

BOB DOLE



(R - Kansas)

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JUDGE SOUTER

STATEMENT OF SENATOR BOB DOLE NOMINATION OF DAVID H. SOUTER

TODAY THE SENATE JUDICIARY COMMITTEE BEGINS ITS CONFIRMATION HEARINGS ON THE NOMINATION OF JUDGE DAVID HACKETT SOUTER TO BE A SUPREME COURT JUSTICE. AS PART OF THE CONFIRMATION PROCESS, JUDGE SOUTER WILL UNDOUBTEDLY FACE SEVERAL DAYS OF TOUGH QUESTIONING BY THE MEMBERS OF THE COMMITTEE.

DON'T POLITICIZE THE CONFIRMATION PROCESS

UNFORTUNATELY, SOME INTERESTED OBSERVERS WOULD EXPECT JUDGE SOUTER TO GO BEYOND EXPLANATIONS OF JUDICIAL OR LEGAL PHILOSOPHY AND ANSWER SPECIFIC QUESTIONS ABOUT SPECIFIC CASES THAT MAY COME BEFORE HIM AS A SITTING MEMBER OF THE SUPREME COURT. IF THE ANSWERS AREN'T THE "CORRECT" ONES, IF JUDGE SOUTER DOESN'T MARK THE "RIGHT BOX," THEN HE SHOULD NOT BE CONFIRMED -- OR SO THE REASONING GOES.

NEEDLESS TO SAY, THIS "LITMUS-TEST" APPROACH TO THE CONFIRMATION PROCESS IS OUT-OF-SYNC WITH HISTORICAL PRACTICE. IT ALLOWS THE BRAZEN INTRUSION OF POLITICS INTO THE JUDICIAL SELECTION PROCESS. AND, MOST IMPORTANTLY, IT GRAVELY ENDANGERS THE VERY INDEPENDENCE OF THE FEDERAL JUDICIARY -- AN INDEPENDENCE THAT HAS BEEN CHERISHED BY AMERICANS FOR GENERATIONS.

IN AN ARTICLE APPEARING IN NEXT SUNDAY'S EDITION OF PARADE MAGAZINE, FORMER CHIEF JUSTICE WARREN BURGER WILL GIVE US AMPLE WARNING AGAINST TRANSFORMING FEDERAL JUDGES INTO POLITICIANS. THE CHIEF JUSTICE WRITES:... "NO NOMINEE WORTHY OF CONFIRMATION WILL ALLOW HIS OR HER POSITION TO BECOME FIXED BEFORE THE ISSUES ARE FULLY DEFINED IN DETAIL BEFORE THE SUPREME COURT WITH ALL THE NUANCES THAT ACCOMPANY A CONSTITUTIONAL CASE. PRESIDENTS AND LEGISLATORS HAVE ALWAYS HAD PLATFORMS AND AGENDAS, BUT FOR JUDGES THE ONLY AGENDA SHOULD BE THE CONSTITUTION AND LAWS AGREEABLE WITH THE CONSTITUTION. THE WISDOM OR DESIRABILITY OF A STATUTE IS NOT FOR THE JUDGE TO DECIDE; THE JUDGE IS CONFINED TO DECIDING WHETHER A PARTICULAR STATUTE IS PERMITTED BY THE CONSTITUTION."

THESE ARE VERY IMPORTANT WORDS -- WORDS THAT I HOPE WILL GUIDE THE JUDICIARY COMMITTEE AS IT DISCHARGES ITS RESPONSIBILITIES DURING THE NEXT SEVERAL DAYS.

JUDGE SOUTER IS NO CIPHER

SOME CRITICS HAVE COMPLAINED THAT JUDGE SOUTER IS A "CIPHER," THAT THERE ARE "MORE BLANK SPACES THAN ANSWERS." I REJECT THIS ASSESSMENT, AND I SAY "TAKE A LOOK AT THE RECORD."

THROUGHOUT HIS LEGAL CAREER -- AS NEW HAMPSHIRE ATTORNEY GENERAL, AS AN ASSOCIATE JUSTICE ON THE NEW HAMPSHIRE SUPREME COURT, AND AS THE AUTHOR OF MORE THAN 200 JUDICIAL OPINIONS -- JUDGE SOUTER HAS CONSISTENTLY DISTINGUISHED HIMSELF WITH HIS KEEN INTELLECT, WITH HIS EVEN-HANDEDNESS, AND WITH HIS COMMITMENT TO THE RULE OF LAW. MOST IMPORTANTLY, HE UNDERSTANDS THAT IN A THREE-BRANCH DEMOCRACY SUCH AS OURS, THE ROLE OF A FEDERAL JUDGE IS TO INTERPRET THE CONSTITUTION STRICTLY, AND NOT TO LEGISLATE ONE'S OWN PERSONAL AGENDA FROM THE BENCH.

SO IT'S NO WONDER THAT THE AMERICAN BAR ASSOCIATION UNANIMOUSLY GAVE JUDGE SOUTER ITS HIGHEST RATING -- "WELL QUALIFIED." AND IT'S NO WONDER THAT LAST APRIL THE SENATE UNANIMOUSLY CONFIRMED HIM FOR A SEAT ON THE FIRST CIRCUIT COURT OF APPEALS.

AND I AM CONFIDENT THE SENATE WILL CONFIRM THIS EMINENTLY QUALIFIED CANDIDATE ONCE AGAIN.