

in poor school districts to study in much lower quality schools than children living in affluent, mostly white school districts.

And, if the political process with respect to eliminating poverty continues to fail the society as it did on race and sexual issues until 1960, the Court may be asked to take bold steps to address that problem.

What is there in Judge Ginsburg's record and background that would give you confidence that, if given the opportunity, she will approach each of the difficult issues properly, even though you may or may not agree with the result? For so much of the confidence and acceptance of Court decisions in difficult social and political issues depend upon the integrity of the opinions written and the character of the Court's members. For in the end, particularly in constitutional matters, the only check on a Justice's exercise of power is his or her own sense of self-restraint. First is what she has been exposed to and done with herself over the last 60 years—a great education, a superior mind, great intellect and intelligence, her seizing and taking advantage of opportunities in both the academic and professional worlds and mixing with great success her professional life and responsibilities as a mother and a wife. Second, she has acquitted herself extremely well as a jurist recognized by the bar and greatly appreciated by her colleagues. Third, her reading and experiences are far beyond the law. She is as familiar with Locke, Rousseau, Keynes, Nietzsche, Santayana, Voltaire, Longfellow, Montesquieu and de Tocqueville, to name a few of her reading companions, as she is with Holmes' Common Law, Cardozo's *The Nature of the Judicial Process* and Blackstone. (A visit to her well used library at home would be a treat and a challenge to us all.) You will often see her at the opera, the theater, the symphony, the ballet, art museums, the Council on Foreign Relations. Next she has a wide range of friends and will discuss just about any subject. She has written books and law review articles, given talks in many diverse fields and traveled extensively.

With it all, however, we still know that the great justices had something that "touched them with fire." Holmes had his Civil War battles, Frankfurter had his battles as an immigrant coming to this country at 12, not speaking a word of English and, as he once said, "belong[ing] to the most vilified and persecuted minority in history."<sup>2</sup> Chief Justice Marshall his battles to make this country a nation and Thurgood Marshall his battles to end racial segregation and all the deleterious effects thereof.

In Judge Ruth Bader Ginsburg I have confidence that that fire was set by the discrimination Ruth Bader Ginsburg encountered when she first came to the bar and by the challenges she met in developing legal theories which ended some of such discrimination and unfairness. That fire also rests in her disciplined desire that she excel as a judge, as a legal scholar, as an American, and as a human being.

I thus urge that your Committee recommend that the Senate favorably advise and consents to the President's nomination of Judge Ruth Bader Ginsburg as an Associate Justice of the Supreme Court of the United States. And I congratulate the country, the legal profession, President Clinton, our great educational and cultural institutions, and the Ginsburg family that in this case the process and system worked and worked quite well.

The CHAIRMAN. Thank you very much.

Mr. Chesterfield Smith, former president, but once a president, always a president. Mr. President.

#### STATEMENT OF CHESTERFIELD SMITH

Mr. SMITH. Forever.

The greatest interest of my life as a trial lawyer has been the justice system, the quality of justices and judges. I have worked at it. I have cared about it. I have been right and wrong in my positions. I have changed and modified. But in an unyielding and unceasing way, I have been devoted to it.

Without reservation, Circuit Judge Ruth Bader Ginsburg in my opinion will, if confirmed, be an absolutely magnificent Supreme Court Justice. As both a lawyer and a person, I know her quite well, perhaps extremely well. I believe that she possesses the temperament, the character, and the professional skills and abilities

<sup>2</sup> *Board of Education v. Barnette*, 319 U.S. 624, 646 (1943).

necessary to go up to my standard of an absolutely superior member of the U.S. Supreme Court.

She is scholarly, reflective, judicious, and humane. She knows when to act with vigor, but equally important, she knows when not to act. And she has the wisdom and experience to know in those actions the value of judicial restraint.

As both a lawyer and a judge, she is extremely experienced in appellate practice and procedure at all levels. As a lawyer, she herself has both briefed and orally argued with great skill multiple cases in the U.S. Supreme Court. And as an appellate judge, her industry and skill have been recognized nationwide for more than a dozen years.

However, she is not limited to just appellate skills. She is a person well versed and experienced in all aspects of the law as it will be presented from time to time for decision by the U.S. Supreme Court.

While I recognize it to be a very broad statement, I firmly believe—and I have a large acquaintance in the American law establishment because I was a bar politician for so many years. I firmly believe that there is no single lawyer in America, male or female, better qualified to be a Supreme Court Justice. Truly she is exceptional. Certainly I personally like Ruth Ginsburg. I have served and participated through the years with her in multiple activities. But I fervently assert that my endorsement of her to you for confirmation is based solely on my idea of merit. Over the years I have become convinced that she has one of the superior legal minds that I have ever been around, talked to, argued with, discussed or debated.

Her legal writing suits me. It is succinct, pithy, concise, scholarly, and absolutely on target. She conserves energy and words. While her experience and intent perhaps have been focused primarily on procedure and constitutional law, I find that she has a broad and roving interest in all aspects of law and justice. She truly loves the law, and she represents it as its best.

Additionally, she is a completely well-rounded person who has the professional and personal capacity to bring to her judicial duties wisdom, moderation, compassion, and justice in the myriad areas of the law routinely a part of the Supreme Court docket.

As a citizen, I strongly urge that you speedily confirm her appointment to the Court. As a trial lawyer, I tell you that she is the kind of judge that I want to go before and advocate causes because I believe that she will consider the facts and the law of that case and make a right and proper decision under the law.

Thank you very much.

[The prepared statement of Mr. Smith follows:]

#### PREPARED STATEMENT OF CHESTERFIELD SMITH

Without reservation, Circuit Judge Ruth Bader Ginsburg in my opinion will if confirmed be a magnificent Supreme Court Justice. As both a lawyer and a person, I know her quite well—extremely well. I believe that she possesses the temperament, the character and the professional skills and abilities necessary to be an absolutely superior member of the United States Supreme Court. She is scholarly, reflective, judicious and humane. She knows when to act with vigor, equally important she knows when not to act, and she has the wisdom and experience to know in those actions the value of judicial restraint. As both lawyer and judge, she is extremely experienced in appellate practice and procedure at all levels. As a lawyer, she her-