

## BUSINESS MEETING

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WEDNESDAY, SEPTEMBER 26, 2007

United States Senate,  
Committee on Rules and Administration,  
Washington, D.C.

The Committee met, pursuant to notice, at 10:06 a.m., in Room SR-301, Russell Senate Office Building, Hon. Dianne Feinstein, Chairman of the Committee, presiding.

Present: Senators Feinstein, Durbin, Nelson, Reid, Murray, Pryor, Bennett, McConnell, Cochran, Chambliss, and Alexander.

Staff Present: Howard Gantman, Staff Director; Jennifer Griffith, Deputy Chief of Staff; Veronica Gillespie, Elections Counsel; Adam Ambrogi, Counsel; Matthew McGowan, Professional Staff; Sue Wright, Chief Clerk; Mary Jones, Republican Staff Director; Matthew Petersen, Republican Chief Counsel; Shaun Parkin, Republican Deputy Staff Director; Michael Merrell, Republican Counsel; Abbie Platt, Republican Professional Staff; Trish Kent, Republican Professional Staff; and Rachel Creviston, Republican Professional Staff.

Chairman Feinstein. If the staff would please call their Senators, we need seven for a quorum. We now have six. If the

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staff could call and see if their Senators could please come, I would like to move the Public Printer. That will take ten representatives. The FEC nominations will obviously take some discussion. But if we could possibly get ten people here, at least to move the Public Printer, that would be, I think, a good thing.

[Pause.]

Chairman Feinstein. We have eight members here, so I would like to begin the meeting. And, once again, as soon as we have ten members, at the very least we would like to vote out the Public Printer, so I will stop with whatever we are doing to take that vote so at least that is done.

Let me just state what I understand the parliamentary procedures to be. There is on proxy vote on voting out a nominee. It is a majority of members here, I am told. So that is the first thing. There is on a motion with respect to the process, but not on the actual vote to vote a member out. So hopefully members that are interested in this will come.

I have just shared with Senator Bennett the fact that we have a difference of opinion on one of the nominees. I think that is well known. The Chairman would like the opportunity to vote no on one nominee. Senator Bennett has pointed out where it has been the protocol of the Committee over a substantial period of time to vote

nominees out en bloc, and he has that documentation, which I have seen. I would submit a colloquy or a part of the transcript of the meeting on March 8, 2000. Senator McConnell was present, Stevens, Warner, Cochran, Santorum, Hutchison, Dodd, Byrd, Feinstein, Torricelli, and Schumer. And the Chairman said, "Do I hear a motion to report the nominees to the floor? All in favor, signify by saying aye?" Senator McConnell was presiding. "[A chorus of ayes.]"

"Senator Byrd. Mitch?"

"The Chairman. Yes, sir?"

"Byrd. You can only vote--you can't vote on two."

"Can't you vote on them en bloc?"

"Byrd. Except with unanimous consent. You have to get unanimous consent to vote en bloc. Now, I am going to vote to report them both regardless of how--"

"Stevens. I so move to consider the nominees en bloc and that one vote count for both nominees."

"Byrd. Are you asking unanimous consent?"

"Stevens. Unanimous consent."

"Is there an objection? Without objection. All in favor signify by saying aye?"

I think that is testimony to the fact that it does take

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unanimous consent. In this case, I am unwilling to give the unanimous consent. I believe I have good reason. I would like to be able to state my reasons at an appropriate time. But that is where we are.

It is also my understanding that there is a member on our side who will vote affirmatively to report the nominee out, which is fine. A solution to this might be to vote the nominee out without recommendation. So I would be interested in the Ranking Member's views on that at this time.

I do these things because I would like to function in a collegial way where we can still maintain our individual thoughts, but at the same time try and work together toward a solution.

Senator Bennett. Madam Chairman, you have always done that, and no one has been more fair or more open than you, and we understand that we each have a different position on this nominee.

One of the things I have learned since coming to the Senate is that we have rules and we have precedents. And the precedents seem to trump the rules.

For example, the rule does not say that the Majority Leader is recognized first. The rule says, on the floor, that whoever addresses the Chair is recognized first. But the precedent has been so firmly established that the Majority Leader is always

recognized, regardless of whoever else is asking for recognition. It has the force of a rule. And you have stated the rule correctly, and you will certainly be within your rights if you insist on that rule.

The precedent in this Committee is very clear, that nominations to the FEC have always been reported en bloc and in pairs; that is, a Republican is paired with a Democrat. And just to run down that for the record:

Michael Toner and Ellen Weintraub in 2003. The Committee was discharged from further consideration, and the nominees were confirmed en bloc on the floor.

Bradley Smith and Danny Lee McDonald in 2000. As you have just indicated, they were considered en bloc and reported out in that fashion from the Committee.

Scott Thomas, Darryl Wold, David Mason and Karl Sandstrom in 1998. The nominees were considered en bloc and reported out by voice vote.

Lee Elliott and Danny Lee McDonald in 1994. The nominees were considered en bloc and reported out by unanimous vote.

Trevor Potter and Scott Thomas in 1991. The committee was discharged from further consideration, and the nominees were confirmed by the Senate en bloc.

Joan Aikens and John McGarry in 1989. The nominees were considered en bloc and reported out by unanimous roll call vote.

Lee Elliott and Danny Lee McDonald in 1987. The nominees were considered en bloc and reported out by voice vote.

And Thomas Josefiak and Scott Thomas in 1986. The nominees were considered en bloc and reported out by voice vote.

We have to go back 28 years to find a precedent of and FEC nominee being considered individually.

So the precedent is that they are considered en bloc. The rule that you have cited, quoting from Senator Byrd, you are very much within your rights to insist that they not be considered en bloc. And I will make the motion that they be considered en bloc, and we will see what happens from there. But I assure you our friendship will not be affected by whatever happens here.

That has been the history of this Committee, the precedent in this Committee, which I would hope to uphold.

Senator McConnell. Madam Chairman?

Chairman Feinstein. Senator McConnell?

Senator McConnell. If I may, Senator Bennett asked me to come by, not only as a former Chairman of this Committee, but also as the Republican Leader, just to kind of underscore the way this has been handled on the floor in the past.

There have obviously from time to time been nominees on both sides that were, shall I say, not enthusiastically embraced by members of the other side. But the Federal Election Commission was set up on purpose to be a 3-3 agency so that neither political party would yield to the temptation to try to take advantage of the other in dealing with the highly sensitive matter of enforcing the Federal election laws of our country over which they have pretty broad jurisdiction.

So I think I could comfortably say, in the friendliest way, that none of these nominees will move across the Senate unless they move together. And we fully understand. I have been less than enthusiastic about a number of the nominees that have been put forward by the Democratic Party over the years. But the view has always been that the Democrats pick the Democrat candidates and the Republicans pick the Republican candidates.

And regardless of what this Committee would do today on this issue, I just wanted to assure everyone that all of these nominees will move together on the floor or not at all.

Thank you so much.

Chairman Feinstein. I thank the Minority Leader, and it is nice to have you here. Thank you very much.

Senator Pryor. Madam Chair?

Chairman Feinstein. We now have ten votes, and if I can, would there be objection if we voted out the Public Printer?

[No response.]

Chairman Feinstein. May I have a motion to do so, please?

Senator Bennett. So moved.

Chairman Feinstein. You have heard the motion. All those in favor, please say aye?

[A chorus of ayes.]

Chairman Feinstein. Opposed?

[No response.]

Chairman Feinstein. The motion is passed unanimously.

Senator Pryor, I believe you wanted to speak.

Senator Pryor. Madam Chair, would it make sense with the one controversial nomination for the Committee to consider that nomination to move to the floor without a recommendation?

Chairman Feinstein. If that is the will, that would be agreeable to me. My interest is in really being able to have the discussion, and for me personally, I feel strongly perhaps because I have been through the Judiciary Committee investigations, and I believe that this nominee is not an unbiased individual. I understand that is debatable, but I think it is important to have the debate.



So it certainly would be agreeable to me to do that.

Senator Pryor. Well, I will make that--if it is the appropriate time, I will make that motion that we do send the controversial nomination to the floor without a recommendation. And, I am sorry, do we have two--

Chairman Feinstein. His name is von Spakovsky.

Senator Pryor. Right.

Chairman Feinstein. So you would--

Senator Pryor. Yes, move him to the floor without a recommendation, and then we have a second nominee as well. Right?

Chairman Feinstein. I would have--and I do not know if any other person would have objection to moving the remaining two--

Senator Pryor. Two. I am sorry.

Chairman Feinstein. --or three by--

Senator Bennett. Three.

Chairman Feinstein. --unanimous consent--en bloc.

Senator Pryor. So my motion would be to move Mr. von Spakovsky to the floor without a recommendation, but to move the other three--Mr. Walther, Mr. Mason, and Mr. Lenhard--to the floor with the recommendation--with a favorable vote.

Chairman Feinstein. You have heard the motion. Is there a second?

Senator Reid. Second.

Chairman Feinstein. Does anyone wish to speak on the motion?

Senator Chambliss. Madam Chairman?

Chairman Feinstein. Yes, Senator Chambliss?

Senator Chambliss. What is the effect of doing that, though?

I feel just as strongly as Senator Bennett and Senator McConnell do about moving these folks en bloc. I think we are breaking precedent in a way that is going to cause problems for this Committee down the road. I understand the objection to the individual, but as Senator McConnell said, Democrats have the right to make their nominee, Republicans have the right to make their nominee. That is the way it has always been, and I would hope that is the way it is going to be in the future. And if moving this nominee separately in any way puts him in a category that he is not going to be considered with all these others, then I have serious questions about that, because I am not about to let any of these nominees move unless they all move.

So my question is: What is the effect of doing this one nominee without a recommendation?

Chairman Feinstein. Well, let me try and respond to that. The effect would be that they would all go to the floor. Whether they are consolidated at a later time is another subject. But as I

stated, my interest is to be able to state the case with respect to this one nominee and to give my own personal vote, as I believe others on the Committee would like to do as well.

Senator Bennett. Madam Chairman, I had understood that there was a member of the majority who was planning to vote for favorable recommendation. Would passage of this particular amendment prevent that individual from so voting?

Chairman Feinstein. No.

Senator Bennett. And if there were a majority of the Committee that votes to report him favorably, wouldn't that trump the--

Chairman Feinstein. It would.

Senator Bennett. So maybe the thing to do is to have both votes. Either way he goes to the floor.

Chairman Feinstein. We have a motion that has passed, but-- no, the motion has not been passed yet.

Senator Bennett. No.

Chairman Feinstein. I would--I think this: I think that it is a bit of a stalemate, and trying to work something out to prevent a stalemate in good conscience--

Senator Bennett. And I appreciate it, and as I understand it--

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Chairman Feinstein. And you are right, but that is the only thing I can think of. Otherwise, I think we will just have the debate here, because I will not agree to put them out en bloc, and I believe it takes unanimous consent to put them out en bloc.

Senator Bennett. So if the--

Chairman Feinstein. And I will introduce this into the record.

Senator Bennett. Let me understand. If Senator Pryor's amendment passes, we then report all four en bloc with the asterisk, if you will, that one of them is reported without recommendation.

Chairman Feinstein. That would be correct.

Senator Reid. Madam Chair, they would have the same status on the floor.

Chairman Feinstein. I guess so. This is a bit unprecedented, but I think so.

Senator Reid. It is not unprecedented.

Chairman Feinstein. That one has come out without recommendation?

Senator Reid. Yes. I mean, it happens not in this Committee but in lots of committees. We on various other occasion have had--

Senator Bennett. Suppose we move that all four go to the

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floor without recommendation.

Senator Reid. Fine with me.

Senator Bennett. That will preserve--

Chairman Feinstein. They would go to the floor without--

Senator Bennett. Without recommendation for any of them.

Chairman Feinstein. That is correct.

Senator Bennett. I am comfortable with that. I cannot speak for my colleagues, but--

Chairman Feinstein. The prior motion has not been voted on. Will the mover withdraw--

Senator Bennett. Madam Chair, I would move--I would move to amend.

Chairman Feinstein. The motion is withdrawn?

Senator Pryor. I will withdraw. Yes, I would be glad to withdraw it.

Senator Bennett. All right. And I would move that we report all four nominees en bloc without recommendation.

Chairman Feinstein. Is there a second?

Senator Chambliss. Second.

Chairman Feinstein. You have heard the motion and the second. All those in favor, please say aye?

[A chorus of ayes.]

Chairman Feinstein. Opposed?

[No response.]

Chairman Feinstein. The motion is carried.

I would like an opportunity very briefly to state the case on Mr. von Spakovsky, if I might.

Senator Bennett. I think you more than have earned that as the Chairman, and I will respond as the Ranking Member.

Chairman Feinstein. Thank you very much.

I believe that this--the Civil Rights Division of the Department of Justice is a very important Division because it has to stand up to fight for people to be able to vote within the law, obviously. Prior to Mr. von Spakovsky coming to us, we had heard a number of rumors. The subject was discussed in the Judiciary Committee with certain individuals that came before the Committee.

I think the case is really well stated in a series of letters that the Committee has received, and I would like just very briefly to quote from those letters. And I do not always believe--or these letters are not always dispositive with me. I try to make up my own mind. But I have given you the framework in which these letters fit.

The first one is the Leadership Conference on Civil Rights, and let me quote from that letter. "In 2005, while Georgia's voter

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ID law was under review for compliance with the Voting Rights Act by the office he supervised at DOJ, von Spakovsky anonymously published an article in the Texas Review of Law and Politics that endorsed voter ID laws like Georgia's, arguing that every voter should be required to produce a photo identification card and that there was no evidence that such restrictions burden minority voters disproportionately. By all accounts, von Spakovsky drove the Department's decision to approve the Georgia law, later struck down by a Federal judge as akin to a Jim Crow era poll tax."

It goes on: "Von Spakovsky prevented the Civil Rights Division from investigating serious allegations of voter discrimination against Native Americans." And it goes on to describe that.

Then you have similar complaints in the Lawyers Committee for Civil Rights that he was the architect of a plan to use the Department's power to enforce our Nation's historic civil rights protections to further partisan goals.

And we found a lot of this in the Department of Justice in the Judiciary Committee investigation. And I actually truly believe there were efforts to do that.

The letter goes on, and I am quoting: "He orchestrated the role the Department's Voting Section played in the process. He was

part of a conscious effort to purge the section of the talent and dedication of long-time civil servants, punished career staff when they recommended a course of action that diverted from the political goals of the Department's political appointees, politicized substantive law enforcement decisions, and shifted the priorities of the section away from protecting the participatory rights of American voters."

And you have the response also when he came before us, and something that has been unprecedented in my time here was when career staff actually speak up. And in this case, we have a very documented letter submitted by Joseph Rich, the Chief of the Voting Section of the Civil Rights Division; Robert Kengle, the Deputy Chief of the Voting Section; Jon Greenbaum, Senior Trial Attorney; David Becker, Senior Trial Attorney; Bruce Adelson, Senior Trial Attorney; and Toby Moore, Political Geographer.

Now, you have the two career heads of the Voting Rights Section plus three additional trial attorney, and this is what they say: "Mr. von Spakovsky played a major role in the implementation of practices which injected partisan political factors into decision-making on enforcement matters and into the hiring process, and included repeated efforts to intimidate career staff. Moreover, he was the point person for undermining the Civil Rights



Division's mandate to protect voting rights.

Now, these are trial, these are career people. This is the career chief, the career assistant chief, three career trial attorneys saying these things.

"We are deeply disturbed that the tradition of fair and vigorous enforcement of this Nation's civil rights laws and the reputation for expertise and professionalism at the Division and the Department has been tarnished by partisanship.

We found this in our investigation of U.S. Attorneys in the Judiciary Committee, so it is not surprising to see it here.

"Over the past five years"--and I am quoting--"the priorities of the Voting Section have shifted from its historic mission to enforce the Nation's civil rights laws without regard to politics, to pursuing an agenda which placed the highest priority on the partisan political goals of the political appointees who supervised the Section."

And it goes on with specific areas of concern, which I will go into on the floor.

And then also the trial attorneys write a second letter in response to his hearing before us, and they point out that Mr. von Spakovsky attempted before us to paint a picture of the Civil Rights Division's front office as one of a simple middle manager,

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merely providing legal advice and recommendations to his superiors, and then delivering the decisions made by his superiors to Voting Section staff. That is exactly what he did before the Committee here.

And so then these same attorneys say, "This characterization differs from our experience with him. From the time he assumed the role of counsel to the Assistant Attorney General in early 2003 until he left in December 2005, Mr. von Spakovsky spent virtually all of his time on voting matters and assumed the role of de facto Voting Section Chief, replacing the career Section Chief in most of his statutory responsibilities and traditional duties managing the section. During our combined tenure at the Voting Section, we have never seen a political appointee exercise this level of control over the day-to-day operations of the Voting Section. Indeed, testimony previously given by Bradley Schlozman"--he is the one who came before the Judiciary Committee--"Mr. von Spakovsky's supervisor, to the Senate Judiciary Committee reinforces the degree to which front office oversight of the section as delegated to Mr. von Spakovsky."

Now, he has been a recess appointment on the FEC, and I gather from his behavior up to this point, it has been fairly routine and not exceptional in any way. But when you go back and you look at

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this record and you recognize how important the FEC is to be unbiased and you see a man who is writing anonymously publications affecting the law, at the same time which state a defined view, at the same time he is supposed to be impartially presenting his legal views, there is a big conflict, and to some extent, a bit of chicanery in writing anonymously under the pseudonym of Publius at the same time.

So I do not feel that this is an unbiased individual that we would confirm to go on the FEC. And we are coming into a critical time in elections--a Presidential election, key Senate elections, key House elections. And particularly I think for me--and this is why I personally feel so strongly. I believe that the Department of Justice during this period--I do not believe. I know it-- actually changed their rule book to change the rules to allow some firings directly before elections which prior rules had always prohibited. And we saw the targeting of certain U.S. Attorneys who either did not file because they did not think they had sufficient evidence in at least two States and were targeted for firing because of it.

Now, I think we have to put this chapter to an end, and, therefore, to take and give the Senate imprimatur to somebody who provided this kind of political enforcement of the administration

in the Civil Rights Division is not someone that I in all good conscience can vote for, because based on this, I do not see how he carries out the responsibility. And let me give you the three things that the Voting Rights Act says: Commissioners shall be chosen "on the basis of their experience, integrity, impartiality, and good judgment." He does not meet that test for me.

So I appreciate the opportunity to register my view, Mr. Ranking Member, and I will turn it over to you.

Senator Bennett. Thank you. I appreciate the opportunity to respond.

Let me begin with a comment made by John Fund in the Wall Street Journal, and I realize this is a journalist rather than a lawyer. He may be a lawyer, but I do not know that for sure. But it leads to what I think is the definitive statement about some of the groups that have written to us.

Mr. Fund says, "Everyone has reason to be concerned about a politicized Justice Department. But to set up a cartoon version of reality in which principled career lawyers at Justice were battling Bush political appointees bent on voter suppression is absurd. The Civil Rights shop at Justice has been stuffed with liberal activists for decades. Many of the former career Justice lawyers complaining about Mr. von Spakovsky today now work at liberal

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groups such as People for the American Way. And their imaginative, hyperaggressive enforcement of the Voting Rights Act hasn't fared well in court. During the Clinton years, when their theories were allowed to be put to a legal test, courts assessed Justice over \$4.1 million in penalties in a dozen cases where it was found to have engaged in sloppy, over-reaching legal arguments. In one case, the Supreme Court noted `the considerable influence of ACLU advocacy on the voting rights decisions of the Attorney General is an embarrassment.'"

So these are people who have been trying to get their vision of the law forwarded in the courts and have been struck down as an embarrassment, to use the words of the Supreme Court. And, obviously, they would have objection to Mr. von Spakovsky trying to rein them in a little bit.

But those are battling opinions back and forth between those who have one partisan view and those who have another. Let me go directly to the letter that the Chairman quoted. I got a copy of exactly the same letter, and I am interested in the sentence which is in the second paragraph, quoted again by the Chairman, which says: "By all accounts, von Spakovsky drove the Department's decision to approve the Georgia law, later struck down by a Federal judge as akin to a Jim Crow era poll tax."

Let's get the facts on what happened to the Georgia law. The Federal judge did not strike down the Federal law. The Federal judge granted an injunction against the Georgia law. The Federal judge granted an injunction that said the Georgia law could not go into effect until after the full trial had taken place.

The full trial has now taken place, and the same Federal judge has ruled that the Georgia law is proper law--that is, the Federal judge who ordinarily issued the injunction against its going into effect has, at the end of the case, ruled that it can go into effect, and by so doing has endorsed the position that Mr. von Spakovsky took and rebuked, like the Supreme Court, the position of the career lawyers at Justice.

The decision in the Federal court upholding the Georgia law came down 2 weeks before this letter to the Chairman and me was written. Either the scholarship on the part of the Leadership Conference on Civil Rights is bad, or they deliberately withheld information from this Committee. I will be charitable and say that their scholarship is bad, but we should not depend on this kind of letter that omits facts of this importance, when making our decision.

To go now to the fundamental question here, however, with respect to the FEC, as raised by Senator McConnell, I would like to

quote at some length, but with some editing, the statement made by a former Ranking Member of this Committee. At the time, the Ranking Member of this Committee was Senator Dodd, and the nominee before the Senate to which he had strong objection was Bradley Smith. There is probably not anyone in the area of FEC regulations who is more of a firebrand for the Republican or right-wing position, depending on how you want to characterize it, than Bradley Smith. And Senator Dodd made the speech on the floor, which I will now quote, moving from sentence to sentence, not quoting the whole thing, because it was fairly long, but the key sentences.

Senator Dodd: "It has been 25 years since we created these positions. It might be worthwhile to understand how this process has worked and how nominees have historically been handled. Approximately 43 nominees, including reappointments, have been submitted to the Senate for consideration to this Commission. Of that total, only three nominations have required a roll call vote by this body in the last quarter of a century. In each of those three instances, the nominees were confirmed by the Senate. The Senate has never voted to reject a nominee to the Federal Election Commission submitted by respective Presidents."

"In the last 10 years, pairs of nominees, one Democrat paired

with one Republican, have been considered by the Senate Rules Committee, reported to the Senate, and confirmed en bloc by unanimous consent. In the most recent action by the Senate, in 1997, four nominees--or two pairs--were considered and confirmed in this manner and confirmed by unanimous consent, again, en bloc. How is it possible so many nominees to what is considered by some to be a controversial agency have received the nearly unanimous support of this body throughout the past 25 years? I suggest the answer lies in the very statute that created this Commission."

"What is obvious is that it has always been the intent of Congress that these nominees be appointed with regard to their party affiliation. That part is quite clear. Moreover, these nominees are appointed and considered in pairs--one Democratic nominee paired with a Republican nominee--and that is how the Committee on Rules and Administration has always traditionally considered FEC nominees. The Committee has similarly paired their consideration so that no hearings were held nor the nominees reported except in strict pairs. In recent history, the Rules Committee has reported pairs of nominees voting to the report the pair en bloc to the Senate as a full body."

"The statute creates a presumption that the views of each of the two major political parties will be represented by the three



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members of the Commission, and the practice has developed that the leadership of the Congress, both Republican and Democratic leadership, communicate to the President their preferences for the nominees."

Then he goes on to discuss Bradley Smith, and he says, "Let me categorically state for the record that I could not disagree more with Mr. Smith's positions and his writings when it comes to campaign finance. I could not disagree more with Mr. Smith's conclusion that Congress needs to reverse course and loosen campaign finance regulations. Notwithstanding my strong disagreements with his views, I am not going to oppose this nomination of Mr. Smith for the following reasons: Traditionally, there is a heightened level of deference given to the President's nominees, particularly when the position is designated to be filled by one party. That is particularly the case with nominees to the FEC, who, by statute, are to be the representatives of their political parties on that Commission."

"My vote in favor of this nomination should not be read as an endorsement of his views. Nothing could be further from the truth. It is an endorsement of the process that allows our political parties to choose nominees who hold views consistent with their own. I regret that the majority party here, at least a majority of

the majority party, embraces the views they do, and nobody holds them more strongly than my friend and colleague from Kentucky." Obviously, he is talking about Senator McConnell.

"I think he is dead wrong in his views on these issues, but he represents the views of the majority party on this issue. They have made the choice that Bradley Smith reflects their views well on this issue; therefore, they have the right, in my view, to have him confirmed to the seat."

That is the case for the procedure we have followed, Madam Chairman. I am grateful to you for the deft way in which you have handled the difficulty we had within the Committee, and that is the case I will be making on the floor. I could not say it any better than Senator Dodd has said it, and, therefore, I have confined my comments to simply quoting him on this matter.

Chairman Feinstein. Thank you very much for those comments. They are appreciated, and I thank you for your personal comments as well. I would have just one comment on your remarks.

With respect to the letter of the Leadership Conference on Civil Rights, the staff just wrote me a note and said that Georgia actually changed its law during the time this case was pending, which enabled the judge to make the decision he did. But I do not know any more than that, but I will bone up on it by the time this

comes to the floor.

Senator Bennett. I am unburdened with a legal education, so--

Chairman Feinstein. I am, too, actually.

Senator Bennett. All right. Well, that puts us on a par. It is my understanding that the judge in the final decision ruled that many of the items to which the career people in Justice objected were, in fact, without merit. But we are both reacting to things that people are telling us, and maybe we ought to leave this one to the lawyers. I will be willing to do that.

Chairman Feinstein. Thank you very much.

Senator Chambliss. Madam Chairman?

Chairman Feinstein. Senator Chambliss?

Senator Chambliss. Thank you. As a recovering lawyer, I will do my best to go back and look at that scenario. I remember the situation, but I do not remember all the facts from the standpoint of an amendment to that statute. But it cannot be better said than as said by Senator Bennett, and I associate myself with his remarks.

Madam Chairman, I would just simply say that your reasoning for opposition to this individual is that he is too partisan, but I would encourage you to step back and look at the statements that you just made and your reasoning for your vote or your opinion that

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he should not be confirmed. It is based upon comments made to you, statements made in writing, from extremely partisan individuals. And if we are going to get into that realm of pitting partisan individuals versus other partisan individuals, I do not think that is the road down which this Committee has previously gone. You and I worked on an awful lot of things together. I have great respect for you individually as well as as Chairman of this Committee, and I would hope you would just sit back and think about that as to the future direction it might take other nominees.

And I look forward to obviously making a few more comments when we get to the floor, but thank you very much.

Chairman Feinstein. I appreciate that, Senator. Let me just quickly respond. I do not think--I like to believe I am not a very partisan individual. However--and I do not want to belabor this. However, as I pointed out, I was here for the hearing. I heard the answers to the questions. I heard all the testimony. And I am also the beneficiary of what has transpired in the Judiciary Committee in the U.S. Attorney investigation that has been going on, and a lot of it impacted voting rights. A lot of it was a change in the rule book. A lot of it was a change in the administration's posture with respect to elections, I believe. And that is a big, big box to open, and I do not want to do it here.

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But individuals that really go on this Commission should be without bias. And what this individual has shown to me is that there is a bias.

So I will not belabor it anymore, but it should be interesting on the floor. And I appreciate my Ranking Member's comments and yours as well. And I particularly appreciate your being here.

So thank you very much and--

Senator Chambliss. Let me just make sure that there is no misunderstanding. I appreciate the fact that the Chairman is not a partisan individual, and I did not in any way mean to indicate that. So let me make sure that the record is clear there.

Chairman Feinstein. Thank you. I appreciate that.

Thank you, and the meeting is adjourned.

[Whereupon, at 10:53 a.m., the Committee was adjourned.]