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Two Scalias in our government are two too many

MARIANNE MEANS
Hearst News Service



WASHINGTON — When President Bush nominated the son of conservative Supreme Court Justice Antonin Scalia to the third-highest post in the Labor Department, the terrorist attacks had not occurred and Bush was not yet in a political unity mode.

This week, however, Eugene Scalia's nomination to be the department's solicitor — its top lawyer — was before the Senate Judiciary Committee threatening to blow up the fragile aura of bipartisanship the president is currently trying to foster. During his hearing, Scalia was sternly grilled by Democratic members and lavishly praised by the Republicans.

Giving Scalia power to interpret the administration's policies toward organized labor, which worked hard to defeat Bush in the 2000 election, was a deliberately vengeful move. Looming over the selection is the dark shadow of his cranky father, the architect of the court's rightward drift on civil rights and the mastermind of the court's convoluted ruling that handed the presidency to Bush. Eugene Scalia's nomination inescapably looks like a gigantic political payback, meant to reaffirm Bush's authority by slapping the Democrats in the face.

In April when he picked Scalia, Bush had embarked on a crusade to drive the country to the right, rolling over the Democratic congressional minority and his own party's moderates. In those days, he had no interest in bipartisanship.

His first choice as Labor Secretary, the conservative anti-labor commentator Linda Chavez, proved to be too controver-

sial and was forced to withdraw her name. She was replaced by Elaine Chao, whose attitude is less ideological than Chavez's and is therefore less objectionable to the major unions. Scalia, 37, seems to have been selected to give Chao the backbone to be tough on the labor movement whenever possible.

During his career as a labor lawyer, Scalia campaigned vigorously to repeal Clinton-era federal ergonomics rules designed to reduce repetitive-motion injuries and lower back problems. He said he doubted the "very existence" of the problem, which union officials take very seriously, and mocked ergonomics as "junk science." The Clinton rule was killed by the Republican-controlled Congress earlier this year, and Chao is currently reviewing proposals for revised ergonomics rules.

Senate Health, Education, Labor and Pensions Committee Chairman Edward

Kennedy, D-Mass., is unequivocal in his opposition to Scalia. The senator says his writings and his record "clearly suggest that his views are outside the mainstream on many issues of vital importance to the nation's workers and their families."

The committee is divided along party lines, with all 10 Democrats opposed to Scalia and all 10 Republicans supporting him. When the committee votes next week, the tie will be broken by former Republican-turned-independent James Jeffords of Vermont. Recently Jeffords said awkwardly, "I think I'll probably support him ... reluctantly."

That means the nomination will go to the Senate floor, where Kennedy vowed "there will be a battle." Business groups have lined up behind Scalia, and the AFL-CIO is campaigning against him, making the outcome uncertain.

The floor vote is likely to break down along party lines, marking the first seri-

ous tear in the bipartisan fabric Bush is trying to weave.

He visited the Labor Department Thursday and warned, "This is not a time to worry about partisan politics."

He should have thought of that before he picked such a partisan nominee. Scalia, a choice left over from the pre-unity era, is a flagrant example of the partisan excesses of that period before the terrorist attacks. It is impossible for the Democrats to embrace Scalia, and Bush knew it when he chose him. It would be disingenuous of the president to claim now to be shocked that the nomination has provoked a partisan confrontation.

If Bush is really serious about working in a bipartisan fashion, he should withdraw the nomination. There are other qualified Republican labor lawyers who would not raise so many hackles and cost the president so much in good will.

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