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Res. No. 1246

Resolution calling upon the United States Senate to reject the nomination of Samuel A. Alito, Jr. as an Associate Justice to the Supreme Court of the United States.

By Council Member Yassky

Whereas, On July 1, 2005, after 24 terms of service, Sandra Day O'Connor announced her retirement as an Associate Justice of the Supreme Court of the United States; and

Whereas, After the death of Chief Justice William H. Rehnquist and the appointment of John Roberts to that position, President George W. Bush announced that he had selected Harriet Miers to replace Justice O'Connor on the Supreme Court; and

Whereas, Just four days after Harriet Miers withdrew her nomination, President Bush nominated Samuel A. Alito, a Federal Appeals Court judge from the Third Circuit, for that same position; and

Whereas, Unlike Ms. Miers, Judge Alito does have a judicial history, and it is that record which is cause for concern; and

Whereas, As a judge, Judge Alito has consistently made conservative rulings on abortion, with one notable opinion voting to uphold a law requiring a woman to notify her husband before obtaining an abortion, a position which was rejected as unconstitutional by the Supreme Court; and

Whereas, National Abortion and Reproductive Rights Action League (NARAL) President Nancy Keenan has stated that “Alito’s confirmation could shift the court in a direction that threatens to eviscerate the core protections for women’s freedom guaranteed by *Roe v. Wade* or overturn the landmark decision altogether”; and

Whereas, The National Organization for Women (NOW) is so concerned about Judge Alito’s record and opposed to his nomination that it has called upon Justice O’Connor to remain on the bench; and

Whereas, NOW has also stated that Judge Alito’s “decisions in a number of cases demonstrate a rigid adherence to states rights at the expense of those facing sex and race discrimination and other Civil Rights violations”; and

Whereas, According to a November 3, 2005 article on *Bloomberg.com*, in 2003, Judge Alito sought to limit the federal antitrust laws, voting, in a dissenting opinion, to strike down a \$68 million award against 3M Company, for monopolizing tape sales at the expense of a smaller rival; and

Whereas, Numerous rulings of Judge Alito’s have been distinctly pro-business and are of concern to many, including the Washington advocacy group, Alliance for Justice, which stated that Judge Alito’s 3M opinion “would have made it easier for large corporations to engage in practices designed to eliminate competition from smaller businesses”; and

Whereas, According to a November 1, 2005 *Washington Post* article, Judge Alito has argued that Congress did not have the power to ban the intrastate sale of machine guns, an opinion that pro-gun control advocates find disturbing; and

Whereas, Dennis Henigan, legal director of the Brady Center to Prevent Gun Violence, said that Judge Alito’s opinion regarding intrastate gun control is “perhaps the most powerful evidence that Judge Alito is very

much a right-wing judicial activist”; and

Whereas, According to Democratic National Committee Chairman Howard Dean, Judge Alito’s body of work has consistently suggested “an activist judicial philosophy bent on rolling back the rights and freedoms that all Americans value”; and

Whereas, Supreme Court Justices hold unparalleled power to shape national law and policy for generations, and the next Justice could tip the balance in many cases dealing with reproductive rights and other personal freedoms; and

Whereas, A lifetime appointment to the Supreme Court should be used to provide the American people with a Justice who can be relied upon to use his or her experience, skill and wisdom to protect individual rights and freedoms; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Senate to reject the nomination of Samuel A. Alito, Jr. as an Associate Justice to the Supreme Court of the United States.

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JP 11/7/5