

And as I say, this is usually the kind of discussion we have with a candidate for the Federal Judiciary.

Senator HEFLIN. Did you go into issues like federalism or civil rights or women's rights, or did you discuss any of the contemporary issues of the day, judicial issues?

Mr. LAFITTE. Well, I certainly would encourage Mr. Lane to amplify my remarks, but we did raise generally those issues because they had been suggested to us as matters that might affect his judicial temperament because there had been expressions of concern about his openmindedness with respect to such matters. So we talked in general terms about them.

Senator HEFLIN. Did you talk, covering the issue of freedom of press, some of his decisions in those types of issues?

Mr. LAFITTE. I do not think we discussed them specifically. I think we raised the first amendment cases as a matter of some concern that had been voiced, but just in general terms.

Mr. LANE. I would merely add the fact that we did mention first amendment concerns that had been raised with us. One of the purposes of this type of interview is to give the candidate an opportunity to explain to us his or her side of any issue that may come up in the course of the investigation.

Senator HEFLIN. Well, was he open and candid with you? Did he discuss these issues, going into some detail and explaining his position?

Mr. LANE. As best I can recall, none of this discussion was very lengthy. He was open. He was very relaxed and very friendly, and I think readily responded to any of the questions that we put to him.

Senator HEFLIN. Was he elusive or evasive?

Mr. LANE. Not at all, Senator. Not at all.

Senator HEFLIN. Did he attempt to, in your discussions with him, decline to answer any questions on the basis of the fact that it might interfere with his future as a potential member of the Supreme Court, that his discussion of the issues with you might, in effect, be considered as some sort of prejudging or prejudicing his mind or something to discuss it?

Mr. LANE. No; I am trying to recall. I do not recall, Senator, questions that were so specific as to give rise to that kind of a problem in his mind. But he was very open with us and responsive to us as we talked about these concerns.

And I think it is fair to say that his reaction was that one can always understand how there are people that will differ with one's decisions on issues of this kind, but that, in effect, he just does his best as a judge to come out where he thinks the law takes him.

Senator HEFLIN. I think Judge Scalia, of course, from everything I know about him, is a very fine individual, fine jurist, brilliant mind; but yesterday in our discussions and as the various questions were asked of him, I ended the day with a sense and feeling that he had been elusive, evasive, and had perhaps overly hidden behind some concepts of separation of powers or on the fact that he might have prejudiced himself in answering questions.

Now, I do not want to be unfair to him in any way, but I did come away with somewhat of a feeling that he did not answer things that I thought he should have answered. I did not think that the potential of being positioned on the Court necessitated his pro-

tective attitude over future writings or future decisionmaking that he might have.

Was there any of that feeling relative to your discussions with him or was he completely open?

Mr. LAFITTE. Senator, I will let Mr. Lane answer for himself, but I found him completely responsive. I do not recall any question that we asked him that he indicated he would rather not answer or he thought he should not answer. My sense certainly was that he was completely open with us and forthright and very articulate in responding to our questions.

Mr. LANE. I think, so the record will be clear here, we did not try to press him on important issues of the day. We did not try to find out how this man would vote on these important and difficult issues. I think we were sensitive to the problem, and I think we also understand and sympathize with the problem you have in making your judgment in the process of confirmation.

I think it is a difficult problem for the committee, and it is a difficult problem for the candidate. We really did not try to press him in these areas as the committee did yesterday.

Senator HEFLIN. Well, it is very difficult and it is a task I could not help but compare Associate Justice Rehnquist's responses and his answers. I thought Justice Rehnquist was much more open and gave more answers relative to the matters than Judge Scalia did.

But it is a task. Of course, we have a line to draw and maybe we are more protective of our role in advice and consent and maybe he is more protective of his role, but I did have that feeling. I just did not know whether it might have been or whether from the Rehnquist hearings to the Scalia hearings there might have been some coaching.

That is all.

Senator SPECTER. Senator Simon.

Senator SIMON. Thank you, Mr. Chairman.

I would just note that after hearing of Judge Scalia's many significant virtues, the lawyers, the deans and professors, and the students all list this one concern they have; lack of openmindedness.

We can all learn from our critics, and if Judge Scalia is viewing this or reads the transcript, I hope perhaps he will note that.

I would just lobby Mr. Fiske, whom I have lobbied before on this, but I would like to do it publicly. This has nothing to do with the Supreme Court nominees now but goes back to our earlier conversations. I would encourage the Bar Association to raise its standards for approval for Federal judges.

It is something I think we can do in this Nation. We have 640,000 lawyers. I think we can find some of the very finest for the Federal judiciary, and I think the American Bar Association committee can play a very important part in accomplishing this goal.

Mr. FISKE. Senator, I would respond publicly as I have to you privately in our earlier discussions. We believe this committee has high standards. They are set forth in the public document that we call our "Backgrounder." The individual members of the committee do not always agree on every candidate with respect to how that candidate measures against those standards.

We get divided votes among our committee with respect to the qualifications of the candidates, but one of the reasons we have