amending the recusal laws. First, there should be more transparency. Judges should be required to inform the parties and the public of any information that would be relevant to the recusal question. Even if they do not think recusal is required, the parties should be given full information, and the public as well.

Second, when judges do decide to recuse themselves, they should at least issue a brief explanation explaining why. That will provide a body of precedent to guide future litigants and judges facing these difficult recusal situations.

And third, when a judge does not decide or does not think it is clear that he should recuse himself, that judge should turn that decision over to his colleagues, or at the very least consult his colleagues, rather than make the decision on his own.

With these reforms in place, I think we would better protect both the reputation of the judiciary and of the judges who serve the public.

Thank you for inviting me to share my views with you today.

[The prepared statement of Ms. Frost appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Professor Frost.

We now turn to Professor John Flym, professor of law at Northwestern. He has taught Professional Responsibility and Advanced Criminal Procedure. He served as counsel to Ms. Shantee Maharaj, the plaintiff in the 2002 case where Judge Alito ruled in favor of the Vanguard Mutual Fund. He got his bachelor's degree from Columbia in 1961 and his law degree from Harvard.

Thank you for agreeing to be a witness here today, Professor Flym, and we look forward to your testimony.

STATEMENT OF JOHN G.S. FLYM, RETIRED PROFESSOR OF LAW, NORTHEASTERN UNIVERSITY SCHOOL OF LAW, BOSTON, MASSACHUSETTS

Mr. FLYM. Thank you, Mr. Chairman, Senator Leahy, members of the Committee. I am honored to be before you today.

I would like to make one correction, if you please. It is a common error, but I have taught at Northeastern University, which is in Boston.

I am indeed the lawyer who challenged Judge Alito's failure to recuse in the *Monga* case, the *Monga/Vanguard* case.

What I would like to do now is to address three points, one of which was particularly addressed by Senator Hatch yesterday in his questioning of John Payton, the Eighth Federal Circuit representative. Does the law require Judge Alito to recuse given his investments in Vanguard?

Now, my colleague Amanda Frost addressed Provision (a) of the statute, which speaks in general terms and states the general principle based on the appearance. A judge shall recuse if someone could reasonably question the judge's impartiality. Section (b), however, is the applicable provision. Section (b) doesn't state a general proposition. It states a specific proposition. Among them (b)(4) says that a judge shall recuse if the judge has a financial interest in a party to the case. It then goes on in subsection (d) to define what "financial interest" means, and it says a financial interest means

a financial interest, "however small," and then it goes on to list the various exceptions.

Now, Judge Alito in his answers filed in the questionnaire which he submitted to this Committee relies on the third exception in subsection (d), the one which plainly has nothing whatsoever to do with mutual funds. It has to do with interests, for example, in insurance policies. The one exception that does address mutual funds is the one raised by Senator Hatch, but it says the opposite of what Senator Hatch suggested yesterday. It says that one of the exceptions is that an investment in a mutual fund shall not be regarded as a financial interest in the securities held in the fund's portfolio. Now, that is an obvious proportion. It has nothing whatsoever to do with simply saying that an investment in mutual funds doesn't qualify as an interest, as a financial interest within the meaning of subsection (b), because if it did, Congress would simply have defined what—it would simply have said in the exceptions that financial interest doesn't include an investment in a mutual fund. That is what the statute says.

Now, the statute goes back to 1974. It would be astonishing if there weren't interpretations, case law of the statute. There are lots of interpretations. The Second Circuit in 2002, that is, the year before Judge Alito wrote the December 10th letter to Judge Scirica saying, "After I received the November 2003 motion that I should have recused myself, I reviewed the law, and having reviewed the law, I concluded that the statute doesn't require me to recuse. But, nevertheless, I am going to do that so that you can appoint a panel to consider the pending motion." He did not recuse from the case. A more important detail than might otherwise appear.

Now, in his statement to this Committee, his reliance on the third exception for insurance policies is unexplainable. It is incoherent. It has nothing whatsoever to do with mutual funds. The first exception, with due respect to Senator Hatch, says the opposite of what the Senator suggested yesterday. It says mutual funds do count as financial interests. These simply do not include investments that the fund makes in the securities, that is, the securities which are listed in the fund's portfolio.

Now, I, like everyone else, have been enormously impressed by all of the testimony, particularly his colleagues and everyone who has worked with judges, that he is a brilliant man, that he studies the law very carefully, that he pays particular attention to the arguments presented to him because he is a fair-minded man.

Now, at the time that he wrote this letter, he had the benefit of the motion, which included everything that I have just told you, including the case law and the analysis, and a lot more. It is inconceivable to me that he could have made the statement that he made in his letter to Judge Scirica and in his questionnaire to this Committee.

I will now move on to a second point. The second point is part of what he testified to. He said that he is—and I think this was in response to the question by Senator Kennedy: "And I am one of those judges that you described who take recusal very, very seriously." Is that a credible statement?

He also says that it never crossed his mind that there was a recusal issue when he looked at the *Vanguard* case. The name

"Vanguard" is plastered all over the documents. We are talking about literally dozens and maybe hundreds of references to Vanguard, including in the opinion that he himself authored.

He made a pledge to this Committee in 1990, which I assume he did after reading and understanding what the 1974 recusal statute said, he continued to invest in Vanguard over the years and watched his investments grow into the hundreds of thousands of dollars. I have heard estimates that run way beyond the $370,000 which has been mentioned here. And while he was sitting on the appeal in the *Vanguard* case, he continued to make investments, both before and after the opinion.

Now, I would like now to move to a third point, which I consider to be perhaps most important in a sense—not most important, but just as important. I spent 40 years of my professional life representing the little guy. My client, Ms. Maharaj, exemplifies the little guy. She has nothing, not one penny. All she had was the IRA which, by law, passed to her at the death of her husband in 1996.

Now, that IRA is supposed to be sacrosanct. The Supreme Court has held in a trilogy, beginning with *Guidry* in the 1980s, *Patterson* in 1992, and most recently, *Rousey* in 2005, that creditors can't reach IRAs.

Now, just as has been suggested with respect to how the *Roe* decision may be undone through small, creative exceptions to that ruling, likewise here what the judge did—and I am confident that he did read the record and that he understood all too well what was at stake—was go out of his way on the most dubious of legal principles to rely on the supposed decision of the Massachusetts court, which, in fact, is on appeal—I argued the appeal in October. There is no decision yet. We don't know how the Massachusetts court will decide. But all of the law which I set out in my motion makes it clear that he had no business relying on that Massachusetts decision.

What that means is that, with respect to IRAs only, never mind the other forms of retirement savings, 40-plus million Americans with their savings in IRAs, with more than $2.3 trillion in those IRAs, could see the security in what they thought were sacrosanct savings beyond the reach of any creditors, no qualification, as the *Patterson* court said in 1992, all of a sudden threatened the same way that the employees of IBM suddenly woke up to discover that their pensions were pretty much smoke and mirrors.

Thank you very much, members of the Committee. I realize that I spoke with some passion. I had promised myself to be calm and collected, but I confess that unless—but for the fact that President Bush nominated Judge Alito, no one would ever have heard of Ms. Maharaj or the *Vanguard* case and Judge Alito's role in it.

Thank you.

[The prepared statement of Mr. Flym appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Professor Flym.

Mr. Gray, beginning my 5 minutes of questioning with the issue of voting rights, which you have testified about so eloquently, are you at all comforted by Judge Alito's statement that the principle of one person/one vote is firmly embedded in the law of the land and he will follow that?

Mr. GRAY. Well, I am still troubled by the fact. I am glad to hear that. And if what that means is that if he is confirmed he will be the type of Justice protecting civil rights and human rights that Hugo Black did when he was on the Court, then I would be happy to have him serve. But I don't remember—and I think the first time I recall that he made this statement is after it was raised in these hearings.

I would think if he was sincere about it, realizing what he had said in 1985, that he would have disclosed the fact that, "I said that then, but my position now is entirely different," and would have been rather candid upright before the matter was raised, I am troubled that we would even have a nominee who would have to explain this. Because if these rights are so embedded, then there should never have been any statement the way it was in the first place.

Chairman SPECTER. Ms. Michelman, on the *Roe* issue, which is a matter of enormous importance, I started my questioning of Judge Alito with that subject, as I did with Chief Justice Roberts. And we have had the examples of Justice O'Connor, who was against abortion rights before she came to the Court, and Justice Kennedy against abortion rights, and a lot of worry about Justice Souter. And you have the political process where the judicial appointments are part of the process. And you heard Judge Alito talk about the precedents and the culture of the country and being embedded and a living document, which is very different from what some others have testified to in recent times.

You have watched this situation very closely, and you have noted who some of the other prospective nominees are, at least reported. If Judge Alito is rejected, what do you think the prospects are of getting a nominee whom you like better?

Ms. MICHELMAN. Well, Senator, it is true that the President won the election and he has the right to nominate Justices who share his values and his views. He made it very clear that his model Justices were Scalia and Thomas, whose views about women's constitutional legal rights, including the right to choose, are a danger to American women and to their lives and their health and their dignity. So he has that right, but you share a co-equal responsibility, and the American public, the individuals in this Nation have only a voice in this process through you. And I would answer you by saying that I think every nominee has to be evaluated on his or her merits, on his or her record, on his or her views, judicial and philosophical views included. And we have to take one at a time. And if that nominee's record is clearly a danger to the constitutional and fundamental rights of the American people, then I think that nominee should be defeated, and we will take on the next one.

But I think the President has, you know, made his case on this nomination. I think Judge Alito's record—and if you look at the totality of his record, his service in the Justice Department, his service on the court, it is very clear that he will move the Court in a very different and dangerous direction for women's legal rights. And—

Chairman SPECTER. I want to ask you one more question, and my time is almost up. You have commented about the other issues, philosophical—you have enumerated them, but we have been over

Executive and legislative power. We have been over congressional power, affirmative action, many items. Do you think that a nominee ought to be rejected on the basis of a single issue?

Ms. MICHELMAN. I don't consider the right to privacy, personal privacy, the right to dignity and autonomy and control over one's life as a single issue. I do think it is profound and will have enormously important implications for women, for men, for families in this Nation. And I do indeed think it is so serious and profound that he should be rejected on those grounds, even if there were no others, and I would subscribe there are other grounds.

Chairman SPECTER. Well, thank you very much for your testimony, Ms. Michelman—

Ms. MICHELMAN. You are welcome.

Chairman Specter [continuing]. And for your service. You have been in the forefront of this issue for a long time, and I know how deeply you feel about it. And I thank you for sharing with us your personal experiences. They are not easy to testify about.

Senator Leahy?

Senator LEAHY. I would concur with that. I thought of that prior to your testimony when reading the article about you yesterday in the Post, a story I was familiar with. And you are one of the reasons I came back. I was at a friend's memorial service and will return to that right after my questioning.

Ms. MICHELMAN. Thank you.

Senator LEAHY. But you are absolutely right that there is an awesome responsibility in the Senate in the choice, first with the 18 of us here, who are the only 18 people in America who got to question Judge Alito, if you don't count the first vetting they had by Vice President Cheney, Karl Rove, and Scooter Libby a day or two before he was nominated by the President. As to that, of course, we are not privy to what was said or what assurances were made, nor was he about to share that with us.

Mr. Gray, I am glad you are here. You spent a lifetime, a very distinguished lifetime, fighting for those denied the right to equal protection, equal dignity. I know that after you graduated law school, you immediately went to work defending two icons of America, Rosa Parks and Dr. Martin Luther King, Jr., in the Montgomery bus boycott.

We have heard Judge Alito say that one of the things that motivated him was his objection to *Baker* v. *Carr*, the reapportionment case. We heard Justice Frankfurter, who delivered a scathing dissent in that. And we know the position of the second Justice Harlan, who Judge Alito admires, who feels very strongly that *Baker* was wrong.

How important was it that the Supreme Court didn't follow these attitudes, didn't follow Justice Harlan's lead, and instead intervened in the 1960s to correct massive disparities in the size of voting districts, the underrepresentation of voters from urban areas, and to ensure the removal of poll taxes and other barriers to minorities to vote? What is the difference it makes in America today that the dissenters did not win?

Mr. GRAY. The difference is then, prior to these decisions, and even prior to *Brown* v. *Board of Education*, and prior to *Gomillion* v. *Lightfoot* and *Browder* v. *Gayle*, the case that desegregated the

buses, we had very few African-Americans and other minorities registered. We had little or no African-Americans in public office. For example, in my state, in 1957 we had none. Now my State has approximately the same number of persons in our State legislature. It mirrors the population. We now have thousands of African-Americans and other minorities who are holding public office, and an additional thousand that those public office holders have appointed to elected office.

Senator LEAHY. When you started this fight, did you very believe you would see an African-American mayor, an African-American sheriff in some of—

Mr. GRAY. No, sir. And the first one since Reconstruction was Lucius Amerson in my county. I got him elected, but I couldn't get elected to the State legislature.

Senator LEAHY. That is why I raised that. You anticipated what I was raising.

Ms. Michelman, you know about the job application of Judge Alito to the Meese Justice Department. He said he personally believes very strongly the Constitution does not protect the right to an abortion. In your reading of Judge Alito's writings, but especially your observations of the past few days of these hearings, have you seen or heard anything to reassure you that Judge Alito's personal beliefs about constitutional privacy will not affect his decisions as a judge?

Ms. MICHELMAN. No, I haven't. In fact, I don't think there is—again, if you go back to his memo you are referencing, the work he did in the Justice Department, and his record on the court, his decisions on the court I think reveal very clearly that he does not believe deeply in a fundamental right of privacy and apply that belief that the Constitution protects that fundamental right of privacy to individuals.

So, no, I am not—I am deeply concerned that Judge Alito not only was proud and discussed very openly how proud he was to be a part of an administration that repeatedly sought the Court to overrule *Roe* and overrule other privacy cases, but that he actually laid out a strategy for the administration to pursue the overruling of *Roe* in an incremental strategy, to pursue taking away the right of women to decide for themselves and to keep the government out of these very private decisions. He laid out a strategy that you could keep *Roe* in place as a shell, not overturn it directly, but incrementally dismantle those rights. And the States, by the way, have—the anti-choice movement in this country has pursued that strategy very effectively and there are now hundreds of laws that really burden women, both financially and emotionally, when they are trying to make responsible choices.

No, I have no confidence at all that Judge Alito, when faced with the question of whether women should decide or whether the government, State and Federal, has the right to interfere in these intimate decisions that women make, that he will come down on the side of the government.

Senator LEAHY. My time is up.

Ms. MICHELMAN. Thank you.

Senator LEAHY. I just want to thank all five of you for being here. I know that it is not easy to come and very publicly oppose

somebody who has the backing of the President of the United States and the backing of so many powerful Senators to be on the U.S. Supreme Court. But it goes to the tradition of speaking truth to power, and I thank you all.

Chairman SPECTER. Thank you, Senator Leahy.

Senator Hatch?

Senator HATCH. I think I will reserve my time, Mr. Chairman.

Chairman SPECTER. Senator Kennedy?

Senator KENNEDY. Thank you. Five minutes, a number of areas to cover.

First, I thank all of you for being here. And, Dr. Gray, in the application, the 1985 application and where the nominee points out, "In college, I developed a deep interest in constitutional law, motivated in large part by disagreements with Warren Court decisions, particularly in the areas of criminal procedure, the Establishment Clause, and reapportionment."

Just very, very quickly, how important—in terms of having our Nation, a fairer and more just Nation—how important are those Warren Court decisions on reapportionment? And just quickly, what would this country look like if they had not made those judgments? Would we be a different Nation?

Mr. GRAY. We would be a different Nation, and it would all appear to be whites and no persons of color would have very little if any involvement in it.

Senator KENNEDY. Professor Sullivan, I want to ask you about the impact of Judge Alito on average Americans. This is something we have heard from the power structures around here. I want to hear what impact you believe his service on the Court would have for average Americans, and I want to clarify that not all Fourth Amendment cases are criminal cases, there are civil cases too. Could you comment about that?

Mr. SULLIVAN. Yes, that is correct.

Senator KENNEDY. The idea that sometimes innocent people are caught up on these police searches and bring Fourth Amendment charges.

Mr. SULLIVAN. Yes. In *Groody*, for example, which we have talked about a lot, it was a civil damages case. Congress has provided a remedy for our citizens when their rights have been violated, their constitutional rights, in this case search and seizure rights.

Let me say that the Warren Court, in answer to your question, set forth a jurisprudence with respect to the Fourth, Fifth and Sixth Amendment, that in effect, limited the scope of police power vis-a-vis the average citizen, that there are some rights deeply enshrined in the Constitution that we all have from the highest and most powerful to the average Joe, and that is what the Fourth, Fifth and Sixth Amendment protect.

My read of Judge Alito's jurisprudence in this area is that he weakens the protections. He is very deferential to institutions and would allow law enforcement practices to expand in a way that I suggest to you would have a negative and detrimental impact on the nonpowerful in our country.

Senator KENNEDY. Professor Flym, just on this issue of recusal, is it your understanding that under the existing code of conduct for

U.S. judges, that Judge Alito should have complied, should have recused himself, and should have established on his letter of recusal or on the system, Vanguard, and that he failed to do so with his interpretation of the ethic?

Mr. FLYM. Absolutely, Senator. But in addition to the Code of Judicial Conduct that is frequently understood in terms of ethical rules, the statute enacted by Congress in 1964 trumps whatever else may be adopted, and it is unmistakably clear that he had an obligation to recuse.

Senator KENNEDY. Ms. Michelman, I want to first of all thank you. That was a splendid performance on Meet the Press.

Ms. MICHELMAN. Thank you.

Senator KENNEDY. In response to the questions, just to pick up on the Chairman's thought where you talked about the dignity of women. You touched on it here now. I would just like you to use up whatever time I have in talking about what you think the implications would be by this nominee, just on women's issues just generally. I think you have spoken very, very eloquently on the choice issue. Obviously, refer to that if you would too, but I am very, very interested in this broad view of yours about both the dignity of women, women in the family, women in our society, the role that they are playing, and a bit about what kind of country we would be if we did not have justices that protected that, and what kind of country we can become if they do.

Ms. MICHELMAN. Thank you, Senator, also for your generous comment about my Meet the Press performance. We should not forget that women have had a long and hard journey to full equality in this Nation. It has only been 84 years since we have had the right to vote. So it has been a long and difficult journey, and one that has taken great effort, and both as a political movement, but also through the law, to have recognized that we could vote, we could own property, we could get charge accounts—which I was denied the right to have a charge account because I was not married in 1969. It was shocking.

So it has been a very long and arduous journey. Women's equality and full capacity to be partners, equal partners with men in the socioeconomic political life of this Nation is dependent on our right to determine the course of our lives, our right to education, our right to employment, our right to equal pay. All of these things are determined by our right to control our lives, and we absolutely need a legal system that recognizes, respects women's dignity and autonomy, including our right to determine when to become mothers and under what circumstances, and even whether. It is hard to find the words to adequately express how important that is.

Senator KENNEDY. Thank you.

My time is up. Thank you, Mr. Chairman.

Chairman SPECTER. Thank you, Senator Kennedy.

Without objection, there will be placed in the record a large group of letters relevant to the issue, and I want to remind everybody on the Committee that under Committee practices, that as with the proceeding on Chief Justice Roberts, all questions must be submitted within 24 hours of the close of the hearing, which will be a little later today, perhaps even shortly.

Senator Hatch?

Senator HATCH. Let me just greet all of you and thank you for being here. Dr. Gray, I have tremendous respect for you. You have led a lot of fights in this country under very, very trying circumstances. Having been born on the other side of the street myself, I understand a little bit about how tough that might be from time to time, but I am sure not nearly as much as you understand it.

Mr. GRAY. Thank you, Senator.

Senator HATCH. Ms. Michelman, it is always nice to see you.

Ms. MICHELMAN. Good to see you too.

Senator HATCH. As you know, I have respect for other points of view as well.

Mr. Sullivan, nice to get acquainted with you. Ms. Frost, with you.

Mr. Flym, I have to say I disagree with you, as do almost every ethics expert I know, including the American Bar Association, but I appreciate your advocacy for your client. That is always appreciated by me, and respect you for it.

I just wanted to greet all of you and let you know that we appreciate you coming.

Chairman SPECTER. Thank you, Senator Hatch.

Senator Sessions?

Senator SESSIONS. Mr. Gray, it is a delight to have you here. You are certainly one of Alabama's most distinguished citizens.

Mr. Chairman, Mr. Gray just completed tenure as President of the Alabama Bar Association and traveled the State extensively and talked on these subjects, and I think, reminded people a lot about just what our situation has been and how far we have come and things that we still need to do. So, Mr. Gray is an extraordinary leader, capable of holding any high office in this country, and it is a pleasure to get to know him.

I have read with great interest his book, "Bus Ride to Justice." He talks about that first bus boycott in the '50s with Rosa Parks and Martin Luther King, and the tension, and the work, and the enthusiasm, and the courage that was shown at that time. It is really remarkable, and it is important for us to remember it. We have a lot of things to do, but, Mr. Gray, I thank you for your service.

Mr. GRAY. Thank you very much, Senator, and I even talk about the judgeship which was not to be in that book too.

Senator SESSIONS. Well, we have both been there, have we not? [Laughter.]

Mr. GRAY. Yes, sir.

Senator SESSIONS. We may have a little more jaundiced eye than some around here about this process.

Mr. GRAY. That is correct.

Senator SESSIONS. When you came out of college, I notice in your book you mention several times you had a commitment in the '50s, "destroying everything segregated I could find."

Mr. GRAY. That was the motivating factor, Senator, as to why I became a lawyer, and I wish this nominee had that kind of commitment. If so, I would not feel uncomfortable and would not be troubled.

Senator SESSIONS. But *Gomillion* v. *Lightfoot* was—I mean you had the Vivian Malone case at the University of Alabama, you were involved in that, the syphilis study at Tuskegee, the *Gomillion* v. *Lightfoot*, and of course, Rosa Parks case. But on *Gomillion* you made an argument that I think at first appeared not to be. I mean, *Colegrove* v. *Green* was a Supreme Court case that seemed to stand squarely in your way. In fact, you lost it in earlier rounds of the Court, but you had a vision that this gerrymander of that city was directly driven to deny people the right to vote, and that was your idea and your concept. Would you just share that?

Mr. GRAY. Yes, sir, that is exactly the thing, and I illustrated it by having a map drawn to scale of the old city limits and the new city limits, showing where the blacks were excluded, and go all the way in to include whites. And I think that case, no question, set the precedent for these other cases. If *Reynolds* v. *Sims* had been first, I do not think we would have won, but with *Gomillion*, which shows an extreme situation, but the purpose of the State in all of these cases was the same, and that was to avoid minorities from voting.

I am glad we have passed that, but we still have, even in Alabama, major cases. The higher education case, the *Knight* case is still pending. We still have cases—and *Lee* v. *Macon* that I filed in '63, elementary school cases, where there are no degrees in, and now my sons are handling those cases, and we still have a teacher testing case in Alabama that is still pending. So we need to have a strong Supreme Court if we are going to continue to make progress.

Senator SESSIONS. I would point out a couple of things. First, it took a reversal of precedent to make this happen, so sometimes bad precedent ought not to be kept on the books. We have been talking about precedent and *stare decisis* an awful lot here, and I wanted to mention that.

I would just say, Mr. Gray, I think, as Judge Alito has explained it, his father was a nonpartisan clerk for the New Jersey legislature. They were trying to redistrict the legislature, and the court was ignoring classical, geographical or political boundaries, counties and that kind of thing, and that is where his frustration came, not with the concept, which he has affirmed clearly here, of one man/one vote.

Mr. GRAY. I want to thank you, Senator, and I want to publicly thank you for doing what you have done in helping the Tuskegee Human and Civil Rights Multicultural Center, which is designed to preserve some of this rich history in that part of the State, and I want to thank you for it.

Senator SESSIONS. And we can thank Chairman Specter for helping us some on that.

Mr. GRAY. Thank you very much.

Senator SESSIONS. Thank you, Mr. Chairman.

Chairman SPECTER. You were not going to conclude, Senator Sessions, without saying why you can thank Senator Specter.

Senator SESSIONS. For helping us with the Tuskegee Human and Civil Rights Center. Thank you, sir.

[Laughter.]

Chairman SPECTER. Senator Coburn.

Senator SESSIONS. You have always been accommodating.

Senator COBURN. Senator, I will defer. There is obviously a very distinguished panel before us, each a leader in their own way, respected for their advocacy and their heart, and their desire to make our country better. The fact that you would come here today and put forward your views lends great credibility to the process, and places more responsibility on us to hear every point of view as we make a consideration on this nominee, and I thank you for coming.

Thank you.

Chairman SPECTER. Thank you very much, Senator Coburn.

Thank you, Mr. Gray and Ms. Michelman, Professor Sullivan, Professor Frost, Professor Flym. We will take a 5-minute recess while the next and final panel comes forward.

[Recess at 11:57 a.m. to 12:04 p.m.]

Chairman SPECTER. The Committee will resume.

The Committee will resume. Let's have order in the hearing room, please.

Our first panelist on the sixth and final panel is Kate Pringle from the Litigation Department of Friedman, Kaplan, Seiler and Adelman, a graduate with honors from American University in 1990, cum laude from Georgetown University Law Center, editor-in-chief of the Law Journal there. Ms. Pringle was one of Judge Alito's clerks in the 1993–94 term.

Thank you for joining us, Ms. Pringle, and the floor is yours for 5 minutes.

STATEMENT OF KATHERINE L. PRINGLE, PARTNER, FRIEDMAN KAPLAN SEILER & ADELMAN, LLP, NEW YORK, NEW YORK

Ms. PRINGLE. Mr. Chairman and honorable members of the Committee, thank you very much. I greatly appreciate the opportunity to share my experiences with and personal observations of Judge Alito, for whom I did clerk in 1993 to 1994 and who has served as my mentor since that time.

First, let me explain briefly the job of a law clerk. It is the law clerk's job to provide legal research to the judge, to assist him in his analysis, and generally to act as a sounding board in the difficult process of deciding cases. As Judge Garth indicated yesterday, it is an unusually close professional relationship.

I began my clerkship for Judge Alito upon my graduate from Georgetown Law School. I was then—as I am now—a committed and active Democrat. I had heard from some of my professors that Judge Alito had a reputation as a conservative, and I, therefore, expected his to be an ideologically charged chambers, in which I would battle to defend my liberal ideals against his conservative ones.

But what I found was something very different than what I had expected. I learned in my year with Judge Alito that his approach to judging is not about personal ideology or ambition, but about hard work and devotion to law and justice.

I would like to share with you several things that I learned about Judge Alito during the time I which I worked with him.

First, I learned that Judge Alito reaches his decisions by working through cases from the bottom up, not the top down, to use a