

Senator MATHIAS. Our next panel will be composed of Dr. Robert L. Maddox, executive director of Americans United for the Separation of Church and State; and Mr. Peter Weiss of the Center for Constitutional Rights. Ms. Dudley is not here.

Gentlemen, if you will raise your right hand. Do you swear that the testimony you will give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Dr. MADDOX. I do.

Mr. WEISS. I do.

Senator MATHIAS. Dr. Maddox, do you want to start? I remind you of the 3-minute rule and also of the fact that your full statement will be included in the record.

**TESTIMONY OF ROBERT L. MADDOX, EXECUTIVE DIRECTOR, AMERICANS UNITED FOR THE SEPARATION OF CHURCH AND STATE, AND PETER WEISS, VICE PRESIDENT, CENTER FOR CONSTITUTIONAL RIGHTS**

Dr. MADDOX. Thank you. I am Robert Maddox, executive director of Americans United for Separation of Church and State. We are a 39-year-old national organization dedicated to the preservation of religious liberty and the separation of church and state.

We represent within our membership some 50,000 people, a broad spectrum of religious and political viewpoints, but we are all united in the conviction that separation of church and state is essential.

We of Americans United believe that religious liberty is the pre-eminent liberty of the American Republic, the benchmark of all other civil liberties.

We believe in the inherent strength of the American religious community to manage its own affairs, to make its own mark, and to impart a sense of values to the Nation.

This rich and diverse community does not need propping up by the Government and should at all costs remain free from Government entanglement.

Therefore we respectfully suggest that the Senate consider carefully the appointment of an individual to the Supreme Court who seems hostile to the time-honored principle of the separation of church and state. Judge Scalia, in testimony before the U.S. Congress, and in other ways, has criticized the direction this Court has taken in its decisions on religious liberty.

In 1978 he testified on behalf of a bill to give tuition tax credits to patrons of private and parochial schools. He supported the bill; Americans United opposed the bill. At that session, in our opinion, Mr. Scalia demonstrated a disregard for the establishment clause of the first amendment. He told the Senate not to worry about the question of whether tuition tax credits were constitutional, but to decide on the basis of what the fundamental traditions of the society require—those words coming from a man who has been characterized as a strict constructionist.

He argued that the denial of tuition tax credits to parents of students at religious schools was an antireligious result that the Framers of the Constitution had not intended.

Fortunately, the Congress rejected this unwise advice and defeated the tuition tax credit bill later that year.

Mr. Scalia has also characterized the Court as being terribly confused about this and other matters of religious liberty.

Mr. Scalia has also questioned the High Court's policy of granting broad standing to taxpayers who want to file lawsuits in first amendment cases, thus shutting the door of the Court to many who would bring up first amendment establishment of religion cases.

Throughout his career Mr. Scalia has demonstrated an insensitivity to matters of the first amendment.

We think also that the Senate should take stock of the direction in which the Reagan administration seems to be taking the Supreme Court. We fear that a Rehnquist-Scalia axis in the Court would further subvert individuals to the power of the State. We Americans thought that many of these issues of personal liberty were settled, but apparently they are not. A spirit of confusion prevails in this country.

We make the assumption that Judge Scalia reflects the views of President Reagan on church and state, views we find inimical.

On the basis of Judge Scalia's record and in vigorous protest of the attitudes of the Reagan administration who appointed him, we oppose the nomination. We ask you to reject the nomination of Judge Scalia to the U.S. Supreme Court.'

[Prepared statement follows:]