

In the realm of personal integrity, Judge Scalia is second to none. He is recognized on the District of Columbia Court of Appeals as a judge who eagerly seeks out the opinions and viewpoint of his fellow judges when he is formulating a position. Judge Scalia is one who is genuinely liked by his colleagues on the Court, whether of liberal or conservative bent, and is very effective at forging coalitions between those on all sides of the issue. One rather liberal colleague on the Circuit Court characterized Judge Scalia as one who is "fun to work with, (who) enjoys the dialogue going back and forth."

Judge Scalia's professional competency brings him high acclaim from other judges, practicing attorneys, and from those in academia. Even as a young man in high school, his intellectual capacity far exceeded those around him. One classmate commented that Antonin Scalia was so superior academically that his classmates competed to be second.

He has the great distinction of having graduated magna cum laude from Harvard University Law School, where he served on the Law Review. In six years of private law practice, Judge Scalia practiced real estate law, corporate financing, labor and anti-trust law. One colleague said of Judge Scalia's work as a practicing attorney \* \* \* "he did everything \* \* \* and he did it well. He was one of the last of the real generalists in the sense that he wanted to do as much of everything as he possibly could."

His distinguished career as an academician is also well known. He has served as a law professor at Georgetown University, the University of Chicago, and the University of Virginia. He was also a visiting professor at Stanford University.

Judge Scalia is highly recognized for his vigorous and prolific writing. His writing is said to have a "combination of commitment with vigor and an incisive, often wittily sarcastic, \* \* \* style that will rally the troops even if it never commands a majority of the court." In his four years on the District of Columbia Circuit Court of Appeals, Judge Scalia has written eighty-four majority decisions and dozens of concurrences and dissents. Throughout his career he has written more than twenty articles for Law Reviews and other scholarly journals.

On the bench he has developed a reputation for meticulousness in preparation and ferocity in questioning. One colleague characterized Judge Scalia by warning: "Pity the attorney who's not prepared. He is tough and formidable and gives no quarter; he's fair and he's intelligent, but he's not deferential."

Finally, Mr. Chairman, Judge Scalia has demonstrated abiding fidelity to the Constitution and to precedent which has developed throughout our Nation's history. As a recognized authority on the balance of Constitutional power, he is credited with authoring the per curiam three judge opinion in *Synar vs. United States* invalidating the Gramm-Rudman provision which granted broad sequestration powers to the Comptroller General. He also filed a friend-of-the-court brief in the 1983 *Chada* case, in which the Supreme Court nullified the legislative veto. Judge Scalia's keen sense of administrative law, combined with his knowledge of balance of powers, will provide the Supreme Court with a fresh, incisive mind to grapple with the growing docket of cases involving administrative action and regulatory policy.

Mr. Chairman, Judge Scalia is highly qualified in those critical areas of personal integrity, high professional competency, and abiding fidelity to the Constitution and legal precedent. I encourage my colleagues to review carefully his excellent record in these three areas, and then join me in giving wholehearted support to his confirmation.

Thank you, Mr. Chairman.

The CHAIRMAN. The distinguished Senator from Alabama.

#### STATEMENT OF SENATOR HOWELL T. HEFLIN

Senator HEFLIN. Judge Scalia, I believe that almost every Senator that has an Italian-American connection has come forward to welcome you to this or to participate in this hearing thus far.

I would be remiss if I did not mention the fact that my great great grandfather [laughter] married a widow [laughter] who was married first to an Italian American. [Laughter.]

The CHAIRMAN. Let us get quiet.

Judge SCALIA. Senator, I have been to Alabama several times too. [Laughter.]

Senator HEFLIN. So, Judge Scalia, it is with pride that I welcome you on behalf of the 4,022 Italian Americans in Alabama and the other 4 million people to this hearing. I also am delighted to welcome your wife and your nine children.

Looking at the number of your children, it appears that you have had much experience in working with groups of nine. However, nine is enough, at least for the U.S. Supreme Court Justices.

If confirmed, I hope your experience, family and otherwise, will help you to build a consensus when justice requires it, and to resolve the minor disputes which may arise on the Court.

I believe that there are two underlying questions to bear in mind throughout these proceedings. First, what is the role of a U.S. Senator in the confirmation process of a Supreme Court nominee? And, second, what qualifications should a nominee ideally possess in order to be confirmed?

In addressing the first question, there is no greater duty of the U.S. Senate than its confirmation of Supreme Court nominees. The Constitution states that the President "shall nominate and, by and with the advice and consent of the Senate, shall appoint \* \* \* judges of the Supreme Court."

Many have looked to the past to determine the Senate's proper role in the confirmation process. Many look to present times to support the argument that all areas of inquiry are subject to Senate review. But when considering my role as a U.S. Senator to confirm or deny, I look to the future to see what this nominee will bring to the Court and whether the individual will be a vigorous enforcer of the cornerstone of individual liberty—the Constitution.

In my examination of a nominee to the U.S. Supreme Court, I am in agreement with the opinion of the late Senator John McClellan of Arkansas. He stated that: "there is room on the U.S. Supreme Court for liberals and conservatives, for Democrats and Republicans, of Northerners and Southerners, of Westerners and Easterners, of blacks and whites, and men and women—these and other factors should neither qualify nor disqualify a nominee."

To live under the American Constitution is the greatest personal privilege which was ever accorded any member of the human race. Therefore, I believe that the men and women to whom we entrust the care of our Constitution should be chosen with great care. In my opinion, only a handful of men and women are both qualified and capable of wearing the weighty robe of a Supreme Court Justice.

In each era, there arise particular threats to our constitutional democracy. Those whom we place on our highest tribunal must be able not only to meet these challenges but also, through their wise jurisprudence, to prepare for future challenges.

In order for a judge to accomplish these goals, I believe that a nominee should possess three criteria: First, an understanding of the proper role of the judiciary in our Constitution; second, a deep belief in and unfaltering support of an independent judiciary; and, third, an abiding love of justice.

Paraphrasing Tennyson, we are a part of all that we have met. If confirmed, you will bring to the Court a wealth of experience which will provide you with a solid foundation in your service to

the people of this Nation and to the Constitution of the United States.

I understand that as a professor, you concluded your class each semester with a quotation from Robert Bolt. I think it is appropriate to cite another of Bolt's quotations here, "The law is not a 'light' for you or any man to see by; the law is not an instrument of any kind. The law is a causeway upon which so long as he keeps to it, a citizen may walk safely."

Judge Scalia, as a final arbiter of what the law is, keep that causeway forever straight, forever clear, and forever safe.

Good luck.

Senator SIMPSON [presiding]. Thank you, Senator Heflin.

And now I believe Senator Grassley, the Senator from Iowa, please.

#### STATEMENT OF SENATOR CHARLES E. GRASSLEY

Senator GRASSLEY. Thank you, Mr. Chairman.

First of all, let me personally congratulate you again, as I did in my office, on your nomination to serve on the Supreme Court.

By all accounts, you are an individual of great intellectual firepower, the energetic scholar, full of thoughtful as well as thought-provoking ideas.

Most recently, in your 4 years on the Court of Appeals for the D.C. Circuit, you authored more than 80 majority opinions and dozens of concurring and dissenting opinions.

Your colleagues on the D.C. circuit, it is my understanding, have found a most reasonable and fair judge, congenial and easy to work with. This is the view even among those with a different philosophy like Judge Wald and Judge Mikva.

It has been said that you especially enjoy the give and take of lawyerly dialog. This will make you well suited to the operation of the Court.

Before your appointment to the court of appeals, you proved to be a formidable legal scholar at both the University of Chicago and the American Enterprise Institute. You have had nearly two dozen articles published. I also note that you are the son of an Italian immigrant, and that has been played up, as it legitimately ought to, today. If confirmed, you will be the first Italian American to serve on the Supreme Court. Undoubtedly, this is a source of great pride in the Italian-American community, as it should be.

I believe it is further evidence of our truly pluralistic society. In sum, from what I know about your intellect, experience, and ability, it seems to me that President Reagan has made a wise choice.

Thank you, Mr. Chairman.

Senator SIMPSON. Thank you, Senator Grassley.

And now the Senator from Illinois, Senator Paul Simon.

#### STATEMENT OF SENATOR PAUL SIMON

Senator SIMON. Thank you, Mr. Chairman.

First, if I may I would like to respond very briefly to my colleague from Alabama on the partisanship issue. I regret he is not here.