

CONTENTS

SEPTEMBER 12-14, 2005

STATEMENTS OF COMMITTEE MEMBERS

	Page
Biden, Hon. Joseph R., Jr., a U.S. Senator from the State of Delaware	15
prepared statement	743
Brownback, Hon. Sam, a U.S. Senator from the State of Kansas	46
Coburn, Hon. Tom, a U.S. Senator from the State of Oklahoma	48
Cornyn, Hon. John, a U.S. Senator from the State of Texas	40
DeWine, Hon. Mike, a U.S. Senator from the State of Ohio	24
prepared statement	816
Durbin, Hon. Richard J., a U.S. Senator from the State of Illinois	43
prepared statement	819
Feingold, Hon. Russell D., a U.S. Senator from the State of Wisconsin	32
prepared statement	843
Feinstein, Hon. Dianne, a U.S. Senator from the State of California	26
prepared statement	846
Graham, Hon. Lindsey O., a U.S. Senator from the State of South Carolina	35
Grassley, Hon. Charles E., a U.S. Senator from the State of Iowa	13
prepared statement	883
Hatch, Hon. Orrin G., a U.S. Senator from the State of Utah	7
prepared statement	893
Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts ...	10
prepared statement	931
Kohl, Hon. Herbert, a U.S. Senator from the State of Wisconsin	21
prepared statement	946
Kyl, Hon. Jon, a U.S. Senator from the State of Arizona	19
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont	4
prepared statement	1008
Schumer, Hon. Charles E., a U.S. Senator from the State of New York	37
prepared statement	1284
Sessions, Hon. Jeff, a U.S. Senator from the State of Alabama	29
Specter, Hon. Arlen, a U.S. Senator from the State of Pennsylvania	2

PRESENTERS

Bayh, Hon. Evan, a U.S. Senator from the State of Indiana presenting John G. Roberts, Jr., Nominee to be Chief Justice of the United States	52
Lugar, Hon. Richard G., a U.S. Senator from the State of Indiana presenting John G. Roberts, Jr., Nominee to be Chief Justice of the United States	50
Warner, Hon. John, a U.S. Senator from the State of Virginia presenting John G. Roberts, Jr., Nominee to be Chief Justice of the United States	52

STATEMENT OF THE NOMINEE

Roberts, John G., Jr., of Maryland, Nominee to be Chief Justice of the United States	55
Questionnaire	57

SEPTEMBER 15, 2005
WITNESSES

Bellia, Patricia L., Professor of Law, Notre Dame Law School, South Bend, Indiana	514
Botelho, Hon. Bruce, former Attorney General, State of Alaska, and Mayor of Juneau, Alaska, Juneau, Alaska	492
Braceras, Jennifer Cabranes, Commissioner, U.S. Commission on Civil Rights and Visiting Fellow at the Independent Women's Forum, Boston, Massachusetts	460
Bradley, Kathryn Webb, Senior Lecturing Fellow, Duke Law School, Durham, North Carolina	479
Browner, Carol M., former Administrator, U.S. Environmental Protection Agency, and Principal, The Albright Group, Washington, D.C.	477
Edelman, Peter B., Professor of Law, Co-Director, Joint Degree in Law and Public Policy, Georgetown University Law Center, Washington, D.C.	512
Engler, John, former Governor of Michigan, and President, National Association of Manufacturers, Washington, D.C.	535
Fried, Charles, former Solicitor General of the United States, Beneficial Professor of Law, Harvard Law School, Cambridge, Massachusetts	510
Furchtgott-Roth, Diana, Senior Fellow, Hudson Institute, Washington, D.C. ...	526
Greenberger, Marcia, Co-President, National Women's Law Center, Washington, D.C.	490
Henderson, Wade, Executive Director, Leadership Conference on Civil Rights, Washington, D.C.	462
Jackson, Roderick, Coach, Ensley High School, Birmingham, Alabama	494
Jones, Beverly, Lafayette, Tennessee	498
Jones, Nathaniel, Judge (retired), U.S. Circuit Court of Appeals for the Sixth Circuit, Of Counsel, Blank Rome LLP, Cincinnati, Ohio	466
Kirsanow, Peter, Partner, Benesch, Friedlander, Copley & Aronoff, and Commissioner, U.S. Commission on Civil Rights, Cleveland, Ohio	464
Lewis, Hon. John, a Representative in Congress from the State of Georgia	458
Lindberg, Denise Posse-Blanco, Judge, Third Judicial District Court, State of Utah, Salt Lake City, Utah	483
Mahoney, Maureen E., Partner, Latham & Watkins, Washington, D.C.	476
Pearl, Karen, Interim President, Planned Parenthood Federation of America, New York, New York	536
Polakoff, Dale, Rabbi and President, Rabbinical Council of America, Great Neck, New York	531
Reich, Robert B., former Secretary of Labor and University Professor and Maurice B. Hexler Professor of Social and Economic Policy, Brandeis University, Waltham, Massachusetts	529
Resnik, Judith, Arthur Liman Professor of Law, Yale Law School, New Haven, Connecticut	516
Stetson, Catherine E., Partner, Hogan & Hartson, Washington, D.C.	488
Strauss, David, Harry N. Wyatt Professor of Law, University of Chicago Law School, Chicago, Illinois	520
Tallman, Ann Marie, President and General Counsel, Mexican American Legal Defense and Educational Fund, Los Angeles, California	481
Thistlethwaite, Susan, President, Chicago Theological Seminary, Chicago, Illinois	533
Thornburg, Dick, former Attorney General of the United States, former Governor of Pennsylvania, and Counsel, Kirkpatrick & Lockhart Nicholson Graham, Washington, D.C.	455
Tober, Stephen L., Chairman, American Bar Association Standing Committee on the Federal Judiciary, Portsmouth, New Hampshire; accompanied by Thomas Z. Hayward, Jr., Past Chairman, American Bar Association Standing Committee on the Federal Judiciary, Chicago, Illinois and Pamela A. Bresnahan, D.C. Circuit Representative, American Bar Association, Washington, D.C.	451
Turner, Reginald M., Jr., President, National Bar Association, Detroit, Michigan	485

	Page
Wright, Henrietta, Of Counsel, Goldberg, Godles, Wiener and Wright, and Chairman of the Board, Dallas Children's Advocacy Center, Dallas, Texas ...	496
Yoo, Christopher S., Professor of Law, Vanderbilt University Law School, Nashville, Tennessee	518

QUESTIONS AND ANSWERS

Responses of John G. Roberts, Jr. to questions submitted by Senator Biden	549
Responses of John G. Roberts, Jr. to questions submitted by Senator Brownback	556
Responses of John G. Roberts, Jr. to questions submitted by Senator Fein- gold	559
Responses of John G. Roberts, Jr. to questions submitted by Senator Fein- stein	563
Responses of John G. Roberts, Jr. to questions submitted by Senator Ken- nedy	574
Response of John G. Roberts, Jr. to a question submitted by Senator Kyl	616
Responses of John G. Roberts, Jr. to questions submitted by Senator Leahy	617
Responses of John G. Roberts, Jr. to questions submitted by Senator Fein- stein on behalf of Senator Mikulski	621
Responses of John G. Roberts, Jr. to questions submitted by Senator Schu- mer	626
Responses of Thomas Z. Hayward, Jr. and Stephen L. Tober to questions submitted by Senator Leahy	641

SUBMISSIONS FOR THE RECORD

Ability Center of Greater Toledo, Karen Boaden, Director of Finance, Syl- vania, Ohio, letter	646
Advance USA, Dr. Carl Herbster, President, Independence, Missouri, letter	648
Alliance for Justice, Nan Aron, President, Washington, D.C., letter and pre- pared statement	649
Alliance of Women Democrats, Patricia Olney Brenham, Texas, letter	678
American Association of People with Disabilities, Andrew J. Imparato, Presi- dent and CEO, and John Lancaster, Executive Director, National Council on Independent Living, and Robert Bernstein, Executive Director, Bazelon Center for Mental Health Law, Washington, D.C., letter and attachment	679
American Association of University Women, Washington, D.C., letter	683
American Bar Association, Model Code of Judicial Conduct, excerpt	690
American Broadcasting Companies, Inc., August 29, 1985, transcript	692
American citizens and religious leaders, joint letter	693
American Civil Liberties Union, Caroline Fredrickson, Director and Chris- topher E. Anders, Legislative Counsel, Washington, D.C., letter	701
American Federation of Labor and Congress of Industrial Organizations, John J. Sweeney, President, Washington, D.C., letter	711
Americans United for Separation of Church and State, Washington, D.C., report	713
Bellia, Patricia L., Professor of Law, Notre Dame Law School, South Bend, Indiana, prepared statement	732
Biden, Hon. Joseph R., Jr., a U.S. Senator from the State of Delaware: selected 1993 answers by Judge Ginsburg	747
statements on proper scope of questioning during Ginsburg Hearing	756
Black Women's Health Imperative, Feminist Majority, NARAL Pro-Choice America, National Abortion Federation, National Family Planning & Repro- ductive Health Association, National Partnership for Women & Families, National Women's Law Center, Planned Parenthood Federation of America, Inc., Washington, D.C., joint letter	758
Botelho, Hon. Bruce, former Attorney General, State of Alaska, and Mayor of Juneau, Alaska, Juneau, Alaska, prepared statement	760
Braceras, Jennifer Cabranes, Commissioner, U.S. Commission on Civil Rights, and Visiting Fellow at the Independent Women's Forum, Boston, Massachusetts, prepared statement	766
Bradley, Kathryn Webb, Senior Lecturing Fellow, Duke Law School, Durham, North Carolina, prepared statement	771

	Page
Browner, Carol M., former Administrator, U.S. Environmental Protection Agency, and Principal, The Albright Group, Washington, D.C., prepared statement	777
Cases involving the United States (selective) of Justice Stephen Breyer and Justice Ruth Bader Ginsburg	781
Center for Constitutional Rights, New York, New York, letter	784
Center for Individual Freedom, Jeffrey Mazzella, President, Alexandria, Virginia, letter	790
Centre for New Black Leadership, Phyllis Berry Myers, Washington, D.C., letter	791
Community Rights Counsel, Defenders of Wildlife, Earthjustice, Endangered Species Coalition, Friends of the Earth, National Environmental Trust, Sierra Club, Washington, D.C., joint letter	792
Concerned Women for America, Janet M. LaRue, Chief Legal Counsel, Washington, D.C., statement	802
Congressional Black Caucus of the United States Congress, Melvin L. Watt, Chair, CBC, and Eleanor Holmes Norton, Judicial Nominations Chair, Washington, D.C., letter and attachment	808
Dean, John W., III, White House Counsel, Beverly Hills, California, prepared statement	814
Earthjustice, Washington, D.C., statement	824
Edelman, Peter B., Professor of Law, Co-Director, Joint Degree in Law and Public Policy, Georgetown University Law Center Washington, D.C., prepared statement	829
Enfoque a la Familia, Yuri Mantilla, Director de Relaciones Gubernamentales Internacionales, Colorado Springs, Colorado, letter (in Spanish)	837
Engler, John, former Governor of Michigan, and President, National Association of Manufacturers, Washington, D.C., prepared statement	838
Feminist Majority Foundation, Arlington, Virginia:	
article, July 1, 2005	851
article, July 20, 2005	852
Former heads of the Office of the Solicitor General, Washington, D.C., joint letter	853
Fraternal Order of Police, Chuck Canterbury, National President, Washington, D.C., letter	855
Fredette, Roland H., Flore L. Fredette, Henry P. Fredette, and Rosilene R. Fredette, Atlanta, Georgia, joint letter	857
Fried, Charles, former Solicitor General of the United States, Beneficial Professor of Law, Harvard Law School, Cambridge, Massachusetts, prepared statement	858
Frist, Hon. William H., M.D., a U.S. Senator from the State of Tennessee and Majority Leader of the United States Senate, prepared statement	865
Furchtgott-Roth, Diana, Senior Fellow, Hudson Institute, Washington, D.C., prepared statement	867
Gillers, Stephen, Emily Kempin Professor of Law, New York University School of Law; David Luban, Frederick Haas Professor of Law and Philosophy, Georgetown University Law Center; and Steven Lubet, Professor of Law and Director of the Program on Advocacy and Professionalism, Northwestern University School of Law, joint letter and attachment	874
Greenberger, Marcia, Co-President, National Women's Law Center, Washington, D.C.	886
Hazard, Geoffrey C., Jr., University of Pennsylvania Law School, prepared statement	896
Henderson, Wade, Executive Director, Leadership Conference on Civil Rights, Washington, D.C., statement	897
Hispanics for a Fair Judiciary, Raul Yzaguirre, Civil Rights Advocate, Washington, D.C., statement	909
Human Rights Campaign, Joe Solmonese, President, Washington, D.C., prepared statement	910
Jackson, Roderick, Coach, Ensley High School, Birmingham, Alabama, prepared statement	916
Johanson, Niles, San Diego, California, letter	920
Jones, Beverly, Lafayette, Tennessee, prepared statement	921
Jones, Nathaniel, Judge (retired), U.S. Circuit Court of Appeals for the Sixth Circuit, Of Counsel, Blank Rome LLP, Cincinnati, Ohio	924
Judicial Conference of the United States, Code of Conduct for United States Judges, excerpt	928

VII

	Page
Kirsanow, Peter, Partner, Benesch, Friedlander, Copley & Aronoff, and Commissioner, U.S. Commission on Civil Rights, Cleveland, Ohio, prepared statement	935
Kleinsmith, Barbara, Brea, California, letter	945
Lambda Legal, Jon W. Davidson, Legal Director, letter and attachment	949
Law professors from across the United States, joint letter	956
Lawyers' Committee for Civil Rights Under Law, Washington, D.C., letter and attachment	972
Leadership Conference on Civil Rights:	
Wade Henderson, Executive Director, and Nancy Zirkin Deputy Director, Washington, letter	993
Dr. Dorothy I. Height, Chairperson, and Wade Henderson, Executive Director, Washington, letter	997
League of United Latin American Citizens, Washington, D.C., press release ...	1007
Legal Momentum, Washington, D.C., article and attachment	1011
Lewis, Hon. John, a Representative in Congress from the State of Georgia, prepared statement	1016
Lindberg, Denise Posse-Blanco, Judge, Third Judicial District Court, State of Utah, Salt Lake City, Utah, prepared statement and attachment	1018
Lugar, Hon. Richard G., a U.S. Senator from the State of Indiana, prepared statement	1025
Mahoney, Maureen E., Partner, Latham & Watkins, Washington, D.C., prepared statement	1029
Members of the Congressional Hispanic Conference, Washington, D.C., letter ..	1033
Members of the Congress of the United States, Washington, D.C., letter	1035
Mexican American Legal Defense and Educational Fund, Los Angeles, California, prepared statement	1042
Morbidity and Mortality Weekly Report, Atlanta, Georgia:	
report, November 5, 1982	1065
report, August 30, 1985	1070
Morgan, Thomas D., Oppenheim Professor of Antitrust & Trade Regulation Law, George Washington University Law School, Washington, D.C., letter ..	1076
Nader, Ralph, Washington, D.C., statement	1079
Nager, George, Attorney and Counsellor at Law, Hempstead, New York, letter	1088
Nathanson, Jeanette, Carmel Valley, California, letter	1090
National Association for the Advancement of Colored People, Washington, D.C., letter and attachments	1091
National Association of Manufacturers, John Engler, President and CEO, Washington, D.C., letter	1099
National Association of Social Workers, Washington, D.C., statement	1100
National Association of Women Lawyers, Stephanie A. Scharf, Chair, Committee for Evaluation of Supreme Court Nominees, Chicago, Illinois, letter and attachment	1106
National Center for Lesbian Rights, Washington, D.C., article	1111
National Council of Women's Organizations, Washington, D.C., media release and attachment	1116
National Coalition for the Protection of Children & Families, Rick Schatz, President and CEO, Cincinnati, Ohio, letter and attachment	1118
National Council of Jewish Women, Phyllis Snyder, Washington, D.C., statement	1120
National Employment Lawyers Association, Janet E. Hill, President, San Francisco, California, letter	1125
National Lawyers Guild, New York, New York, article	1129
National Organization for Women, Kim Gandy, President, Washington, D.C., letter	1131
National Partnership for Women & Families, Debra L. Ness, President, Washington, D.C., statement	1133
NARAL Pro-Choice America, Nancy Keenan, President, Washington, D.C., statement	1137
National Women's Law Center, Nancy Duff Campbell, Co-President, Marcia D. Greenberger, Co-President, Washington, D.C., letter	1152
New York Times:	
August 30, 1985, article	1153
May 1, 2001, article	1155
Noel, Georgette Forney, President, and Rev. D. Lorne Coyle, Chairman of the Board, Sewickley, Pennsylvania, letter	1157

VIII

	Page
Notes on Judge Roberts's record on various topics	1158
O'Sullivan, Darlene & Patrick M., letter	1165
Parents, Families and Friends of Lesbians and Gays, San Diego, California, article	1166
People for the American Way, Ralph G. Neas, President, Washington, D.C., report and attachment	1169
Pearl, Karen, Interim President, Planned Parenthood Federation of America, New York, New York, statement	1179
Polakoff, Dale, Rabbi and President, Rabbinical Council of America, Great Neck, New York, statement	1186
Rainbow PUSH Coalition, Rev. Jesse L. Jackson, Sr., Founder and President, Chicago, Illinois, statement	1190
Randall, John C., Fairlawn, Ohio, letter	1192
Reich, Robert B., former Secretary of Labor and University Professor and Maurice B. Hexler Professor of Social and Economic Policy, Brandeis Uni- versity, Waltham, Massachusetts, statement	1193
Religious Coalition for Reproductive Choice, Rev. Carlton Veazey, President and Chief Executive Officer, Washington, D.C., letter	1198
Religious Freedom Action Coalition, William J. Murray, Chairman and Peggy S. Birchfield, Executive Director, Wahsington, D.C., statement and attach- ment	1200
Religious Institute on Sexual Morality, Justice, and Healing, Rev. Debra W. Haffner, Director, Norwalk, Connecticut, letter	1202
Resnik, Judith, Arthur Liman Professor of Law, Yale Law School, New Haven, Connecticut, statement	1204
Reynolds, William Bradford, Assistant Attorney General, Civil Rights Divi- sion, Washington, D.C., memorandum	1232
RightMarch.com, William Greene, Washington, D.C., statement	1233
Roberts, John G., Jr.:	
August 9, 1982, memorandum	1234
February 10, 1983, memorandum	1237
June 7, 1983, memorandum	1240
February 29, 1984, memorandum	1242
September 13, 1985, memorandum and attachments	1243
Duke Law Journal, April 1993, article	1260
Rotunda, Ronald D., George Mason University Foundation Professor of Law, George Mason University School of Law, Arlington, Virginia, statement	1269
Service Employees International Union CLC, Andrew L. Stern, International President, Washington, D.C., letter	1289
Sierra Club, Carl Pope, Washington, D.C., letter	1295
Stetson, Catherine E., Partner, Hogan & Hartson, Washington, D.C., state- ment	1300
Strauss, David, Harry N. Wyatt Professor of Law, University of Chicago Law School, Chicago, Illinois, prepared statement	1304
Tallman, Ann Marie, President and General Counsel, Mexican American Legal Defense and Educational Fund, Los Angeles, California, prepared statement	1309
Thistlethwaite, Susan, Rev., President, Chicago Theological Seminary, Chi- cago, Illinois, prepared statement	1324
Thornburg, Dick, former Attorney General of the United States, former Gov- ernor of Pennsylvania, and Counsel, Kirkpatrick & Lockhart Nicholson Graham, Washington, D.C., prepared statement	1331
Tober, Stephen L., Chairman, American Bar Association Standing Committee on the Federal Judiciary, Portsmouth, New Hampshire, Washington, D.C., prepared statement	1340
Turner, Reginald M., Jr., President, National Bar Association, Detroit, Michi- gan, prepared statement	1362
Union for Reform Judaism, Robert Heller, Chairperson, Union for Reform Judaism Board of Trustees, and Jane Wishner, Chairperson, Commission on Social Action of Reform Judaism, Washington, D.C., letter	1380
Unitarian Universalist Association of Congregations, Robert C. Keithan, Di- rector, Washington, D.C., letter and attachment	1382
Warner, Hon. John, a U.S. Senator from the State of Virginia, prepared statement	1386
Washington Post:	
August 31, 1985, article	1391
Boyce Rensberger and Cristine Russell, September 4, 1985, article	1392

IX

	Page
Washington Post—Continued	
September 4, 1985, article	1400
Dr. Jay Siwek, September 4, 1985, article	1402
Michael Specter, September 4, 1985, article	1405
Don Colburn, September 4, 1985, article	1408
Victor Cohn, September 4, 1985, article	1413
September 4, 1985, article	1416
Sandy Rovner, September 4, 1985, article	1418
Waxman, Hon. Henry A., a Representative in Congress from the State of California, letter	1421
Wilberforce Forum, Mariam Bell, National Director of Public Policy, Wash- ington, D.C., letter	1427
Valley, Dustin, Worthington, Ohio, letter	1428
Women's Sports Foundation, East Meadow, New York, statement	1429
Wright, Henrietta, Of Counsel, Goldberg, Godles, Wiener and Wright, and Chairman of the Board, Dallas Children's Advocacy Center, Dallas, Texas, prepared statement	1432
Yoo, Christopher S., Professor of Law, Vanderbilt University Law School, Nashville, Tennessee, prepared statement	1437