

WITHDRAWAL SHEET

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Date: 9/11/97

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. Draft questionnaire	re: Anthony Kennedy, annotated with answers, 17 p.	n.d.	P6- B6 <i>(C) 10/25/00</i>

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-1 National security classified Information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(e)(6) of the PRA].
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
- F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
- F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

- Three-hour interview of Judge Kennedy on Sunday, November 8, 1987, by Senator Baker, the Attorney General, Ken Duberstein, A.B. Culvahouse, Brad Reynolds. The interview focused solely on personal background and integrity issues. All conceivable "No holds barred" questions were asked.

- In excess of ten hours of FBI interviews of Judge Kennedy on Monday and Tuesday.

- Thirty-five-minute interview of Judge Kennedy by the President on Monday. The President specifically asked whether there was anything in Judge Kennedy's background that might prove embarrassing.

- White House and FBI reviewed prior FBI full-field investigation files, 1975 confirmation questionnaires and financial disclosure forms.

- White House and Justice Department reviewed all of Judge Kennedy's opinions.

- FBI investigated certain specific matters, including records relating to Judge Kennedy's law practice, lobby report files and other issues.

-- White House and Justice Department talked to many lawyers, judges, and others regarding Judge Kennedy's reputation.

-- The FBI will complete a full-field investigation prior to Judge Kennedy's confirmation being submitted to the Senate. Based on the extensive preliminary work to date, there is no reason to believe that any material issues will arise as a result of that investigation.

DUE DILIGENCE QUESTIONS RELATED TO
CONFIRMABILITY

1. Have you ever been a member of any club or organization that excludes as members or restricts access to individuals on the basis of race or national origin (e.g., KKK), religion (e.g., certain country clubs), or sex (e.g., Masons, Cosmos Club, Metropolitan Club)?
2. Have you ever owned property the title to which contained restrictive covenants prohibiting resale to individuals on the basis of their race, religion or national origin?
3. Have you ever made public or private statements, either orally or in writing, that could be held to be, even mistakenly, racist or sexist?
4. Have you ever taken any actions or not taken any actions that could be construed, even mistakenly, as racist or sexist (e.g., hiring practices)?
5. Have you ever made public or private statements, either orally or in writing, taking controversial positions on sensitive public issues (e.g., busing, school prayer, gay rights, AIDS)?
6. Have you ever been convicted of, arrested or taken into custody, or investigated for committing or allegedly committing a crime?
7. Have you ever been audited by the IRS?
8. Have you ever been assessed penalties for your income tax filings?
9. Have you or your spouse ever borrowed large sums of money from any individual or entity other than a federally or state-chartered lending institution or a member of your family? If so, from whom? Have you or your spouse ever lent large sums of money to someone other than a member of your family? If so, to whom?
10. Have you or your spouse ever participated in any financial arrangement that, even unfairly, could be characterized as questionable or unusual?
11. Have you or your spouse ever owned securities or had other financial participation in controversial corporations (e.g., controversial foreign assets, infant formula)?

12. Have you ever been associated with a political party (e.g., communist, socialist) other than the two major parties?
13. Have you ever run for political office, served on a political committee, made campaign contributions to any individual or been publically identified with a political candidate?
14. In light of the Gary Hart/Donna Rice incident, is there anything in your personal life that could embarrass you, your family, or the President?
15. Have you ever been involved in any domestic disagreements or incidents that could embarrass you, your family or the President (e.g., messy divorce, incidents of or accusations of spousal or child abuse or financial neglect)?
16. Have you or any member of your immediate family ever had, been accused of having, or been rumored to have alcohol or drug-related problems?
17. Have you ever been investigated by Congress? Have you ever been accused of lying or not being candid with members of Congress?
18. Have you ever testified before Congress? If so, on what matters?
19. Would your home state senators support you? If not, why not?
20. Have you ever been the subject of any significant criticism for your actions as an employer, lawyer, judge or teacher?
21. Have you ever fired an employee or other individual? For what reasons?
22. Have you ever had any association (e.g., campaign contributions, public endorsements) with any person, group or business venture (e.g., the John Birch Society) that could be used, even unfairly, to impugn or attack your character or your fitness for this position?
23. Have you ever been discharged from the armed forces under other than honorable conditions?
24. Have you ever been discharged from employment for any reason or threatened with discharge? If so, explain.
25. Have you ever had a nervous breakdown or have you ever had medical treatment for a mental condition? Have you ever employed a psychiatrist, psychoanalyst, or psychologist?
26. Have you ever been a party or witness in a lawsuit? If so, explain the nature of the action.

27. Have you ever been disciplined, cited, or accused (formally or informally) for a breach of ethics or unprofessional conduct? If so, explain.
28. Can you think of anyone who has any reason to or is likely to oppose your confirmation? Explain.
29. Can you think of anything in your background, that if it became public, would be embarrassing to you, your family or the President?

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Chronology

I. Background

A. Family Background. Describe generally your family background.

Parents and Grandparents:

What were your parents' occupations?

What was their financial status; successful, comfortable, unsuccessful?

Did they have a criminal record?

Were they immigrants? If so, legal?

What were their political affiliations?

Did they serve in the military?

Were they members or associated with controversial organizations or points of view?

Were they public figures within their community?

Did they have alcohol or drug use problems?

Did they have any medical problems?

Did they have any mental health problems?

Were they separated or divorced?

Were you ever abused by your parents?

Were they association in any way with organized crime figures? Any other lawbreakers?

Did they have any tax problems?

2. Other Relatives: Describe any other relatives or close family friends who may have had any problems similar to those outlined above.

B. Personal Background:

1. Childhood (through highschool)

Did you have any mental problems, psychological

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counseling, or counseling of any kind?

What interactions did you have with the police?
(e.g. shoplifting, vandalism, driving violations,
underage drinking, indecent exposure, peeping tom)

Were you ever disciplined at school? (e.g. accusations
of cheating, plagiarism, vandalism, truancy, pranks,
fighting, suspension or expulsion)

What were your grades?

What were your extracurricular activities and clubs?
(Were you thrown off any of them?)

Were you a member of any sports teams? (Were you
disciplined or thrown off any of them?)

Did you write any controversial articles in school
newspapers?

Did you have sex in high school or junior high? If so,

How often?

How many different girls?

Where?

Were there any pregnancies?

Were there any abortions?

Did you ever contract venereal disease?

Did you use contraceptives?

Did you ever engage in homosexual activity?

Did you engage in any aberrational sexual activity?

Do you have any bitter friends, e.g. bitter
girlfriends?

Did you ever abuse a girlfriend?

Did you ever have any fist fights?

Did you ever engage in cruelty to animals?

Did you ever use guns? If so,
Were there any accidents?

Did you ever use alcohol? If so,

How old were you?

How often?

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At parties?
Alone?

Did you ever use drugs?

Glue sniffing?
Parents prescription drugs?
Did you attend parties where drugs were used?

Did you ever attempt suicide?

Did you ever have any traffic accidents or tickets?

Did you ever drink and drive?

Were you ever fired from a job?

What political affiliations or activities did you have in high school?

Did you buy or sell pornography?

What was the most unpleasant or embarrassing thing that happened to you while in high school?

Are there any friends, teachers or acquaintances who might harbor resentment against you?

2. College

Were you rejected by any colleges? If so, what was the basis for rejections?

Did you have any mental problems, psychological counseling, or counseling of any kind?

What interactions did you have with the police? (e.g. shoplifting, vandalism, driving violations, drunken driving, indecent exposure)

Were you ever disciplined at school? (e.g. accusations of cheating, plagiarism, vandalism, pranks, suspension or expulsion)

What were your grades?

What were your extracurricular activities and clubs? (Were you thrown out of any of them?)

Were you a member of any sports teams? (Were you

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disciplined or thrown off any of them?)

Did you write any controversial articles in school newspapers or other publications?

Did you have sex? If so,

How often?

How many different women?

Where?

Were there any pregnancies?

Were there any abortions?

Did you ever contract venereal disease?

Did you use contraceptives?

Did you ever engage in homosexual activity?

Did you engage in any aberrational sexual activity?

Do you have any bitter friends, e.g. bitter girlfriends?

Did you ever abuse a girlfriend?

Did you ever have any fist fights?

Did you ever engage in cruelty to animals?

Did you ever use guns? If so,
Were there any accidents?

Did you ever use alcohol? If so,

How old were you?

How often?

At parties?

Alone?

Did you ever use drugs?

Glue sniffing?

Marijuana, cocaine, etc.?

Did you attend parties where drugs were used?

Did you ever attempt suicide?

Did you ever have any traffic accidents or tickets?

Did you ever drink and drive?

Were you ever fired from a job?

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What political affiliations or activities did you have?

Did you buy or sell pornography?

Are there any friends, teachers or acquaintances who might harbor resentment against you?

What was the most unpleasant or embarrassing thing that happened to you while in college?

Were you a member of a fraternity? If so,

What hazing was there?

Were there racial or religious restrictions?

What was the fraternity's reputation?

Were there any bizarre rituals?

Did the fraternity engage in sexual harassment?

What financial arrangements did you have to attend college?

Scholarship? (Did you remain eligible?)

Family?

Hometown friends, businesses?

If you had student loans did you repay?

3. London School of Economics (The general questions for college also apply to your period in London)

Why did you go?

Where did you live?

Who did you meet? (East bloc countries, homosexuals)

4. Law School:

Why did you go?

What schools did you apply to: Were you rejected?
Why?

Did you have any mental problems, psychological counseling, or counseling of any kind?

Were you ever arrested or stopped by the police?
(e.g. shoplifting, vandalism, driving violations, drunken driving, indecent exposure)

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Were you ever disciplined at school? (e.g. accusations of cheating, plagiarism, suspension or expulsion)

What were your grades?

What were your extracurricular activities and clubs?
(Were you thrown out of any of them?)

Did you write any controversial articles in school newspapers or other publications?

Did you have sex? If so,

How often?

How many different women?

Where?

Were there any pregnancies?

Were there any abortions?

Did you ever contract venereal disease?

Did you use contraceptives?

Did you ever engage in homosexual activity?

Did you engage in any aberrational sexual activity?

Did you ever abuse a girlfriend?

Did you ever have any fist fights?

Did you ever engage in cruelty to animals?

Did you ever use guns? If so,
Were there any accidents?

Did you ever use alcohol? If so,

How often?

At parties?

Alone?

Did you ever use drugs? If so,

Marijuana, cocaine, etc.?

How often?

Did you attend parties where drugs were used?

Did you ever attempt suicide?

Did you ever have any traffic accidents or tickets?

Did you ever drink and drive?

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What political affiliations or activities did you have?

Did you buy or sell pornography?

What was the most unpleasant or embarrassing thing that happened to you while in college?

Are there any friends, teachers or acquaintances who might harbor resentment against you?

What was the most unpleasant or embarrassing thing that happened to you while in law school?

What financial arrangements did you have to attend law school?

Scholarship? (Did you remain eligible?)

Family?

Hometown friends, businesses?

If you had student loans did you repay?

Did you pass the Bar Exam? Did you pass the first time? In what state?

California Army National Guard:

Why were you in the Guard and not the regular army?

Did you have a deferment?

Were you honorably discharged?

Were you disciplined?

C. Professional Background

1. Thelin, Marrin, Johnson & Bridges

What was your position?

Why were you hired?

Where else did you apply? Were you rejected? Why?

What were your responsibilities?

Who did you work for? Are they still alive? What will they say about you?

Who were your clients?

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What was your relationship with your colleagues?

Did the firm have minorities? Women?

Were you accused of any ethical allegations or improprieties?

Were there any employee Complaints? Against You?
Against the firm? <)

Did you have an affairs with the staff, other attorneys?

What was your salary and billable hours?

Were there periodic performance reviews?
What were the results?

Who liked you? Who did not?

What courtroom experience did you have?
Were you ever held in contempt?
Were you filings timely?

What were your controversial cases?

Who were your corporate Clients?

Did you do pro bono work?

Did you do community service?

What was the firm's reputation?

What was your reputation?

What were the firm's political ties/characterization?

Why did you leave?

What professional organizations did you belong to?

Were you engaged in lobbying activities? If so,

Who were your clients?
Did you have foreign clients?
Who did you lobby?

--Organizations
--Persons
--Governor Reagan

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What Issues?

Legislation
Regulations
Adjudication
Personal friends
Political campaigns
Civil Rights
Labor Unions
Consumer Safety
Toxic Waste/Environmental

Did you ever provide personal favors for government officials?

Were you a registered foreign agent?

2. Sole Practitioner

Why solo practice?

Who were you clients?

Relationship with other attorneys in the community?

How many employees did you have?

Who did you fire? Why?

Ethical allegations? Improprieties?

Employee Complaints?

Affairs with staff?

Billable hours?

Courtroom experience?

Contempt?

Timely filings?

Controversial cases?

Corporate Clients?

Controversial Clients?

Pro bono work?

Community Service?

Your reputation?

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Professional organizations?

Were you engaged in lobbying activities? If so,

Who were your clients?

Did you have foreign clients?

Who did you lobby?

--Organizations

--Persons

--Governor Reagan

What Issues?

Legislation

Regulations

Adjudication

Personal friends

Political campaigns

Civil Rights

Labor Unions

Consumer Safety

Toxic Waste/Environmental

Did you ever provide personal favors for government officials?

Were you a registered foreign agent?

Did you have financial difficulties?

Were there malpractice suits against you?

3. Evans, Jackson & Kenney

Who were the partners?

How was the firm formed?

What were the partnership shares?

Who were you clients?

Relationship with colleagues?

Did the firm have minorities? Women?

Ethical allegations? Improprieties?

Employee Complaints? Against You?
Against the firm?

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Affairs with staff, other attorneys?

Dissatisfied associates?

Courtroom experience?

Contempt?

Timely filings?

Controversial cases?

Corporate Clients?

Personal Pro bono work?

Firm's program for pro bono work?

Community Service?

Firm's reputation?

Your reputation?

Firm's political ties/characterization?

Professional organizations?

Were you engaged in lobbying activities? If so,

Who were your clients?

Did you have foreign clients?

Who did you lobby?

--Organizations

--Persons

--Governor Reagan

What Issues?

Legislation

Regulations

Adjudication

Personal friends

Political campaigns

Civil Rights

Labor Unions

Consumer Safety

Toxic Waste/Environmental

Did you ever provide personal favors for government officials?

Were you a registered foreign agent?

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4. Ninth Circuit

Why were you appointed?

Was it a political favor?

Describe your confirmation hearing, your get-acquainted meetings, any Senators opposing you.

what was your ABA rating.

Were any questions about your nomination raised.

Name all instances in which you considered recusal, in which a motion was made seeking your recusal, or in which one of your colleagues suggested recusal.

Did you ever hear cases involving former clients, partners, associates, friends or political allies or enemies?

Did you ever hear a case involving an industry in which you or your family have a financial holding?

Law Clerks: How many blacks?
How many women?
How many Hispanics. or other other minorities?
Charges of hiring discrimination, warranted or not.
Clerks who may dislike you
Opinions of other judges' clerks
Affairs with clerks, court staff
involvement in nomination and confirmation of Alex Kozinski
Any discussions with Richard Willard while he has been at Justice -- Explain
Discussions about court business with former clerks at DOJ

Colleagues: What will they say?
Who likes you? Who doesn't?
Fights over opinions?
Most contentious case within the court?
Court Administration issues.

Were there any allegations of impropriety?

What were your relations with the local bar?

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Were you ever intoxicated while hearing a case? On drugs (including prescription drugs)?

What is your judicial reputation?

II. Personal Life

A. Financial: Ask questions 7 - 23 from the personal data statement, copy attached.

B. Personal: Ask Due Diligence Questions Related to Confirmability from the attached list.

C. Additional Personal Questions.

What is your financial status; successful, comfortable, unsuccessful?

Do you have any criminal record?

What is your standing within your community? Include every place you have lived.

Have you had any mental problems, psychological counseling, or counseling of any kind?

Do you have any current medical problems? (Cancer, heart disease, AIDS, herpes)

Have you ever been arrested or stopped by the police? (e.g. driving violations, drunken driving, indecent exposure)

Have you written any controversial articles?

Have you ever engaged in homosexual activity?

Have you ever engaged in any aberrational sexual activity?

Have you ever engaged in cruelty to animals?

Have you ever used guns? If so,

Were there any accidents?

Have you used and do you currently use alcohol?

How often?
At parties?

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Alone?
How much?
Do you abuse alcohol?
Are you an alcoholic?

Have you ever used and do you currently use drugs?

Marijuana, cocaine, etc.?

How often?

Did you attend parties where drugs were used?

Have you ever attempted suicide?

Have you ever had any traffic accidents or tickets?

Do you ever drink and drive?

Do you buy or sell pornography?

What was the most unpleasant or embarrassing thing that happened to you?

Are there any friends, or acquaintances who might harbor resentment against you?

Have you ever had any tax problems?

D. Marriage

When were you married?

How old was your wife?

Was she pregnant?

Did you live together before you were married?

Were you married in the church?

Have you ever abused your wife?

Have you ever had an extramarital affair?

Have you ever been separated?

Have you ever had marriage counseling?

Have you ever engaged in kinky sex?

Have you ever had any fights? Have your friends, neighbors or associates ever seen you fighting?

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Have there ever been any complaints?

Have you had any financial difficulties?

Late payment problems?

Repossessions?

Defaults?

Borrowings? Dealings with loan sharks, etc.?

Has your wife ever had an abortion?

E. Children

What are the answers for your children to the questions asked of you above? (E.g. have they had any problems in school, with drugs, alcohol or with sex)

Did you ever abuse your children?

Have your children ever had any mental problems, psychological counseling, or counseling of any kind?

Have your children had any brushes with the police? (e.g. shoplifting, vandalism, driving violations, underage drinking, indecent exposure)

Have your children had discipline problems in school?

Have your children had any problems with drugs?

Have your children had any sexual problems?

Have your children had any problems with alcohol?

What was the most unpleasant or embarrassing thing that has happened with your children?

What are the answers for your wife to each of the questions asked of you above? (E.g. have they been arrested, had any problems in school, with drugs, alcohol or with sex)

F. Siblings

What are the answers for your siblings to the questions asked of you above? (E.g. have they been arrested, had any problems in school, with drugs,

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alcohol or with sex).

Have your siblings ever had any mental problems, psychological counseling, or counseling of any kind?

Have your siblings had any brushes with the police? (e.g. shoplifting, vandalism, driving violations, underage drinking, indecent exposure)

Have your siblings had any problems with drugs?

Have your siblings had any sexual problems?

Have your siblings had any problems with alcohol?

What was the most unpleasant or embarrassing thing that has happened with your siblings?

G. Neighbors, Friends

Have you ever had any disagreements, fights, lawsuits or any other problems with any neighbors, friends, business associates or any other person?

Are any of your friends associated with organized crime figures?

H. Other

Is there anything else in your background, your family's background that could pose an issue of any kind, if your life is reviewed by someone who is your enemy and wants to get you?

A.B.

The list of due diligence questions does not include any questions on Judge Kennedy's part-time teaching at the McGeorge School of Law. You should probably ask him questions about his colleagues and students similar to those we drafted for his Ninth Circuit tenure.

Pat B.

THE WHITE HOUSE

WASHINGTON


November 9, 1987

MEETING WITH JUDGE ANTHONY M. KENNEDY

Monday, November 9, 1987

Residence

5:00 p.m.

FROM: Arthur B. Culvahouse, Jr. 

I. PURPOSE

To interview Judge Anthony M. Kennedy in connection with his possible nomination to be Associate Justice of the United States Supreme Court.

II. BACKGROUND

As you have discussed with Howard Baker, it is deemed prudent for you to meet with Judge Kennedy and evaluate his interest and qualifications for potential nomination to the Supreme Court.

III. PARTICIPANTS

Judge Anthony M. Kennedy
The Attorney General
Senator Howard H. Baker, Jr.
Kenneth M. Duberstein
Arthur B. Culvahouse, Jr.

IV. PRESS PLAN

No press coverage. White House photographer only.

V. SEQUENCE OF EVENTS

You will meet with Judge Kennedy for approximately 30 minutes. It would be appropriate for you to ask Judge Kennedy a few questions (outlined on the attached talking points) regarding his interest in the Supreme Court and his qualifications for nomination. It is recommended that you do not offer the nomination to Judge Kennedy at this time, since the preliminary background checking being done by the Federal Bureau of Investigation will not be finished until tomorrow morning.

Attachments: Background on Judge Kennedy
Talking Points

BACKGROUND ON JUDGE KENNEDY

Tony Kennedy was appointed to the United States Court of Appeals for the Ninth Circuit in 1975 by President Gerald Ford. You, while Governor of California, recommended Judge Kennedy's nomination, and Judge Kennedy views your recommendation as principally responsible for his nomination by President Ford. Judge Kennedy's father was a well known Sacramento lawyer and lobbyist who died in 1963. Judge Kennedy, who had been practicing for two years as a young lawyer in San Francisco, returned to Sacramento in 1963 to assume his father's law practice. Judge Kennedy practiced law in Sacramento, with a business, trial and legislative practice from 1963 until his nomination to the Court of Appeals in 1975. Judge Kennedy has taught constitutional law at the McGeorge School of Law, at the University of Pacific, for 22 years. In 1973, when you were Governor, you asked Kennedy to draft the proposed Constitutional amendment sponsored by Governor Reagan's Task Force on Revenue Control and Tax Reduction ("Proposition 1"). Judge Kennedy has served with distinction on the Ninth Circuit Court of Appeals since 1975 and is very well regarded by his colleagues in the Federal Judiciary.

SUGGESTED TALKING POINTS FOR MEETING WITH
JUDGE ANTHONY M. KENNEDY

- ✓ -- It is nice to see you again. I have many fond memories of my days as Governor in Sacramento. I remember well your work on Proposition 1.
- ✓ -- I know that you have already been extensively questioned by Howard Baker and Ed Meese, but I hope that you won't mind if I ask you a few questions.
- ✓ -- As you know, the press will be looking for embarrassing circumstances in the next nominee's background.
Is there anything in your background that might create problems for you if you were nominated to the Supreme Court?
- ✓ -- Are there any personal or health reasons why you would not be able to make a full commitment to the Supreme Court?
- ✓ -- Do you have any hesitancy in taking on the great responsibility of work on the Supreme Court?
- ✓ -- Is there any reason why you might not want to go through a confirmation process at this time?
- ~~What are the critical issues that you think the Supreme Court will face over the next 5-10 years?~~
- Thank you for your time. I hope to make a decision tomorrow and we will talk to you then.

✓ -- As you know, the press will be looking for embarrassing circumstances in the next nominee's background.

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