

I do not think that the charge of excessive partisanship is a fair charge, frankly. Prior to the Supreme Court nominees, if my statistics are correct, 264 nominees appeared before this body. We have had roll calls on 4 of 264. And I might add that I voted with the President on one of those four where there were serious questions. The nominee who was held up longest from this administration was Judge Sporkin, held up by Senator Denton.

We welcome you here, Judge Scalia. Reference has been made frequently to your Italian heritage. But I think it is a healthy thing that the Supreme Court be a representative body. Just as when Justice Marshall was named, I think it was a healthy thing for our country. I welcome that. And there is no question of your ability to do the job.

I would like to follow up on a question which has been raised previously. Are we properly getting into views, or are we getting into things that we should not? Let me just read two paragraphs from a statement I made on the Senate floor in March:

There are two fundamental reasons that nominees legal views should not be altogether off limits to the Senate. One is that just as we know that nominee's competence and integrity will affect his views as a judge, we know that the nominee's individual views about legal matters will in some measure affect decisions the nominee makes as a judge. The reason is that judges inevitably have leeway. They must fill in gaps in the law and must resolve ambiguities about what the law is, and in doing so, a judge inevitably draws upon his or her starting point views and outlook. This is true of all judges, and it is especially true of Supreme Court Justices whose leeway in giving meaning to the majestic general commands of the Constitution is particularly great. They must resolve conflicts among lower courts on a daily basis.

The second reason a nominee's views may be relevant to the current Senate is that they were relevant to the President's own decision to nominate. As an active partner in the judicial appointment process, as the authority that must advise and consent to nominations in our systems of checks and balances, should the Senate evaluate any factor the President does? And if the President is trying to shape future judicial decisions by self-consciously nominating people with particular legal views, should the Senate, at least to some extent, consider whether those views are appropriate ones and good for the country?

I think that is our proper role, and I think Judge Scalia would agree that that is our role. I look forward to this process, and my impression is that you are going to come out of it well in terms of votes. But I think the process is an important one. And with all due respect to those who were critical of the hearings last week, I think they were healthy, good for the nominee, good for the Court, and good for our system.

I thank you, Mr. Chairman.

Senator SIMPSON. Thank you, Senator Simon.

And now Senator Arlen Specter of Pennsylvania.

#### STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you, Mr. Chairman.

Judge Scalia, I join my colleagues in welcoming you and your beautiful family to these proceedings.

The great thing about America is that it is a melting pot. I think it is about time that there was an American of Italian extraction sitting on the Court. In saying that, I do not want to express the final view, but what has been said here today has been very complimentary. Considering your outstanding record, even considering your law school was Harvard, you have brought an extraordinary

record to this point in your life, I am especially pleased about the emphasis which is placed on the fact that you are the son of an immigrant, as am I, and I think that is one of the greatest things about this country; that the opportunity is unlimited.

I think one of the things that we have to do in Congress and on the Court is to provide opportunity for the future, and equal opportunity for all of the minorities that we focus on from time to time in these hearings.

I will have some questions about the authority of the Court and its jurisdiction, and the commitment, and the preeminence of the Court as the final decisionmaker in our society. It seems that we have 230 million people and 231 million ideas. I know that as a Senator from a State like Pennsylvania, which is really six States and includes 12 million constituents, there are many, many differences of opinion. Although the Senate votes many times, 2,400 times since I have been in this body, there has to be a final court which has jurisdiction, unquestioned authority, and the final word on the constitutional issues which is rockbed in our society.

When my time comes for the line of questions, that is the area of concern which I will address myself to. But I congratulate you for being here and the outstanding record that you bring to this point in your career.

Thank you, Mr. Chairman.

Senator SIMPSON. Thank you, Senator Specter. I believe that the opening statements have been completed by our colleagues.

Senator McCONNELL. I think not, Mr. Chairman.

Senator SIMPSON. On this side of the aisle, I am saying. Yes, yes. I realize there are more of us than there are of them. [Laughter.]

Senator KENNEDY. Tentatively.

Senator SIMPSON. Hopefully, for quite a while.

Senator McCONNELL. We like to keep it that way.

Senator SIMPSON. Senator McConnell from Kentucky. Mitch McConnell.

#### STATEMENT OF SENATOR MITCH McCONNELL

Senator McCONNELL. Thank you, Mr. Chairman. Judge Scalia, I too, want to congratulate you and your family. Our association, as you may recall, goes back to the days when we served together in the Justice Department during President Ford's administration, and I recall, at that time, everyone within the Department, without exception, felt that you were not only the brightest lawyer that we had, but had the best sense of humor.

And of course those were days when we needed a good sense of humor. I never will forget, one morning, at a staff meeting, we all had to suffer through the embarrassment of the morning Washington Post, which revealed, that on the day before, two illegal aliens had been arrested working for the Immigration and Naturalization Service. So, we had to maintain a good sense or humor, and you were clearly the one who made those meetings entertaining, as well as informative.

Much has been said about your nomination, and that of Justice Rehnquist, in terms of the philosophical balance on the Court. Since President Reagan announced his nominations of yourself,