

## **Judge Neil Gorsuch's Opening Statement at His Confirmation Hearing**

Monday 03/20/2017

Mr. Chairman, Senator Feinstein, members of the committee. I am honored and I am humbled to be here. Since coming to Washington, I've met with over 70 senators. You've offered me a warm welcome and wise advice. Thank you. I also want to thank the president and vice president; they and their teams have been so gracious to me. And I thank them for this honor. I want to thank Senators Bennet and Gardner and General Katyal for their kind introductions, reminding us that long before we're Democrats or Republicans, we're Americans.

Sitting here, I'm acutely aware of my own imperfections and I pledge to each of you and the American people that if I'm confirmed, I will do all my powers permit to be a faithful servant to the Constitution and laws of this great nation. Mr. Chairman, I could not even attempt to do this without Louise, my wife of more than 20 years. The sacrifices she has made and her open and giving heart leaves me in awe. I love you so much. We started off in a place very different than this one, tiny apartment, little to show for it. And when Louise's mother first came to visit, she was concerned by the conditions, understandably.

As I headed out the door to work, I'll never forget her whispering to her daughter in a voice I think intended to be just loud enough for me to hear, "Are you sure he's really a lawyer?"

To my teenage daughters watching out west, bathing chickens for the county fair, devising ways to keep our determined pet goat out of the garden, building a semi-functional ply-board hovercraft for science fair, driving eight hours through a Wyoming snowstorm with high school debaters in the back arguing the whole way, these are just a few of my very favorite memories. I love you girls impossibly. To my extended family here and across Colorado, when we gather it's dozens of us. We hold different political and religious views, but we are united in our love. And between the family pranks and the pack of children running rampant, whoever's hosting is usually left with, at least, one drywall repair. To my parents and grandparents, they're no longer with us, but there's no question on whose shoulders I stand.

My mom was one of the first women graduates of the University of Colorado Law School. As the first female Assistant District Attorney in Denver, she helped the program to pursue deadbeat dads, and her idea of daycare sometimes meant I got to spend the day wondering the halls or tagging along behind the police officers. She taught me that headlines are fleeting. Courage lasts. My dad taught me that success in life has very little to do with success. Kindness, he showed me, is a great virtue. He showed me too, that there are few places closer to God than walking in the wilderness or wading a trout stream, even if it is an awfully long drive home with the family dog after he encounters a skunk.

To my grandparents, as a boy I could ride my bike to their homes. They were a huge influence. My mom's father, poor and Irish, worked to help support his family as a boy after losing his own dad. But the nun's made sure he got an education and he became a doctor. Even after he passed away, I heard stories for years from grateful patients who recalled him kneeling by their bedsides so they might pray together. His wife, my grandmother grew up on a Nebraska farm, where an icebox wasn't something that you plugged into the wall but something you lowered into the ground. With seven children, she never stopped moving and she never stopped loving. My dad's father made his way through college working on Denver's trolley cars. He practiced law through the Great Depression. He taught me that lawyers exist to help people with their problems, not the other way around. His wife came from a family of pioneers. She loved to fish and she's the one who taught me how to tie a fly.

I want to thank my friends, so many of whom are here, liberals and conservatives and independents from every kind of background and belief. Many hundreds have written this committee on my behalf and I'm truly touched by their support. They have been there for me always. Not least, when we recently lost my Uncle Jack, a hero of mine and a lifelong Episcopal priest. He gave the benediction when I took an oath as a judge 11 years ago. I confess I was hoping he might offer a similar prayer soon. As it is, I know he is smiling. I want to thank my fellow judges across the country. Judging is sometimes a lonely and hard job, but I've seen how these men and women work, how hard they work with courage and collegiality, independence and integrity. Their work that helps make real the Constitution and laws of the United States for all of us. I want to thank my legal heroes. Byron White, my mentor, a product of the west, he modeled for me judicial courage. He followed the law wherever it took him, without fear or favor to anyone. War hero, road scholar, and yes the highest paid NFL player of his day. The color of the day, there's God, there's John Elway and there's Peyton Manning. My childhood was God and Byron White.

I also had the great fortune to clerk for Justice Kennedy. He showed me that judges can disagree without being disagreeable. That everyone who comes to court deserves respect. That a case isn't just a number or a name, but a life's story and a human being with equal dignity to my own.

Justice Scalia was a mentor, too. He reminded us that words matter. That the judge's job is to follow the words that are in the law, not replace them with those that aren't. His colleagues cherished his great humor, too. Now, we didn't agree on everything. The justice fished with the enthusiasm with a New Yorker. He thought the harder you slap the line on the water, somehow more of the fish would love it.

Finally, there's Justice Jackson. He wrote so clearly that everyone could understand his decisions. He never hid behind legal jargon. And while he was a famously fierce advocate for his client when he was a lawyer, he reminded us that when you become a judge, you fiercely defend only one client: the law.

By their example, these judges taught me about the rule of law and the importance of an independent judiciary. How hard our forbearers worked to win these things, how easy they are to lose. How each generation must either take its turn carrying the baton or watch it fall.

Mr. Chairman, these days we sometimes hear judges cynically described as politicians in robes seeking to enforce their own politics rather than striving to apply the law impartially. If I thought that were true, I'd hang up the robe.

The truth is, I just don't think that's what a life in the law is about. As a lawyer for many years working the trial court trenches, I saw judges and juries, while [imperfect] human[s] [imperfect], striving hard every day to fairly decide the cases I put to them.

As a judge now for more than a decade, I've watched my colleagues spend long days worrying over cases. Sometimes the answers we reach aren't the ones we personally prefer. Sometimes the answers follow us home at night and keep us up. But the answers we reach are always the ones we believe the law requires. **And for all its imperfections, I believe that the rule of law in this nation truly is a wonder. And that it's no wonder that it's the envy of the world.**

Of course, once in a while we judges do disagree. But our disagreements are not about politics, but about the law's demands. Let me offer an example.

The first case I wrote as a judge to reach the Supreme Court divided five to four. The court affirmed my judgment with the support of Justices Thomas and Sotomayor, with Justices Stevens and Scalia in dissent. Now, that's a line up some might think unusual. But actually, it's exactly the sort of thing that happens quietly day in and day out in the United States Supreme Court and in the courts across this country.

I wonder if people realize that Justices Thomas and Sotomayor agree about 60 percent of the time, or that Justices Scalia and Breyer agreed even more often than that, all in the very toughest cases in our entire legal system.

And here's another example about my record. Over the last decade, I've participated in over 2,700 appeals. Often these cases are hard, too. Only about five percent [of] federal lawsuits make their way to decision in the Court of Appeals. I've served with judges appointed by President Obama all the way back to President Johnson. And in the Tenth Circuit, we hear cases from six different states covering two time zones and 20 percent of the continental United States. But in the West, we listened to one another respectfully. We tolerate — we cherish different points of view. And we seek consensus whenever we can. My law clerks tell me that 97 percent of those 2,700 cases I've decided were decided unanimously and that I have been in the majority 99 percent of the time. That's my record, and that's how we do things in the West.

Of course, I made my share of mistakes too. As my daughters never tire of reminding me, putting on a robe does not make me any smarter.

And I'll never forget my first day on the job, carrying a pile of briefs up the steps to the bench, I tripped on the hem of my robe. And just about everything went flying. But troublesome as a robe can be, the robe does mean something to me, and not just that I can hide the coffee stains on my shirt. Putting on a robe reminds us judges that it's time to lose our egos and open our minds. It serves, too, as a reminder of the modest station we judges are meant to occupy in a democracy.

In other countries, judges wear scarlet, silk, ermine. Here, judges -- we judges, we buy our own plain black robes. And as Senator Sasse [also] knows, I can attest that the standard choir outfit at the local uniform supply store is a pretty good deal.

Ours is a judiciary of honest black polyester. When I put on the robe, I'm also reminded that under our Constitution, it's for this body [Congress], the peoples' representatives, to make new laws, for the executive to ensure those laws are faithfully executed, and for neutral and independent judges to apply the law in the peoples' disputes.

If judges were just secret legislatures declaring not what the law is but what they would like it to be, the very idea of a government by the people and for the people would be at risk. And those who came before the court would live in fear, never sure exactly what the law requires of them except for the judge's will.

As Alexander Hamilton said, "[L]iberty can have nothing to fear from" judges who apply the law, but liberty "ha[s] everything to fear" if judges try to legislate too.

[This is probably in reference to a few liberal judges attempting to make law from the bench concerning Trump's executive order(s) which were issued to block people from several Middle Eastern countries from coming to the USA, some of which might be members of ISIS and other terrorist organizations.]

**[The actual quote was a reference to a portion of Hamilton's essay known as Federalist Seventy-Eight: ... It equally proves that, though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter: I mean, so long as the judiciary remains truly distinct from both the legislative and executive. For I agree that "there is no liberty, if the power of judging be not separated from the legislative and executive powers." And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other two departments; that as all the effects of such an union must ensue from a dependence of the former on the later, notwithstanding a nominal and apparent separation; that as from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed or influenced by its co-ordinate branches; and that as nothing can contribute so much to its firmness and independence, as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution; and in great measure as the citadel of the public justice and the public security.]**

In my decade on the bench, I've tried to treat all who come before me fairly and with respect and afford equal right to poor and rich. I've decided cases for Native Americans seeking to protect tribal lands, for class actions like one that ensured compensation for victims of a large nuclear waste pollution problem produced by corporations in Colorado. I've ruled for disabled students, for prisoners, for the accused, for workers alleging civil rights violations, and for undocumented immigrants. Sometimes, too, I ruled against such persons. My decisions have never reflected a judgment about the people before me, only a judgment of the law and the facts at issue in each particular case.

A good judge can promise no more than that. And a good judge should guarantee no less. For a judge who likes every outcome he reaches is probably a pretty bad judge, stretching for policy results he prefers rather than those the law compels.

Mr. Chairman, as a student many years ago, I found myself walking through the old Granary burial ground in Boston. It's where Paul Revere, John Hancock, and many of our founders are buried. And there, I came across the tombstone of a lawyer and judge who today is largely forgotten, as we're all destined to be soon enough. His name was **Increase Sumner**. And written onto his tombstone over 200 years ago, was this description of the man. As a lawyer, he was faithful and able. As a judge, patient, impartial, decisive. In private life, he was affectionate and mild. In public life, he was dignified and firm. Party feuds were allayed by the correctness of his conduct. Calumny was silenced by the weight of his virtues and rancor softened by the amenity of his manners.

[**Increase Sumner** (November 27, 1746 – June 7, 1799) was an American lawyer, jurist, and politician from [Massachusetts](#). He was the fifth [governor of Massachusetts](#), serving from 1797 to 1799. Trained as a lawyer, he served in the [provisional government of Massachusetts](#) during the [American Revolutionary War](#), and was elected to the [Confederation Congress](#) in 1782. Appointed to the [Massachusetts Supreme Judicial Court](#) the same year, he served there as an associate justice until 1797. He was elected governor of Massachusetts three times by wide margins, but died shortly after the start of his third term.]

Mr. Chairman, those words stick with me. I keep them on my desk. They serve for me as a daily reminder of the law's integrity, that a useful life can be led in its service, of the hard work it takes, and an encouragement to good habits when I fail and when I falter.

At the end of it all, I can ask for nothing more than to be described as he was. And if confirmed, I pledge to you that I will do everything in my power to be that man.