

American Bar Association

August 5, 1986

The Honorable Strom Thurmond
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to the invitation to the Standing Committee on Federal Judiciary of the American Bar Association (the "Committee") to submit its opinion with respect to the nomination of the Honorable Antonin Scalia to be an Associate Justice of the Supreme Court of the United States.

The Committee's evaluation of Judge Scalia is based on its investigation of his professional competence, judicial temperament and integrity. Consistent with its long standing tradition the Committee's investigation did not cover Judge Scalia's general political ideology or his views on issues except to the extent that such matters might bear on judicial temperament or integrity.

The Committee investigation included the following:

- (1) Members of the Committee interviewed the Justices of the Supreme Court of the United States and a large number of other federal and state judges throughout the United States.
- (2) Committee members interviewed a cross section of practicing lawyers across the country.
- (3) Committee members interviewed a number of deans and faculty members of law schools throughout the country.

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(4) A team comprised of the Dean and professors of a prominent law school and a separate team of practicing attorneys reviewed Judge Scalia's opinions. They were also reviewed by three summer law students working in the office of one of the Committee members.

(5) Two members of the Committee interviewed Judge Scalia.

Professional Background

The Committee's investigation revealed that Judge Scalia's career has included service as a practicing lawyer, a law school professor, a lawyer in government service, and a federal circuit judge. He received a B.A. degree with highest honors from Georgetown University in 1957, and graduated from Harvard Law School with an LL.B., magna cum laude, in 1960. He was admitted to the Bar of the State of Ohio in 1962.

After serving a year as a Sheldon Fellow of Harvard University, Judge Scalia practiced law in Cleveland, Ohio, as an associate of the firm of Jones, Day, Cockley & Reavis. He then served as an associate professor at the University of Virginia Law School from 1967 to 1970, and as a professor from 1970 to 1974 (on leave 1971 to 1974).

He was General Counsel, Office of Telecommunications Policy, Executive Office of the President, from January 1971 to September 1972, at which time he was appointed Chairman of the Administrative Conference of the United States, in Washington, D.C., until August 1974. He was an Assistant Attorney General, Office of Legal Counsel, in the Department of Justice in Washington from August 1974 to January 1977. He was a visiting professor at Georgetown University Law Center from January to June 1977, and later in 1977 he became a Professor at the University of Chicago Law School. He served there until 1982 (on leave 1980 - 1981 as visiting professor, Stanford Law School). In 1982 he was nominated by the President to the United States Court of Appeals for the District of Columbia Circuit, and in that year his nomination was confirmed by the Senate.

Through interviews of those who worked with Judge Scalia during the various stages of his professional career, the Committee has concluded that he has demonstrated outstanding competence, the highest integrity, and excellent judicial temperament.

Interviews with Judges

The Committee interviewed more than 340 persons during its investigation, over 200 of whom are federal and state judges, including the Justices of the Supreme Court of the United States. Most of those who know him spoke enthusiastically of his keen intellect, his careful and thoughtful analysis of legal problems, his excellent writing ability and his congeniality and sense of humor. Almost all who know him, including those who disagree with him philosophically and politically, expressed admiration for his abilities, and for his integrity and judicial temperament. He is described as "learned and studious," "always well prepared," "very congenial," "a person of excellent character and scholarship" and "careful and thoughtful and not inflexible."

Many judges who do not personally know Judge Scalia have a favorable impression of him based on his reputation and their reading of opinions he has written. The judicial community was strong in its praise of Judge Scalia's qualifications.

Interviews with Lawyers

The Committee has also contacted about 80 practicing lawyers throughout the United States. We interviewed a cross section of the legal community, including women and minority lawyers. Having practiced law in Cleveland, taught in law schools in Virginia, the District of Columbia, Chicago and in California, having served as a federal judge and in government service in the District of Columbia, and having chaired the Administrative Conference of the United States, and the Administrative Law Section of the American Bar Association, Judge Scalia has been brought into contact with and worked with lawyers across the country. From the standpoint of his intellect and competence, temperament, and integrity he is very well regarded by almost all of those who know him. Lawyers have commented that "he is always well prepared, he asks the right questions and writes exceedingly well"; that arguing before Judge Scalia is "an exhilarating experience"; that he has "strong intellectual capabilities"; that he is "very fair"; and that he has "a warm and friendly personality." There were isolated expressions of concern, or objections, about a lack of openmindedness or the reasoning in his opinions.

Interviews with Deans and Professors of Law

The Committee interviewed more than 60 deans and faculty members (including specialists in constitutional law and scholars of the Supreme Court) across the country, many of whom know Judge Scalia personally. He is uniformly praised by those who know him for his ability, writing skills and keen intellect. Again, there were isolated expressions of concern about his strong conservatism or a lack of openmindedness.

Survey of Judge Scalia's Opinions

Judge Scalia's opinions were examined for the Committee by the Dean and a group of law school professors at the University of Michigan and by a separate group of practicing attorneys. Both of these groups expressed high praise for his intellectual capacity, his clarity of expression, his ability to analyze complex legal issues, and his organization and articulation of ideas. He is regarded as a splendid legal writer. Three summer law students who also reviewed his opinions expressed concern about his openmindedness.

Interview with Judge Scalia

Judge Scalia was interviewed by two members of the Committee and the discussion covered the adverse comments and objections that had been received by Committee members. This discussion, against the background of our investigation, satisfied our Committee as to any question that had been raised. Judge Scalia impressed the interviewers as a highly intelligent, articulate and congenial person. He appears to be a very hard worker, and highly enthusiastic about his role in making the legal system work properly.

Based on the Committee's investigation, it has unanimously found that Judge Scalia has all of the professional qualifications required of an Associate Justice of the Supreme Court of the United States. Those who know and have worked with Judge Scalia describe him as intelligent, analytical, thorough and hard working. His diversity of experience as a practicing lawyer, a lawyer in government service, an academician and a judge provides a valuable background for service on the Supreme Court.

Furthermore, the Committee's investigation reveals that Judge Scalia's integrity is beyond reproach, and he is well regarded for his judicial temperament. Judge Scalia is among the best available for appointment to the Supreme Court, and he is

Honorable Strom Thurmond

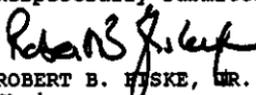
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entitled to the Committee's highest evaluation of a nominee to the Court because of the high standards he meets in terms of professional competence, judicial temperament and integrity. Accordingly, we unanimously find him "Well Qualified".

This report is being filed at the commencement of the Senate Judiciary Committee's hearing. We will review our report at the conclusion of the hearings, and notify you if any circumstances have developed that require modification of our views.

Respectfully submitted,


ROBERT B. HYSKE, MR.
Chairman