

SCALIA, J., concurring in part

SUPREME COURT OF THE UNITED STATES

Nos. 02–1472 and 03–853

CHEROKEE NATION OF OKLAHOMA AND
SHOSHONE-PAIUTE TRIBES OF THE
DUCK VALLEY RESERVATION,
PETITIONERS

02–1472

v.

MICHAEL O. LEAVITT, SECRETARY OF
HEALTH AND HUMAN SERVICES, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE TENTH CIRCUIT

MICHAEL O. LEAVITT, SECRETARY OF
HEALTH AND HUMAN SERVICES,
PETITIONER

03–853

v.

CHEROKEE NATION OF OKLAHOMA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FEDERAL CIRCUIT

[March 1, 2005]

JUSTICE SCALIA, concurring in part.

I join the Court’s opinion except its reliance, *ante*, at 8, on a Senate Committee Report to establish the meaning of the statute at issue here. That source at most indicates the intent of one committee of one Chamber of Congress—and realistically, probably not even that, since there is no requirement that committee members vote on, and small probability that they even read, the entire text of a staff-generated report. It is a legal fiction to say that this expresses the intent of the United States Congress. And it is in any event not the inadequately expressed intent of the Congress, but the meaning of what it enacted, that we

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should be looking for. The only virtue of this cited source (and its entire allure) is that it says precisely what the Court wants.