

STATEMENT OF SAMUEL A. ALITO, JR., OF NEW JERSEY, NOMINEE TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

Judge ALITO. Thank you very much, Mr. Chairman. I am deeply honored to appear before you. I am deeply honored to have been nominated for a position on the Supreme Court, and I am humbled to have been nominated for the seat that is now held by Justice O'Connor. Justice O'Connor has been a pioneer, and her dedicated service of the Supreme Court will never be forgotten, and the people of the country certainly owe her a great debt for the service that she has provided.

I am very thankful to the President for nominating me, and I am also thankful to the members of this Committee and many other Senators who took time from their busy schedules to meet with me. That was a great honor for me, and I appreciate all of the courtesies that were extended to me during those visits. And I want to thank Senator Lautenberg and Governor Whitman for coming here today and for their kind introductions.

During the previous weeks, an old story about a lawyer who argued a case before the Supreme Court has come to my mind, and I thought I might begin this afternoon by sharing that story. The story goes as follows:

This was a lawyer who had never argued a case before the Court before, and when the argument began, one of the Justices said, "How did you get here?" meaning how had his case worked its way up through the court system. But the lawyer was rather nervous, and he took the question literally, and he said—and this was some years ago. He said, "I came here on the Baltimore and Ohio Railroad."

This story has come to my mind in recent weeks because I have often asked myself how in the world did I get here. And I want to try to answer that today and not by saying that I came here on I-95 or on Amtrak.

I am who I am in the first place because of my parents and because of the things that they taught me, and I know from my own experience as a parent that parents probably teach most powerfully not through their words but through their deeds. And my parents taught me through the stories of their lives, and I don't take any credit for the things that they did or the things that they experienced. But they made a great impression on me.

My father was brought to this country as an infant. He lost his mother as a teenager. He grew up in poverty. Although he graduated at the top of his high school class, he had no money for college, and he was set to work in a factory. But at the last minute, a kind person in the Trenton area arranged for him to receive a \$50 scholarship, and that was enough in those days for him to pay the tuition at a local college and buy one used suit. And that made the difference between his working in a factory and going to college.

After he graduated from college, in 1935, in the midst of the Depression, he found that teaching jobs for Italian-Americans were not easy to come by, and he had to find other work for a while. But eventually he became a teacher, and he served in the Pacific during

World War II, and he worked, as has been mentioned, for many years in a nonpartisan position for the New Jersey Legislature, which was an institution that he revered.

His story is a story that is typical of a lot of Americans, both back in his day and today, and it is the story, as far as I can see it, about the opportunities that our country offers and also about the need for fairness and about hard work and perseverance and the power of a small good deed.

My mother is a first-generation American. Her father worked in the Roebling Steel Mill in Trenton, New Jersey. Her mother came from a culture in which women generally did not even leave the house alone, and yet my mother became the first person in her family to get a college degree. She worked for more than a decade before marrying. She went to New York City to get a master's degree, and she continued to work as a teacher and a principal until she was forced to retire. Both she and my father instilled in my sister and me a deep love of learning.

I got here in part because of the community in which I grew up. It was a warm but definitely an unpretentious, down-to-earth community. Most of the adults in the neighborhood were not college graduates. I attended the public schools. In my spare time, I played baseball and other sports with my friends. And I have happy memories and strong memories of those days and good memories of the good sense and the decency of my friends and my neighbors.

And after I graduated from high school, I went a full 12 miles down the road, but really to a different world, when I entered Princeton University. A generation earlier, I think that somebody from my background probably would not have felt fully comfortable at a college like Princeton, but by the time I graduated from high school, things had changed. And this was a time of great intellectual excitement for me. Both college and law school opened up new worlds of ideas. But this was back in the late 1960s and early 1970s. It was a time of turmoil at colleges and universities. And I saw some very smart people and very privileged people behaving irresponsibly, and I couldn't help making a contrast between some of the worst of what I saw on the campus and the good sense and the decency of the people back in my own community.

I am here in part because of my experiences as a lawyer. I had the good fortune to begin my legal career as a law clerk for a judge who really epitomized open-mindedness and fairness. He read the record in detail in every single case that came before me. He insisted on scrupulously following precedents, both the precedents of the Supreme Court and the decisions of his own court, the Third Circuit. He taught all of his law clerks that every case has to be decided on an individual basis, and he really didn't have much use for any grand theories.

After my clerkship finished, I worked for more than a decade as an attorney in the Department of Justice, and I can still remember the day as an Assistant U.S. Attorney when I stood up in court for the first time and I proudly said, "My name is Samuel Alito, and I represent the United States in this court." It was a great honor for me to have the United States as my client during all of those years.

I have been shaped by the experiences of the people who are closest to me, by the things I have learned from Martha; by my hopes and my concerns for my children, Phillip and Laura; by the experiences of members of my family, who are getting older; by my sister's experiences as a trial lawyer in a profession that has traditionally been dominated by men. And, of course, I have been shaped for the last 15 years by my experiences as a judge of the court of appeals.

During that time, I have sat on thousands of cases. Somebody mentioned the exact figure this morning. I don't know what the exact figure is, but it is way up in the thousands. And I have written hundreds of opinions. And the members of this Committee and the members of their staff who have had the job of reviewing all of those opinions really have my sympathy.

[Laughter.]

Judge ALITO. I think that may have constituted cruel and unusual punishment.

I have learned a lot during my years on the Third Circuit, particularly, I think, about the way in which a judge should go about the work of judging. I have learned by doing, by sitting on all of these cases, and I think I have also learned from the examples of some really remarkable colleagues.

When I became a judge, I stopped being a practicing attorney, and that was the big change in role. The role of a practicing attorney is to achieve a desirable result for the client in the particular case at hand. But a judge can't think that way. A judge can't have any agenda. A judge can't have any preferred outcome in any particular case. And a judge certainly doesn't have a client. The judge's only obligation—and it's a solemn obligation—is to the rule of law, and what that means is that in every single case, the judge has to do what the law requires.

Good judges develop certain habits of mind. One of those habits of mind is the habit of delaying reaching conclusions until everything has been considered. Good judges are always open to the possibility of changing their minds based on the next brief that they read or the next argument that is made by an attorney who is appearing before them or a comment that is made by a colleague during the conference on the case, when the judges privately discuss the case.

It has been a great honor for me to spend my career in public service. It has been a particular honor for me to serve on the court of appeals for these past 15 years because it has given me the opportunity to use whatever talent I have to serve my country by upholding the rule of law. And there is nothing that is more important for our Republic than the rule of law.

No person in this country, no matter how high or powerful, is above the law, and no person in this country is beneath the law.

Fifteen years ago, when I was sworn in as a judge of the court of appeals, I took an oath. I put my hand on the Bible and I swore that I would administer justice without respect to persons, that I would do equal right to the poor and to the rich, and that I would carry out my duties under the Constitution and the laws of the United States. And that is what I have tried to do to the very best

of my ability for the past 15 years, and if I am confirmed, I pledge to you that that is what I would do on the Supreme Court.

Thank you.

Chairman SPECTER. Thank you very much, Judge Alito, for those opening comments.

We will adjourn at this point, and we will resume tomorrow morning at 9:30, when we will start the first round of questioning with each Senator on round one having 30 minutes.

[Whereupon, at 3:40 p.m., the Committee was adjourned.]

[The biographical information of Judge Alito follows.]