school professors called William Rehnquist "the outstanding student of his law school generation."