

This time, I believe we will see a process remarkably free of acrimony and partisan bickering. Already, there is a noticeable difference. What a change of atmosphere from that of the recent past: Congeniality prevails over confrontation; back-slapping has replaced back-stabbing; inquiry is the motivation rather than injury. While it remains to be seen whether this climate of goodwill will last, for now, at least, we are scaling the heights of bipartisan cooperation.

Judge Ginsburg, you deserve much of the credit for this fresh new atmosphere—the excellence of your record has itself made your nomination a source of consensus. Much of the credit must also go to my Republican colleagues for their approach to this process. Too often in the past, both parties have suffered from the nearsightedness that sometimes comes from wearing the blinders of partisan allegiance. Finally, a large share of credit must also go to the President for avoiding a selection based on litmus tests or ideology.

This respite of goodwill is a gift to us. Indeed, it is a rare opportunity for this committee and the public we represent to engage in an enlightened dialogue with a future member of our highest court. Freed of the turmoil that has often marred the confirmation process, this committee and the full Senate will have an opportunity to more properly and objectively play the advisory role with which the Constitution charges us.

In that spirit, let me add that my own review of your record leaves me highly impressed. I find particularly encouraging your writings on the need for collegiality and consensus in deciding cases, while adhering to principle. You have also said that a judge's role is to see beyond the often misleading claims of ideological labels. You observe, for example, that a description like "judicial activism" can be a battle cry for both left and right, and that a phrase like "original intent" is only a sign post along an unending, uncertain road.

I welcome this insightful candor on your part. It reveals a healthy disdain for ideological dogma, and a fresh receptiveness to intellectual challenge.

If these instincts are any guide, your service on the Supreme Court would honor that institution and our Nation. You have the potential to break free from the polarizations of the left and right. You offer the promise of reflective, nonideological, and fair jurisprudence. And I, for one, know of no other values more vital to a sound judicial temperament.

Judge Ginsburg, I am optimistic that your brand of judicial decisionmaking will set a standard. I am also hopeful that the spirit of goodwill that has graced this process so far will set a standard for appointments to come. I look forward to your testimony and to a discussion of your vision, philosophy, and values over the next few days.

I welcome you today and wish you well.

The CHAIRMAN. Senator, I have never heard you so articulate or so rhetorically eloquent. Obviously major surgery does a lot to people up here. You are looking good, and we have been welcoming Senator Specter back, but you have gone through one heck of a summer and spring, and it is great to see you in such great health and making such fine statements.

Senator HEFLIN. Well, thank you, sir. I appreciate that.

The CHAIRMAN. Now, Senator Brown, who has not had any major surgery, is next. [Laughter.]

Senator LEAHY. But we still welcome him back.

The CHAIRMAN. That is right.

#### OPENING STATEMENT OF SENATOR BROWN

Senator BROWN. Thank you, Mr. Chairman.

Judge Ginsburg, let me add my welcome to you as well. It is clear from looking at your record that your commitment to the law is a family affair. I note that your husband Martin is a distinguished professor at Georgetown University and that your daughter is a tenured professor at Columbia Law School. They tell me that even your son, who is currently on leave from law school, is a law student at the University of Chicago. That kind of family

commitment, I think, bodes well for the endeavor that is ahead for you.

I also note a number of firsts in your background that I think any of us would take enormous pride from: No. 1 in your class at Cornell; among the first nine women admitted to Harvard Law School; No. 1 in your class at Columbia Law School; the second woman in history on the faculty of Rutgers Law School; and the first woman to ever serve on the faculty of Columbia Law School.

You are also the first woman to make law review at two Ivy League schools, which has already been noted, and you are among the first 20 law professors to teach at any American law school.

Your record is extraordinary by any account and I think is one of the reasons that you have the kind of welcome this morning that you have enjoyed.

This seat, as I know you know, is a very special one for Colorado. It is special because Byron White is so respected and so honored in the State. I think of Byron White's contribution as more than simply being one of the finest athletes in the history of our country, which, of course, he has been, perhaps more than even being one of the finest scholars to ever serve our country in the highest court. He has been both of those. But I think perhaps what is significant for our deliberations this morning is Byron White's integrity that he has brought to the process.

Ultimately, I think the concern of the committee is for integrity, perhaps more than any particular issue. I tend to think it affects all of the things we will discuss, most particularly the philosophy you bring as a Justice on the Supreme Court.

Our Founding Fathers laid out a Constitution that I don't think any of them thought would remain unchanged forever. As a matter of fact, as you know, the amending process started immediately with the first 10 amendments in what we now call the Bill of Rights. That Bill of Rights was a process not only to bring equity but also to get the measure passed and approved as it went for ratification to the various States.

But the Constitution laid out a process for its change. Our Founding Fathers never thought that that document would remain unchanged and specifically provided for how it could be changed and updated. And I note that Thomas Jefferson had suggested not only the need for change and adaptation, but had even suggested perhaps a constitutional convention that might take place every 20 years.

I, for one, think that idea would be an excellent one, but the question I think it raises is this: Do we respect the amendment process and reserve changes in our Constitution for that process, a process that involves levels of government closer to the people, elected representatives that can be eliminated from office if their constituents disagree? Or do we believe the amendment process can take place by those who are appointed to the Court?

That strikes me not just as a matter of favoring the woman's right to choose or opposing it, or favoring changes in the construction of the equal protection clause, or favoring or opposing changes in the interpretation of the 10th amendment, but one of integrity of the Constitution itself.

It seems to me it is a question that rises beyond whether we like the makeup of the Framers of the Constitution, but one of whether we will respect the integrity of the process they set in motion. And so, at least for me, I think the fundamental question that we will try and explore this week will be one of what kind of approach you will take in updating the Constitution and amending it, what your thoughts and philosophies are in that respect.

Once again, let me add a real sense of joy in the accomplishments you bring to this job. I think it is clear that you have the intellectual capacity to be a very distinguished member of the U.S. Supreme Court. I look forward to a chance to explore with you the issues that I think you will be facing in those years.

Thank you.

The CHAIRMAN. Thank you very much, Senator.  
Senator Simon.

#### OPENING STATEMENT OF SENATOR SIMON

Senator SIMON. Thank you, Mr. Chairman. And as I have listened to my colleagues, Judge Ginsburg, and I know of your interest in opera, it sounds not like the triumphal march of "Aida" but the triumphal march of Judge Ginsburg here. We welcome you, and particularly we welcome your son from Illinois here. [Laughter.]

As I have read your opinions and some of your writings, as you probably never anticipated U.S. Senators would read them, I have the impression of a solid scholar, but someone who is cautious. And my guess is that is the kind of Supreme Court nominee that you will be.

If I may comment, Mr. Chairman, just a moment on the process itself, I think first the President handled this properly in taking time, in consulting with members of this committee and consulting with legal scholars around the Nation.

It is very interesting, as you look at the history of nominations, when Presidents have acted quickly, with rare exceptions, the nominations have not been strong nominations. When Presidents have taken their time, there generally has been a superior quality to the nomination. And I think President Clinton and Attorney General Reno and his counsel, Bernie Nussbaum, are to be commended on the time that was taken.

The second thing I want to commend you on Mr. Chairman, is having one portion of the hearing a closed hearing where any negative charges, which may or may not have substance, are heard in that closed hearing. And then if there is something substantial, then the public can know about it. But if someone somewhere has a charge that a nominee embezzled \$50,000 10 years ago, we don't need that on national television immediately. That ought to be looked at in a private session. And then if there is substance, we look at it openly.

Judge Ginsburg, I think you are doing very well with this committee. In fact, maybe we ought to stop the hearings right here from your perspective. You face a much harsher judge, however, than this committee, and that is the judgment of history. And that judgment is likely to revolve around the question: Did she restrict freedom or did she expand it?