PREPARED STATEMENT OF SENATOR JOHN WARNER

Mr. Chairman, I am both pleased and honored to introduce Associate Justice William Hubbs Rehnquist to the Judiciary Committee for the position of Chief Justice of the United States.

William H. Rehnquist was originally confirmed as an Associate Justice in 1971. During his tenure as an Associate Justice, he has displayed a brilliant intellect and is respected by his colleagues as one of the brightest judicial minds on the Court.

Since graduating first in his class from Stanford University Law School, he has consistently maintained the highest standards of professionalism, and since 1971, has proved to be a jurist eminently qualified for our highest court.

Justice Rehnquist's unique combination of qualifications does not stop with his legal acumen or his dedication to the Constitution. He is also known for his energetic approach to his duties, and his congenial spirit. A Chief Justice possessing such well balanced and admirable qualities will certainly make a strong, effective and respected leader.

President Reagan described Justice Rehnquist as "sensitive to the role of courts, attentive to rights specifically guaranteed in the Constitution, and a jurist of highest competence."

Justice Rehnquist's judicial philosophy begins with courage. He has faced the most difficult issues before the Court with determination, placing his confidence and trust in the Constitution, and never being afraid to defend even the most unpopular position.

It is my hope that the Senate will strongly endorse President Reagan's nominee for Chief Justice of the United States.

The CHAIRMAN. We will now hear from the able and distinguished junior Senator from Virginia. Senator Trible.

STATEMENT OF HON. PAUL TRIBLE, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator TRIBLE. Mr. Chairman, I thank you for this opportunity to join my distinguished colleagues on this historic occasion, and I am honored to be asked to join him in presenting to this committee, Justice Rehnquist.

Let me add very briefly to what has been said. Justice Rehnquist, in my judgment, is an extraordinarily qualified choice for Chief Justice. He is a man of formidable intellect who has consistently demonstrated analytical rigor and wide-ranging scholarship.

During his tenure on the Court, Justice Rehnquist has been an articulate and persuasive advocate of traditional constitutional interpretation of federalism, individual liberty, and respect for the law.

I enthusiastically support his confirmation and I urge this committee to act promptly, and positively, and I thank you.

The CHAIRMAN. So, I believe the record shows that the Chief Justice is endorsed by both Senators from Arizona, his original home State—Senator Goldwater and Senator DeConcini—and by both Senators from his resident State at present—from Virginia, Senator Warner and Senator Trible.

You gentlemen are now excused, if you wish to leave. We will now return to the committee members, and the first, now, will be Senator Mathias of Maryland.

Senator MATHIAS. Thank you, Mr. Chairman. One of the great strengths of the Supreme Court is, of course, its stability. History does not assess the record of the Court in 2-year, or 4-year, or 6-year terms, but it studies it as a generation, or, even as an era.

Today, for the first time in 17 years, we stand on the threshold of a new era in the history of the Supreme Court. The Judiciary Com-

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mittee has before it today, the man whom the President has nominated. It is interesting to reflect: The man whom the President has nominated as the first Chief Justice for the Nation's third century. The man who, in all likelihood, will be the first Chief Justice of the 21st century. And so I want to first congratulate Justice Rehnquist. The President has nominated him for a post that has been filled by only 15 other Americans in the whole history of the Republic.

I think in all candor, I should add to my congratulations my hopes for good luck, because the scrutiny that this nomination receives will, and certainly should be very thorough, very exacting, and perhaps, at moments, painful.

Few nominees have come before the committee with views that are as well known as those of Justice Rehnquist. His philosophy is generally known because his views are a matter of public record. They are spread on pages of dozens of volumes of U.S. reports. It is the committee's duty to examine that record very carefully. But I would say, Mr. Chairman, to our colleagues on this committee, I think we ought to do it with some sensitivity to the principle of judicial independence.

Our review of the nominee's judicial opinions will be watched very carefully by other Federal judges. I think these men and women must remain confident that they will not be called upon to account, at some future date, to the political branches of government for decisions that they have rendered in court, even though they do hope for greater opportunities for service in the judicial branch.

Since the nominee already serves as an Associate Justice of the Supreme Court, I would think that we should focus a part of our review on the specific responsibilities of a Chief Justice, responsibilities as the head of the judicial branch of government, as well as his position as the first among equals on the Bench of the Supreme Court.

Now, as to the former, the nominee, of course, has very big shoes to fill. If confirmed, he will succeed a Chief Justice who has devoted an extraordinary degree of attention to his institutional responsibilities.

Chief Justice Burger has spoken very forcefully for the Federal Bench, and, to a great degree, for the legal profession as a whole. He has spoken on a wide range of topics of importance to the administration of justice, and I think we will be particularly interested in Justice Rehnquist's plans for building on this foundation. The committee, I believe, should also explore the difficulties that the nominee may confront as the leader of a court that shows some signs of being increasingly polarized.

His ability to nurture consensus on the most pressing constitutional issues before the Court may well be his most compelling task, and his success in this endeavor will determine whether the Court can effectively serve as the arbiter of constitutional controversies.

The American people have reposed no more significant trust in the Senate than the duty to pass upon the President's choices of the men and women who will serve on the U.S. courts.

In this instance, of course, the duty is even greater. The issue before us is whether this nominee has the qualities of vision and

leadership that the Nation expects of its Chief Justice, and that will be particularly essential in the Chief Justice, whose duty it will be, to lead the judicial branch of government into the third century of the Republic. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator. The distinguished Senator from Massachusetts. Mr. Kennedy.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Thank you very much, Mr. Chairman.

The confirmation of a Chief Justice of the United States is a more important responsibility for the Senate than our action on any other nomination to any other Federal office. And the vote we cast on the Rehnquist nomination may be the most significant vote any of us cast in this Congress. It may also be the most important civil rights vote that any of us ever cast.

The Framers of the Constitution envisioned a major role for the Senate in the appointment of judges, it is an historical nonsense to suggest that all the Senate has to do is check the nominee's IQ, make sure he has a law degree and no arrests and rubber stamp the President's choice.

The Virginia plan, the original blueprint for the Constitution gave the legislature sole authority for the appointments of members of the judiciary. James Madison favored the selection of judges by the Senate. The provision ultimately adopted in the Constitution was a compromise described by Gouverner Morris as giving the Senate the power to appoint judges nominated to them by the President.

The original intent is clear—the Senate has its own responsibility to scrutinize judicial nominees with special care, and the highest scrutiny of all should be given to the person nominated to be Chief Justice.

It is no accident that the Constitution speaks not of the Chief Justice of the Supreme Court, but the Chief Justice of the United States. As the language of the Constitution itself emphasizes, the Chief Justice is more than just the leader of the Court. He symbolizes the rule of law in our society; he speaks for the aspirations and beliefs of America as a Nation.

In this sense, the Chief Justice is the ultimate trustee of American liberty; when Congresses and Presidents go wrong under the Constitution, it is the responsibility of the Supreme Court to set them right. As first among equals among members of the Court, the Chief Justice is chiefly responsible for ensuring that the Court faithfully meets this awesome responsibility.

Presidents and Congresses come and go, but Chief Justices are for life. In the 200 years of our history, there have been only 15 Chief Justices. The best of them, the greatest of them, have been those who applied the fundamental values of the Constitution fairly and generously to the changing spirit of their times.

With his famous dictum, "We must never forget that it is a constitution we are expounding," John Marshall shaped the Court in the early years, and laid the groundwork for America to become a