confirm him because he has lived it. We can ask no more of our judges but we must ask no less. Let this be the standard we apply to this nominee and to future nominees, both to the Supreme Court and to lower courts.

I urge my colleagues to confirm the President's nomination of Judge John G. Roberts as Chief Justice of the United States.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:20 p.m, and reassembled when called to order by the Presiding Officer (Mr. CHAMBLISS).

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Continued

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, what is pending before the Senate?

The PRESIDING OFFICER. Under the previous order, the time from 2:15 to 2:45 p.m. will be under the control of the majority. We are on the Roberts nomination.

Mr. SESSIONS. Mr. President, I appreciate the opportunity to share some thoughts on this important matter and I probably will speak again before this final vote occurs.

Mr. President, this is an important process. What we are doing here is more important than the average confirmation, in my view. What has been going on for virtually the entire time I have been in the Senate, going on 8 years, and certainly in the last 5 years, has been a rigorous and vigorous debate over the role of courts in American life. The American people have become very concerned that those we appoint and confirm to the Federal judiciary and have been given a lifetime appointment, as a result of that are unaccountable to the American people; that they are not, therefore, any longer a part of the democratic process and can only be removed from office on causes relating to an impeachment or their own resignation or death.

This has raised concerns because these lifetime-appointed, unaccountable officials of our Government have set about to carry out political agendas. There is no other way to say it. I hate to be negative about our courts because I believe in our courts. The courts I practiced before, the Federal courts in Alabama, are faithful to the law. If a Democratic judge or Republican judge, a liberal or conservative, is faithful to the law, I do not see a problem. Overwhelmingly, in the courts of America today, justice is done.

But we have a growing tendency among the members of our Supreme Court. Many of them have been there for many years. It strikes me that perhaps they have lost some discipline. They have forgotten they were appointed and not anointed. As my good friend said—a former judge, now deceased, Judge Thomas, in the Southern District of Alabama: Remember, you were appointed, not anointed.

I think they have forgotten that. I believe they have begun to think it is important for them and the courts to settle disputed social issues in the country; that they are somehow an elite group of guardians of the public health and that they should protect us from ourselves on occasion.

We have seen that. We have seen a series of opinions that, as a lawyer, I believe cannot be justified as being consistent with the words or any fair interpretation of the words of the Constitution of the United States. That is what a judge is sworn to uphold.

These issues are important, as I said, because if this is true, and if judges are going beyond what they have been empowered to do, and they are twisting or redefining or massaging the words of the Constitution to justify them in an unjustified act of imposing a personal view on America, then that is a serious problem indeed, and I am afraid that is what we have.

They say it is good. The law schools, some of them, these professors, believe judges should be strong and vigorous and active and should expand the law and that the Constitution is living. So, therefore ''living'' means, I suppose, you can make it say what you want it to say this very moment.

But Professor Van Alstyne at Duke once said to a judicial conference I attended many years ago: If you love this Constitution, if you really love it, if you respect it, you will enforce it—''it''—as it is written. When judges don't do that they therefore do not respect the Constitution. In fact, they create a situation in which a future court may be less bound by that great document. It can erode our great liberties in ways we cannot possibly imagine today.

The name of Justice Ginsburg sometimes came up at Judge Roberts hearings because of her liberal positions on a number of issues before she went on the bench. Yet she was confirmed overwhelmingly. An argument was made therefore Judge Roberts, who has mainstream views, ought to be confirmed. She just recently made a speech to the New York Bar Association. She said she was not happy being the only female Justice on the Court but she stated:

> Any woman will not do. There are some women who might be appointed who would not advance human rights or women's rights.

What about other groups' rights? Do you need to advance all those other rights, too? And what is a right?

Then she dealt with the question of foreign law being cited by the Supreme Court of the United States. We have had a spate of judges, sometimes in opinions and sometimes in speeches, making comments that suggest their interpretation of the law was influenced by what foreign people have done in other countries. She said:

> I will take enlightenment wherever I can get it. I don't want to stop at the national boundary.

Then she noted that she had a list of qualified female nominees, but the President hadn't consulted with her—and I would hope not, frankly.

Why are we concerned about citing foreign law? We are concerned because this is an element of activism. Our historic liberties are threatened when we turn to foreign law for answers.

This is a bad philosophy and a bad tendency because we are not bound by the European Union. We didn't adopt whatever constitution or laws or documents they have in the European Union. What does our Constitution say?

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Not some other one. Not one you would like, not the way you might like to have had it written, but this one. That is the one that we passed. That is the one the people have ratified. That is the one the people have amended. And that is the one a judge takes an oath to enforce whether he or she likes it or not.

You tell me how an opinion out of Europe or Canada or any other place in the world has any real ability to help interpret a Constitution, a provision of which may have been adopted 200 years ago.

I submit not.

You see, we have to call on our judges to be faithful to that. I do not want, I do not desire, and the President of the United States has said repeatedly that he does not want, he does not desire that a judge promote his political or social agenda. That is what we fight out in this room right here, right amongst all of us. We battle it out, and I am answerable to the people in my State, the State of Alabama. That is who I answer to, and each one of us answers to the people in our states; and the President answers to all the people of the United States. That is where the political decisions are made, and we leave legal decisions in the court.

My time to speak is limited. I will close with this: We have never had a judge come before this Senate, in my opinion, who has in any way come close to expressing so beautifully and so richly and so intelligently the proper role of a court. Judge Roberts used a common phrase: You should be a neutral umpire. Certainly he should be that. Absolutely that is a good phrase.

A judge should be modest. He should decide the facts and the law before the