

Statement of

The Honorable Richard Lugar

United States Senator
Indiana
April 1, 2009

Lugar Introduction of Judge David Hamilton
Senate Judiciary Committee
April 1, 2009, 2:30 pm

Thank you, Mr. Chairman, for this opportunity to join my friend and colleague from Indiana in introducing Judge David Hamilton, whom the President has nominated to serve on the United States Court of Appeals for the Seventh Circuit. Senator Bayh and I are proud that President Obama's first judicial nominee is from our State, and that he has chosen to elevate such an exceptionally talented jurist to the Federal appellate bench.

I first had the pleasure of introducing David Hamilton to this Committee almost 15 years ago, when he was nominated to the Federal district court. I said then that "the high quality of his education, legal experience, and character well prepare him for this position," and expressed my belief that "his keen intellect and strong legal background will make him a great judge." This confidence in David Hamilton's character and abilities was shared by all who knew him, regardless of political affiliation, throughout Indiana's legal and civic communities. Judge Hamilton's distinguished service on the United States District Court for the Southern District of Indiana, of which he is now the Chief Judge, has more than vindicated that faith.

I have known David since his childhood. His father, Reverend Richard Hamilton, was our family's pastor at St. Luke's United Methodist Church in Indianapolis, where his mother was the soloist in the choir. Knowing first-hand his family's character and commitment to service, it has been no surprise to me that David's life has borne witness to the values learned in his youth.

David graduated with honors from Pennsylvania's Haverford College, won a Fulbright Scholarship to study in Germany at the University of Tuebingen, and then earned his law degree at Yale. After clerking for Seventh Circuit Judge Richard Cudahy, David joined the Indianapolis office of Barnes & Thornburg where he became a partner and acquired extensive litigation experience in the Indiana and Federal judicial systems. When our colleague Senator Bayh was elected Governor of Indiana, he asked David to serve as his Chief Legal Counsel. Among other achievements in that role, David supervised the overhaul of State ethics rules and guidelines, and coordinated judicial and prosecutorial appointments.

In the latter capacity, David worked closely with Judge John Tinder, then a Reagan-appointee to the district bench, whom President Bush recently appointed to the Seventh Circuit with the unanimous support of this Committee and the full Senate. When David was nominated to the

district court, Judge Tinder wrote to me that David was "meticulous in asking the difficult questions of and about judicial nominees," and that his approach to these duties "typifies the deliberate and sensitive way in which he approaches matters in his professional life."

The same is true of David's approach to his judicial duties. Leading members of the Indiana bar testify to his brilliance and, as important, to his character, dedication and fairness. David Hamilton is the type of lawyer and the type of person one wants to see on the Federal bench. His colleagues on the Southern District of Indiana bench, a talented and exceptionally collegial group from both parties, unanimously endorse that conclusion.

Allow me to close with a few further thoughts. Members may recall, when I introduced now Chief Justice Roberts to this Committee in 2005, my concern that today's Federal judiciary is seen by many as another "political branch," with the confirmation process often accompanied by the same over-simplifications and distortions that are disturbing even in campaigns for offices that are in fact political. This phenomenon is most pronounced at the Supreme Court level, and traces to several causes that I will not try to address today. I mention it, however, to underscore my commitment to a different view of judicial nominations, which I believe comports with the proper role of the judiciary in our constitutional framework.

I do not view our Federal courts as the forum for resolving political disputes that the Legislative and Executive Branches cannot, or do not want to, resolve. Our Founders warned, in words quoted in my statement at the time of Chief Justice Roberts' nomination, against allowing "the pestilential breath of faction [to] poison the fountains of justice," which they knew "would stifle the voice both of law and of equity."

This is why I believe our confirmation decisions should not be based on partisan considerations, much less on how we hope or predict a given judicial nominee will "vote" on particular issues of public moment or controversy. I have instead tried to evaluate judicial candidates on whether they have the requisite intellect, experience, character and temperament that Americans deserve from their judges, and also on whether they indeed appreciate the vital, and yet vitally limited, role of the Federal judiciary faithfully to interpret and apply our laws, rather than seeking to impose their own policy views. I support Judge Hamilton's nomination, and do so enthusiastically, because he is superbly qualified under both sets of criteria.

Finally, permit me to thank my colleague from Indiana on the thoughtful, cooperative, merit-driven attitude that has marked his own approach to recommending prospective judicial nominees from our State. The two most recent examples are his strong support for President Bush's nominations of Judge Tinder for the Seventh Circuit and of Judge William Lawrence for the Southern District of Indiana. I am confident Senator Bayh and I will continue to approach nominations by President Obama in the spirit that brings us before you today.

Thank you very much.