

Sen. Klobuchar's opening remarks as prepared for delivery are below:

Welcome, Judge Gorsuch. We've already met once before in my office, and all of us on the Judiciary Committee are looking forward to hearing from you. We welcome your family as well.

This Committee has no greater responsibility than the one before us today. Our Constitution, our laws, and our values all depend on a Supreme Court that is impartial, fair, and just.

Your nomination comes before us during an unprecedented time in our country's history. We are witnessing a singular moment of constitutional and democratic unease. In recent months, foundational elements of our democracy—including the rule of law—have been questioned, challenged, and even undermined.

So I cannot evaluate your credentials in the comfort of a legal cocoon. Instead, I must look at your views and record in the real world of America today. You see, you come before us this afternoon, not only as a nominee sitting at a table alone, with your friends and family behind you, but in the context of the era in which we live.

From the highest levels of government, we have heard relentless criticisms of journalists.

Seventeen intelligence agencies have confirmed that Russia, an autocratic foreign government attempted to influence our most recent election.

At the same time, voting rights in the U.S. have been stripped from far too many, while dark money in extraordinary sums—adding up to an estimated \$800 million in just the past six years—continues to have an outsized influence in our politics, distorting our representative democracy.

Just last month, we saw the President of the United States refer to a man appointed to the federal bench by President George W. Bush as a “so-called judge.”

And we have sadly seen hate unleashed toward religious minorities from Jews to Muslims, venom directed at innocent Americans, from kids in restaurants being told to go back to where they came from, to a man gunned down while washing his car in his driveway.

The pillars of our democracy and our Constitution are at risk. You are not the cause of these challenges to our democracy but, if confirmed, you would play a critical role in dealing with them.

This is a serious moment in our nation's history, and, as representatives of the American people, it is our duty up here to determine if you will uphold the motto on the Supreme Court building itself—to help all Americans achieve “equal justice under law.”

Before I was elected to the Senate, I spent eight years leading Minnesota's largest prosecutor's office. I've seen firsthand how the law has a real impact that extends far beyond the walls of a courtroom—whether it's crime victims and their families, or people who have seen a loved one sent to jail.

The decisions made from the bench affect people living right now, in the 21st century, with 21st century problems and concerns. So, though the U.S. Constitution and its Bill of Rights were written in the 18th century...though the Fourteenth Amendment's guarantee of “equal protection of the laws” was written in the 19th century...the decisions made today affect not the lives of our 18th- and 19th-century ancestors, but of all Americans today.

So Judge, these hearings will not just be about your legal experience. They are about trying to understand what you would actually do on the Court. For the law is more than a set of dusty books in the basement stacks of a law library; it's the bedrock of our society.

We need to know how you approach the law. After Judge Merrick Garland was nominated to the Supreme Court last year, we often heard about how he is a careful jurist who decides cases on the narrowest possible grounds...who builds consensus across the ideological spectrum...who doesn't inject political considerations into his rulings. We look forward to hearing what your judicial philosophy would be on the Court.

Looking at your past decisions, I have questions about how you would approach your work.

In a speech last year, you spoke about the differences between judges and legislators. You said that while “legislators may appeal to their own moral convictions and to claims about social utility to reshape the law as they think it should be in the future,” that “judges should do none of those things in a democratic society.”

Judges, you said, “should instead strive ... to apply the law as it is, focusing backward, not forward, and looking to text, structure, and history to decide what a reasonable reader at the time of the events in question would have understood the law to be.”

I want to understand better how those views of the Constitution square with modern-day life.

“Due process”...“equal protection of the laws”...these are general and sweeping terms. And the Supreme Court, which has the power of judicial review, has the constitutional duty to be the final arbiter of what the Constitution means—rulings that can impact voting rights, civil rights, and the right of people to marry.

Many of the issues we face today are ones that this country's founders never considered—and in fact never could have considered because of all the social change and innovation that has

taken place. We are no longer dealing with plows, bonnets, and colony debts in England—but instead driverless cars, drones, and cybercrimes—and those were just the subjects of the hearings I attended last week.

I want to understand how your judicial philosophy, which, as you suggest—looks backward, not forward—may affect the rights of our fellow citizens.

I also want to understand the implications of your views on overturning legal precedent.

One example of this occurs in the context of the Chevron doctrine.

In stating that courts should generally defer to reasonable interpretations of executive agencies, this 33-year-old case guarantees that the most complex regulatory decisions—ones judges themselves may have little or no expertise to handle—are made by the scientists and professionals best equipped to rise to these challenges. These modern agency decisions include things like rules protecting public safety, requirements against lead-based paint, and clean water protections for our Great Lakes.

*Last year, in your concurring opinion to a decision that you authored in *Gutierrez v. Lynch*, you suggested that Chevron should be overturned.*

Yet this act would have titanic real-world implications on all aspects of our everyday lives. Countless rules could be in jeopardy, protections that matter to the American people would be compromised, and there would be widespread uncertainty about our laws.

Judge, if you believe it really is time for the Court to reconsider Chevron, then we need to know with what you would replace it.

*Another opinion that I want to talk about is *Riddle v. Hickenlooper*. In your concurring opinion, you suggest that the Court should apply strict scrutiny to laws restricting campaign contributions.*

If the Supreme Court adopted that view, it could well compromise the few remaining campaign finance protections that are still on the books, and it would make it even more difficult for Congress to pass future reforms.

The notion that Congress has little or no role in setting reasonable campaign finance rules is in direct contradiction with the expressed views of the American people; in recent polls, over three-quarters of Americans have said that we need “sweeping new laws to reduce the influence of money in politics.”

While polls aren’t a judge’s problem, democracy should be. When unlimited, undisclosed money floods our campaigns, it drowns out the people’s voices. It undermines our elections and shakes the public’s trust in the process.

Other questions about your views in money and politics are raised by your opinion in Hobby Lobby. In that opinion, you found that corporations were legal persons and could exercise their own religious beliefs. This ruling leaves open the troubling argument that corporations have a right to free speech equal to that of citizens, which could invalidate the prohibition on corporations donating directly to political campaigns.

To me, that may not be characterized as “following the law”—to quote my Republican colleagues today—but instead “making law,” something they have said today is not a judge’s role.

But these are not the only First Amendment issues at stake. I will also be asking you about New York Times v. Sullivan and the freedom of the press, as well as a subject area in which you have a lot of expertise, antitrust.

Judge, as I consider your nomination, I’m reminded of something a Justice who hailed from Minnesota, Justice Harry Blackmun, once said. “Surely,” he wrote, “there is a way to teach law, strict and demanding though it might be, with some glimpse of its humaneness and basic good...There is room for flexibility and different answers, and...not all is black or white.”

You see, there’s a reason we have judges to apply the law to the facts. It’s because answers aren’t always as clear as we would like, and sometimes there is more than one reasonable interpretation. And it’s this discretion that makes it so critical that Justices interpret the law evenly—without fear or favor, and with the good judgment and humility to recognize the gravity of the office, to respect the role of the judiciary, and to understand the impact of their decisions on people.

As a prosecutor, I knew that every charging decision we made, every case we chose to pursue or not pursue, had real implications. And I believe that Supreme Court Justices need to have this same appreciation for how their decisions affect Americans.

For in the end it wasn't a law professor or federal jurist who was helped by the Eighth Circuit's reliance on Chevron deference in interpreting a Labor Department rule: it was an hourly Minnesota grocery store worker who got to keep his hard-earned pension.

And when the Court stripped away the rules that opened the door to unlimited Super PAC spending—it wasn't the campaign financiers or ad men who were hurt—it was the grandma in Lanesboro, Minnesota who thought it mattered when she sent in \$10 to support her Senator.

And, as the granddaughter of an iron ore miner, I can tell you it wasn't a CEO or a corporate board chair whose life was saved by mining safety rules. It was the Minnesota iron ore workers, who, like my grandpa, would go down 1500 feet every day in a cage with their black lunch buckets, all with the hopes that their own kids would one day go to college.

My dad—who ended up as the first kid in his family to graduate from high school and from there to community college and then to the University of Minnesota—still remembers as a little boy standing in front of the caskets of those mine workers lining St. Anthony's church. It was the worker protections—coupled with the ability to organize as a union—that finally made those miners' jobs safer.

Judge Gorsuch, you have been rightfully praised for your impressive academic credentials and experience.

But at these hearings, I want to hear about more than just your record—I want to know, if you are confirmed, whether your judgments and decisions would in fact reflect a respect for precedent and the law and how they would affect all Americans—from that grandma in Lanesboro to that Minnesota grocery store worker. That's not politics. That's why we have these hearings.

Thank you.