

STATEMENT OF A PANEL CONSISTING OF GORDON SCHABER, DEAN, McGEORGE SCHOOL OF LAW, UNIVERSITY OF THE PACIFIC; A. LEO LEVIN, PROFESSOR, UNIVERSITY OF PENNSYLVANIA LAW SCHOOL; WENDY COLLINS PERDUE, ASSOCIATE PROFESSOR, GEORGETOWN UNIVERSITY LAW SCHOOL; AND SUSAN WESTERBERG PRAGER, DEAN, UNIVERSITY OF CALIFORNIA AT LOS ANGELES SCHOOL OF LAW

Mr. SCHABER. Thank you, Senator and members of the committee.

The CHAIRMAN. Excuse me. I almost forgot. I have to swear you, if I may.

Mr. SCHABER. Oh, that is right.

The CHAIRMAN. All of you, if you please, rise.

Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. SCHABER. I do.

Mr. LEVIN. I do.

Ms. PERDUE. I do.

Ms. PRAGER. I do.

Mr. SCHABER. I appear here today in my individual capacity to support the nomination of Judge Kennedy, and I am doing so after an opportunity to observe him first as a person, a member of a community, as a practicing lawyer, as a law teacher, and judge of the court of appeals.

My personal vantage points were from the fact that I was a practicing lawyer for 12 years in the same building where he undertook the private practice of law after his father passed away.

I was the presiding judge of the Superior Courts of California in Sacramento while he was in active practice. And I also appear as a Dean—at the time, Dean of the McGeorge School of Law of the University of the Pacific, who sought him out to teach law some 23 years ago.

He has excelled in all of the tasks that I have mentioned. His interest, you heard, in government and our court systems started when it was found that in his elementary-school curriculum, he simply couldn't be confined, because of his intellect and his energy. And as Senator Wilson told you, at age 10 years he was already a full-time page in the State Senate in California, and was following his father around at trials in California.

The legal education you have heard about at Harvard Law School and his service in the large San Francisco law firm prepared him very well for the service that he rendered as a private practitioner in Sacramento.

In that private practice, I was able to observe skills that were tremendous in terms of the scope of legal subjects, in an era, of course, when generalists were more common than they are today.

He quickly became known in our community as a practiced trial lawyer, a skillful and able one. He was very effective in the courts, a joy for me to see and hear about.

As Dean, I decided to seek him out for law teaching. I did that because I was aware of his intelligence, observed an analytical

skill, knew that he had excellent professional values, and he had superb ability at communication, which includes a great wit.

And during the past 22 years of that teaching, the program at our law school, McGeorge, and the lives and the capacities of his students have been greatly enriched.

Testimonials to his teaching abound. The record contains the salutes of his students, and they acknowledge his legal capacity, his fine judicial temperament, and particularly his balanced judgments on the issues that were considered in the classroom.

I observed a willingness during his practice to include pro bono service, and his devotion that was mentioned here by one of the Senators to the Hispanic community in Sacramento by the hundreds of hours that he provided in assistance to them for the local project which united thousands in the socio-economic spectrum of Mexican-Americans in Sacramento.

I was present at the installation when he became an appellate judge. He reached out and closed by quoting Holmes in saying that law had been the business in which he had devoted his life, and that he would show less than total devotion if he did not do all that he had within him to improve it. I think that is an accurate reflection of his dedication.

Now, while those in constitutional law are better equipped than I am as a contracts professor, my readings of his opinions demonstrate to me a further intellectual refinement. I think Professor Tribe said it best today.

He is probing in his investigation. He is thoughtful and straightforward. I think he will continue this devotion in an objective manner. I think he will have compassion and empathy for all those who present themselves. He will do that without personal predilection, without a specific philosophical inclination, with an aim at consensus-building, by a close examination of the facts, consideration of the issues on a case-by-case basis, and an abiding respect for precedent.

I think that as I listened to these 2 days of testimony of his, I was reconfirmed in my observations. I urge a vote of confirmation. If I have a moment, I think I can explain to Senator Heflin the concern he raised this morning about a contingent fee case, should you want that to be explored. I was the presiding judge and know about that case.

Thank you, Mr. Chairman.

[The statement of Dean Schaber follows:]