AMERICAN BAR ASSOCIATION

Standing Committee on
Federal Judiciary
750 North Lake Shore Drive
Chicago, Illinois 60611
(312) 988-5000

September 4, 1987

Honorable Howard M. Metzenbaum
Committee on the Judiciary
United States Senate
Washington, D.C. 20510-6275

Dear Senator Metzenbaum:

In response to your letter of August 26, permit me to report that the position of this Committee for many years has been and continues to be essentially as set forth in the last two paragraphs of page 1 of your letter and running over to the top of page 2.

In reviewing the history of the reports to the Senate Judiciary Committee in connection with nominees for the Supreme Court of the United States, it seems clear that in order to best serve the interests of the Senate, this committee has sought, as it should, to focus its reports and findings on the professional qualifications, judicial temperament and integrity of the candidates. Thus, this committee should not address the nominees' political, ideological or philosophical views on specific issues, except to the extent that such matters might bear on the aforesaid questions of judicial temperament or integrity.

Further, it would seem to follow that this committee should not specifically recommend to the Senate how it should vote on confirmation of a given nominee. Parenthetically, I recognize that a report of the committee finding a nominee Well Qualified might be construed by some as equivalent to a firm recommendation to the Senate. Yet, upon sober analysis, since the committee expressly disclaims any opinion upon issues which we assume that the Senate can and does consider, such a broad construction of any finding we might make would not be justified.

I trust this answers the questions posed in your letter of August 26. If not, please let me know.

Very truly yours,

Harold R. Tyler, Jr.