

Opening Remarks  
U.S. Senator Richard Blumenthal (D-CT)  
**Nomination of the Honorable Neil M. Gorsuch to be an  
Associate Justice of the Supreme Court of the United States**  
March 20, 2017

Thank you, Mr. Chairman. Thank you for being here, Judge. I live in the Western part of Connecticut. I love Colorado and my first job was on a farm in Nebraska where my grandfather raised corn and cattle. We can go into other commonalities, but I want to join in thanking you and your family and say that despite the hardships of going through this process, I suspect there are quite a few lawyers in Connecticut who wouldn't mind changing places with you.

But I also want to thank one group that, perhaps, should be given gratitude, and that is your fellow judges on the federal bench. Some of them are here. I have no doubt that many are watching. I've had the honor in the last forty years to appear before many of them and they make sacrifices that are often unappreciated by most Americans who enjoy the benefits of their service, often financial sacrifices, personal sacrifices, sometimes even physical threats, as happened when the schools were desegregated or when women's clinics were protected in the United States, and so I want to thank them and through you, express my gratitude.

The independence of those judges has never been more threatened and never more important, and a large part of the threat comes from the man who nominated you who has launched a campaign of vicious and relentless attacks on the credibility and capacity of our judiciary to serve as a check on lawless executive action. His demeaning and disparaging comments about the judiciary have shaken the foundations of respect for judicial rulings, rulings that hold the President accountable to the people and our Constitution.

Respect for the opinions of our judges is fundamental, as you well know. Without it, our democracy cannot function. Alexander Hamilton said that, "The judiciary is the least dangerous branch because it has the power of neither the purse nor the sword." Essential to its power to protect us is its respect and trust and credibility, and the President has gravely undermined it.

That is why I believe you have a special responsibility here, this week, which is to advocate and defend the independence of our judiciary against those kinds of attacks. It isn't enough to do it in the privacy of my office, or my colleagues', behind closed doors. I believe that our system really requires and demands that you do it publicly and explicitly and directly.

We meet this week in the midst of a looming constitutional crisis. Just hours ago, not far from here, the Director of the FBI revealed that his agency is investigating potential ties between President Trump's associates and Russian meddling in our election. The possibility of the Supreme Court needing to enforce a subpoena against the President is no longer idle speculation. It did so in *United States v Nixon*.

So, the independence of the judiciary is more important than ever, and your defense of it is critical. You are also the nominee of a President who set a set of litmus tests—saying that his nominee would be pro-

life and pro-Second Amendment and of a conservative bent. In fact, he said that he would nominate someone, and I'm quoting almost exactly, in one of the debates, who would automatically overturn *Roe v Wade*. If you fail to be explicit and forthcoming and definite in your responses, we have to assume that you will pass the Trump litmus test.

Your nomination also imposes on you a special burden because of the process that brought you here. The President has largely outsourced the selection process to conservative groups. He specifically referred to them on May 11<sup>th</sup> when he said that a list would be prepared by the Heritage Foundation and the Federalist Society. On June 13<sup>th</sup>, he said, "We're going to have great judges, conservative, all picked by the Federalist Society." You must be clear that your views are not theirs. And while under ordinary circumstances, this committee might be satisfied with the platitudes of "I cannot reach conclusions or state conclusions because of the possibility that I may have to consider a case before the Court," these times are not ordinary.

The rule of law is more than the pillars and judicial robes that people ordinarily associate with the United States Supreme Court. Justice has a human face and a voice, and as you know from being in the trenches, real clients with real lives, and the law has real consequences in their lives.

I met with Alphonse Maddin, the trucker who was fired by TransAm Trucking when he left his truck in subzero weather. That truck was disabled. It couldn't be driven, and he was freezing. I met with Patricia Caplinger, who was denied relief by your court after suffering very serious injury resulting from a defective product use. I met with the children of Grace Hwang, who was denied leave by Kansas State University, even though she was suffering from cancer. I'm troubled by the results in those cases for those real people, but also for the broader issues that those decisions reflect in workers' safety and consumer protection, as well as the rights of women to healthcare and reproductive decisions that are protected by the Fourth Amendment. And the right of privacy goes beyond just women's healthcare. It also relates to surveillance and government snooping and a right that is central to our democracy.

Let me just close by saying that you have a special obligation to be forthcoming about your views, not to prejudge the merits of a particular case before the Court, but to share your views on longstanding precedent that the President who nominated you indicated would be overturned. And you have an obligation to be forthcoming as well because the decision before us is not about Justice Scalia, nor is it about your confirmation ten years ago.

The Supreme Court is different. The Supreme Court is the ultimate resort of justice in this country, and as much as you may have encountered little difficulty ten years ago, you now have a record, and we are here to judge that record and to make sure that our decision, and I agree with my colleagues that it will be probably one of the most consequential and profoundly important decisions that I make as United States Senator, is the right one for the country. And that decision will, above all, make sure that the rule of law is preserved for real people with real lives, and that we assure that the independence of our judiciary will continue to protect us from overreaching, and tyranny, and the constitutional crisis that is now a real danger before us.

Thank you for being here. Thank you, Mr. Chairman.