

Ted Cruz Vows to Defend Antonin Scalia's Legacy

Tuesday afternoon on the *Hugh Hewitt Show*, presidential candidate U.S. Sen. Ted Cruz (R-Texas) was a guest and discussed with the host the pending battle in the Senate over President Obama's nominee to replace Supreme Court Associate Justice Antonin Scalia.

Hewitt played a sound clip of President Obama saying he had a duty to appoint a replacement, and the Senate had a duty to confirm that nominee. He then asked Cruz for his reaction.

"Well, look, like so many things President Obama says, it is complete nonsense," he said. "It is untethered to the Constitution, and it is untethered to how our government operates."

Cruz called Scalia a "lion in the law" and noted that he knew the jurist for 20 years. He praised the justice's "extraordinary intellect," and noted he was a man who single-handedly changed the course of American law.

"Indeed, as Ronald Reagan was to the presidency, so was Antonin Scalia to the Supreme Court," he said. "And his death leaves an enormous void on the Court. The Court, as you know, is dangling in the balance."

Cruz then said the eventual nominee would change the balance of power, "potentially dramatically," on the Supreme Court. He said, for the last 80 years, the Senate has never confirmed a Supreme Court nominee who was nominated during an election year.

"This year is not the year to start, particularly with a president like Obama whose hallmark of his presidency has been the lawlessness and open defiance of the Constitution," he

said. "We should not allow a lame duck president to ram through a Supreme Court justice that would dramatically alter the balance of power on the Court."

Cruz has previously made the case on the campaign trail that the next president would likely appoint three or four new justices. He repeated that claim to Hewitt, suggesting the 2016 election should be "a referendum" on the Supreme Court.

"If the Democrats want to put a hard core liberal on the Court, their avenue for trying to do so is win the election in November, but let the American people have a choice," he said. "That's what I intend to fight for, it's what I called for when news of Justice Scalia's passing became public, and I'm very gratified that Republican leadership in the Senate is agreeing with that call and standing united and saying no."

"The next president, whoever he or she is, will be the one making the nomination to fill this vacancy."

Cruz said the president has the authority to nominate a replacement, and he expects him to do so. In fact, he said he expects "a very political nomination" of someone who comes from within a key political constituency in the November elections to try to turn it into a partisan issue.

"But you know, the President's statement that the Senate is, somehow has a responsibility to confirm his nominee is complete nonsense," he added. "Under the Constitution, the Senate has the power to advise and consent. Well, we are advising right now that a lame duck president is not going to get a Supreme Court confirmation in the final year of his presidency."

Cruz then returned to the high stakes, calling them "enormous" if a fifth liberal "judicial activist" is placed on the high court. He said that would result in "our most fundamental rights" being undermined by judicial fiat.

"We will see the Second Amendment right to keep and bear arms effectively written out of the Constitution," he said. "Justice Scalia's most significant opinion of his tenure was *Heller v. District of Columbia*, which upheld the individual right to keep and bear arms. It's a case I know very well, because I represented 31 states in the *Heller* case defending the Second Amendment.

"One more liberal justice, and the Court will overturn *Heller* and conclude that no American has any individual right to keep and bear arms. One more liberal justice and we will see every restriction on abortion that has been put in place in the last 40 years reversed by the Court as the Court will mandate unlimited abortion on demand up to the moment of delivery, partial birth, with taxpayer funding and no parental notification.

"And one more liberal justice, Hugh, and we will see our fundamental religious liberty undermined dramatically. We will see Ten Commandments monuments taken down all across this country. We will see veterans memorials that contain any religious symbol taken down.

"And we're not far away from a Supreme Court, with one more liberal justice, that would order the chisel to come out to remove the crosses and the Stars of David from the tombstone of fallen soldiers. That kind of dramatic decision needs to be made by the people, by the voters, not by a lame duck president."

Cruz said Obama was "playing politics" with the issue. Hewitt then pointed out that Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa) had "left the door open" for hearings. He said Sen. Thom Tillis (R-N.C.) had expressed an openness to hearings, as well.

Hewitt, who has advocated no hearings on a Supreme Court nominee until after the November election, asked Cruz for his

view. The senator said he agreed there shouldn't be any hearings.

"I agree with you that it doesn't make sense to hold a hearing, because it is about the institution and presidential abuse of power, which we've seen for seven years," he said. "You know, I will say one of the real consequences of Justice Scalia's passing is it has elevated the stakes in this election."

Cruz then made the case he was the candidate best suited to appoint Scalia's replacement:

"[I]f we make 2016 a referendum on the Supreme Court, as Republicans, we need to nominate a candidate who understands these issues, and who can go head to head with the Democrats," he said. "I've got to tell you, Hugh, I cannot wait to stand on that debate stage with Hillary Clinton or Bernie Sanders and make the case to the American people that their vision of the Supreme Court, their vision of the Constitution, would undermine our basic freedoms and what that means."

"I think that's one of the reasons so many conservatives are uniting behind our campaign, because the other candidates on that stage, they're good, honorable people, but they do not have the experience or the track record defending the Constitution, defending the Bill of Rights. And we have seen already too many Republican presidents who were not willing to invest the political capital to nominate and confirm principled conservative jurists."

Hewitt then asked if Cruz felt it was disrespectful of Scalia and his legacy to even have the debate over his replacement so quickly.

"Justice Scalia was a man of incredible principle. And he cared deeply about honoring the Constitution," Cruz said. "The greatest respect we could show to him is to defend his legacy of honoring the Constitution, and to ensure that his

replacement is selected by the next president. To allow this president to undo three decades of faithful and dedicated work by Justice Scalia would be the greatest disservice, the greatest disrespect we could possibly pay to him. And of that, I have no doubt."