

HEADLINE:

7 PAGES OF QUESTIONS FOR JUDGE ROBERTS;
SEN. CHARLES SCHUMER MEETS FOR NEARLY AN HOUR WITH BUSH SUPREME
COURT NOMINEE.

BYLINE: By Peter Lyman Washington bureau

BODY:

The man nominated to be the next Supreme Court justice and the man who could turn out to be his most visible antagonist met for 55 minutes Thursday afternoon in Washington.

During the meeting, Sen. Charles Schumer presented Supreme Court nominee John G. Roberts Jr. with a seven-page list of general and specific questions. The topics are issues likely to come up at Roberts' confirmation hearing before the Senate Judiciary Committee, of which Schumer is a member.

Schumer, D-N.Y., described the session as "cordial, friendly." The two men agreed to meet again next week, Schumer said.

Schumer is one of three members of the Judiciary Committee to oppose Roberts' successful nomination to the U.S. Court of Appeals for the D.C. Circuit in 2003. Roberts now starts over with a clean slate, Schumer said.

"I told him my mind is totally open" on whether to support President Bush's choice to replace the retiring Justice Sandra Day O'Connor, Schumer said. "I would like to be able to support him. .. He is a very impressive man."

Schumer said he gave Roberts the list of questions so he could study them and prepare answers before the confirmation hearing, which won't take place until after Congress' August recess. No one is trying to trick or embarrass the nominee, Schumer said.

"I don't think this is a game of "gotcha,"" he said.

Schumer has taken a high profile among Democrats since Bush revealed Roberts as his nominee Tuesday night. He joined Sen. Patrick Leahy, D-Vt., the Judiciary Committee's ranking minority member, in delivering the Democrats' initial response. Since then, Schumer has met several times with reporters to discuss the nomination.

"I think (Schumer's) role is very important," said Robert Spitzer, professor of political science at the State University College at Cortland. Schumer is "considered pretty liberal, but he's also no fool. He's smart. He's tenacious."

Spitzer predicted that Schumer will press Roberts during the confirmation hearing, try to pin him down on specific matters of law and social philosophy. Schumer "very much wants to take the direct approach," Spitzer said.

Roberts "may demur on some specific questions," Spitzer said, "but he won't say, "Well, I haven't thought about it."

Like Roberts, Schumer earned his undergraduate and law degrees at Harvard, but the senator doesn't think they ever met there, he said Thursday. Roberts is 50. Schumer is 54.

The questions Schumer gave Roberts Thursday are divided into 16 categories. They solicit the nominee's views on legal and social issues including freedom of speech and religion, the federal government's authority to regulate commerce, civil rights, personal privacy, judicial activism and the Supreme Court's responsibility to respect legal precedent.

While many senators have argued that it's inappropriate to ask a judicial nominee how he or she would decide a case under a specific set of hypothetical circumstances - such as abortion - Schumer is not among them.

"I don't agree with those who say they can't answer questions about how they might rule," Schumer said. "I do intend to ask him all sorts of questions."

Many observers of the process say that barring surprise revelations, Roberts' chances of confirmation are excellent.

"President Bush has been fairly wily with this nomination," said Terry Turnipseed, assistant professor of law at Syracuse University.

Conservatives are very happy with the choice, but liberals don't have enough ammunition to sustain a filibuster, Turnipseed said. The Democrats likely thought Bush would nominate someone who would be easier to oppose, he said.

Schumer has declined to speculate whether he will lead a filibuster to block Roberts' nomination.

Roberts' judicial resume is short. He has served as an advocate for most of his legal career and has argued dozens of cases before the Supreme Court. He did not serve on the bench at any level until two years ago, when he was appointed to the D.C. Circuit Court.

Since then, Roberts has been "very careful in his judicial opinions," Turnipseed said, "perhaps with an eye toward this day."

Democrats may try to get access to internal papers from Roberts' tenure as a Justice Department lawyer that might reveal his personal views on reproductive rights, Turnipseed said. Republicans will argue that those are privileged communications, he said.

Spitzer conjectured that Democrats might give Roberts a relatively easy ride in the confirmation process, saving their ammunition for the next Bush nominee. Chief Justice William Rehnquist is 80 and has cancer, and there has been a great deal of speculation about how much longer he will remain on the bench.

Spitzer also warned that once Roberts is on the court with a lifetime appointment, he might not turn out to be as conservative as people now think.

"I don't think he's a fire-breathing right-winger" in the mode of Justice Antonin Scalia, Spitzer said. "It's not that unusual for judges, once on the Supreme Court, to go in directions people never thought they'd go."

There have been several such surprises in the recent past. Earl Warren was a loyal Republican soldier when President Dwight D. Eisenhower named him chief justice in 1953, ushering in an era of liberal rulings. Eisenhower later called the Warren nomination "the biggest damn-fool mistake I ever made" as president.

Justice Harry Blackmun, who wrote the 1973 Roe v. Wade majority opinion that threw out state laws prohibiting abortion, was a nominee of Republican Richard Nixon.

Justice David Souter, who most often sides with the liberal wing of the current court, was a nominee of Republican George H.W. Bush.

Questions for the nominee

Here examples of the questions Sen. Charles Schumer presented to Supreme Court nominee John G. Roberts Jr. Thursday:

"When can government regulate public speech by individuals?"

"What, if any, is the appropriate role of religion in government?"

"Can Congress regulate local trade in a product that is used nationally?"

"Under what circumstances is it appropriate for the Supreme Court to overturn a well-settled precedent, upon which Americans have come to rely?"

"Do you believe that Roe v. Wade (1973) was correctly decided?"

GRAPHIC: PHOTO New York Times JUDGE JOHN G. ROBERTS meets with Sen. Charles Schumer, D-N.Y., Thursday on Capitol Hill in Washington, D.C. Schumer presented President Bush's nominee to replace Sandra Day O'Connor with seven pages of questions. PHOTO NO CREDIT Schumer

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