



NINTH JUDICIAL COMMITTEE

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LAW DAY, U.S.A.
May 1, 1992

Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Nomination of ANDREW P. O'ROURKE

Dear Committee Members:

Transmitted herewith is our contribution to Law Day: our critique of Andrew O'Rourke's qualifications for a federal judgeship.

This submission is based on investigation and analysis of Mr. O'Rourke's answers to the public portion of the Senate Judiciary Committee's questionnaire (Ex. "A")¹, review of relevant documentary evidence, and interviews with individuals having first-hand personal knowledge of the facts².

It is our intention to appear at the public confirmation hearings to be held on Mr. O'Rourke's nomination so that we can oppose it with live testimony.

¹ Mr. O'Rourke's public questionnaire was provided to us by the Senate Judiciary Committee, pursuant to our letter requests, dated November 20, 1991 (Ex. "B") and January 10, 1992 (Ex. "C").

² Further materials may be forthcoming to us from additional sources and will be passed on to you with our comments at a later date.

OVERVIEW:

We believe the within critique decisively supports the following findings:

- (1) that no reasonable, objective evaluation of Mr. O'Rourke's competence, character and temperament could come to any conclusion but that he is thoroughly unfit for judicial office; and
- (2) that a serious and dangerous situation exists at every level of the judicial nomination and confirmation process--from the inception of the senatorial recommendation up to and including nomination by the President and confirmation by the Senate--resulting from the dereliction of all involved, including the professional organizations of the bar.

The latter finding results directly from the first, which the Ninth Judicial Committee--a small unfunded citizens' group--has been able to establish in a relatively short time and without great difficulty.

THE RESULTS OF OUR INVESTIGATION AND ANALYSIS:

Legal Competence and Integrity

Even the most cursory examination of Mr. O'Rourke's responses to the Senate Judiciary Committee questionnaire reveals their patent inadequacy. This submission will document that Mr. O'Rourke's responses disclose not only his lack of professional competence, but--as reflected by his multitudinous evasions and misrepresentations of material facts--his fundamental lack of integrity as well.

We believe that Mr. O'Rourke's responses to I-Q18 (Ex. "A", pp. 7-9) and II-Q2 (Ex. "A", p. 11) should be the Committee's starting point in evaluating this nominee since they particularly highlight his deficiencies in those two areas. Based upon Mr. O'Rourke's answers to I-Q18 and II-Q2, there can be no doubt that Mr. O'Rourke's nomination to the U.S. District Court for the Southern District must be rejected.

I-Q18 (Ex. "A", pp. 7-9):

Question I-Q18 makes the following request:

"Litigation: Describe the ten most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in