

I have not, either in the general election of 1964 or in any other election at Bethune Precinct or in any other precinct, either myself harassed or intimidated voters, or encouraged or approved the harassment or intimidation of voters by other persons.

Would you agree with that statement?

Mr. MIRKIN. I have already drawn a different conclusion from the same facts.

Senator METZENBAUM. So your answer is that you do not agree with that statement?

Mr. MIRKIN. All I can tell you, sir, is what I would conclude. And I concluded then, and I am still of the opinion, that the conduct resulted in voter intimidation.

Senator METZENBAUM. Thank you.

The CHAIRMAN. Mr. Pine.

STATEMENT OF CHARLES PINE

Mr. PINE. Mr. Chairman, in the interest of time, I have a one-page statement. I would prefer not to read it but I would like to submit it for the record.

Mr. Chairman, I want to say this. I am quite aware of the fact that Justice Rehnquist has denied that he ever challenged or attempted to harass or intimidate qualified voters.

All I can say in response to that is, based on my personal experience, is the Justice obviously is currently suffering from a convenient lapse of memory.

I say that because I saw him in person challenging individuals, and I saw him do it illegally.

In response to Senator Mathias, sir, we do not have wardens, we have inspectors, we have marshals, we have judges, we have clerks. Each party is allowed one certified poll watcher.

The expression "poll watcher" or "poll challenger" in that instance becomes synonymous. Poll challengers can challenge for anything within the parameters of the Arizona statute outlined by Senator DeConcini, my good friend, and they are limited to that. They can also, of course, if they suspect somebody does any voting under a false name or does not give a correct address, challenge. The warden also can challenge.

But Justice Rehnquist, and to me then he was just Mr. Rehnquist, was approaching voters and saying, "Pardon me, are you a qualified voter?" He gave them no explanation. None of his actions was based on any of the reasons in the parameters outlined by Senator DeConcini. I saw him with my own eyes approach a middle-aged gentleman, arbitrarily in the line, say "Pardon me," but in a very firm and authoritative voice, say "Are you a qualified voter?"

I do not know what the gentleman said in response. He had his back to me and he was softspoken. But he started searching his pockets, first his wallet, and I knew what he was doing because in those days—no one has told you this—we gave out a small card, approximately a little larger than a paper match cover, and that was a receipt, in effect. But it was not necessary. It said that you had been registered by John Doe on a given day at a given precinct, and it had your address on it. But it was not considered an official receipt. You did not have to have it on your person to vote.

If you approached the head of the line and your name was on that voting list, you were eligible to vote.

Incidentally, Mr. Rehnquist, who has admitted that he headed up these flying squads—publicly admitted it in Phoenix and was so reported in the Phoenix press—admitted he headed up these flying squads in 1958 and 1960, 1962 and 1964. I saw him in 1964 at Bethune polling place. And the reason I did, I was a volunteer working out of county headquarters, simply handling telephone calls. People were not certain what polling place they should vote at. Perhaps they had moved in the interim.

This lady called me, very hysterical, and she said there are some Republicans threatening, intimidating our voters down at Bethune. I said to a young attorney, let us drive down there and see what is happening.

When we arrived there, he pointed out William Rehnquist to me. And I fairly recognized him. Although I had never met him physically, I had seen, I believe, a photograph of him, either in the newspaper or in the bar directory.

He was pointed out to me, and just a minute after he was pointed out to me, he approached a voter and this incident happened. Incidentally, the gentleman turned away and left the line.

It happened again 2 minutes later, whereupon I stopped the janitor and asked where the nearest phone was, and went to the phone and called Democratic headquarters, and said you had better rush down some of your best attorneys informed about elections laws because a guy named Rehnquist is illegally challenging people. He is intimidating them.

And when I came out from the phone, which was in an adjacent room, the assistant principal's office or something like that, Rehnquist was just leaving with the two members of his party.

Incidentally, that day I drove around to three or four other districts and I found out that he had also made visits there. But I cannot tell you whether or not he was intimidating voters.

But I want to point this out. I found the Democratic certified, the authorized precinct watcher, and I said will you show me your Republican counterpart? And he pointed to an Anglo, a lady, I believe, but I could be mistaken, but it was not Mr. Rehnquist. So Mr. Rehnquist was not the official challenger for Bethune on general election day in November 1962, he was illegally challenging people, and he was definitely challenging them in a harassing manner. And I will stand on that information because I witnessed it with my own eyes.

The CHAIRMAN. What year was that?

Mr. PINE. 1962.

The CHAIRMAN. The distinguished ranking member.

Senator BIDEN. No questions.

The CHAIRMAN. The distinguished Senator from Maryland.

Senator MATHIAS. No questions.

The CHAIRMAN. The distinguished Senator from Massachusetts.

Senator KENNEDY. No questions.

The CHAIRMAN. The distinguished Senator from Utah.

Senator HATCH. Mr. Pine—

Mr. PINE. Yes, sir.

Senator HATCH. What do you do for a living?

Mr. PINE. Beg your pardon?

Senator HATCH. What do you do for a living? What is your living?

Mr. PINE. I still cannot hear you. I am sorry. I wear a hearing aid in my right ear.

Senator HATCH. What is your occupation?

The CHAIRMAN. He said what do you do for a living?

Mr. PINE. I operate, and have for the past 23 years, a public relations agency in the city of Phoenix. I also served as the Democratic State chairman from 1972 to 1976. My wife is taking a bar exam today, hopefully, to become a lawyer.

Senator HATCH. That is great.

Mr. PINE. I am also recognized as a respected businessman, and I defer to Senator DeConcini, who has known me for the past quarter of a century.

Senator HATCH. Nobody is doubting that.

Mr. PINE. Beg your pardon?

Senator HATCH. You provided a one-page sheet of testimony. I would like to read some of it.

Mr. PINE. Yes.

Senator HATCH [reading]:

I appear before this committee as a concerned citizen, one who questions the proposed confirmation of William H. Rehnquist as Chief Justice of the U.S. Supreme Court. My major concern is that in years past, Mr. Rehnquist headed and participated in a blatant effort to deny the right to vote to members of minority groups in South Phoenix precincts in 1958, 1960, 1962, and 1964. The right to vote, in my estimation, is among the most precious of all our rights.

Furthermore, Justice Rehnquist had demonstrated an alarming insensitivity to civil liberties and the bill of rights. He has rejected the notion that the Constitution requires total separation of church and state. He consistently votes against women and minority groups who contend they are victims of discrimination. He has consistently voted against the press in libel suits.

And you go on through—well, let me just read it:

Prior to his 1971 appointment to the Court, he was a vigorous advocate of the arrest of anti-Vietnam war protesters, arrests that later were ruled unconstitutional by the Court in 1972. He opposed arguments that the Court should outlaw school desegregation which it later supported.

Let me ask one question. You stated that the phone call you received from an unknown female voter, was at the Bethune precinct in Phoenix.

Mr. PINE. Yes; I was working out of the county headquarters on East Roosevelt. The woman who called—I say unidentified because she was obviously very perturbed, and she hung up—said, “You people better get somebody down here and do something about this,” and then hung up.

Senator HATCH. Are you aware that Mr. Bentson was the one authorized challenger who was removed forcibly from that precinct?

Mr. PINE. I was not aware of that.

Senator HATCH. Are you aware that he is about 6 feet, 2, and 220 pounds, and the Associate Justice of the Supreme Court is 6 feet, 2, about 195 pounds?

Mr. PINE. I was not aware of that. After the Bethune incident, we toured a few other precincts and then I returned back to—

Senator HATCH. I see.

Mr. PINE [continuing]. Headquarters and continued taking telephone calls.

Senator HATCH. This was 24 years ago?

Mr. PINE. Sir?

Senator HATCH. This was about 24 years ago?

Mr. PINE. Yes; exactly 24 years ago in November.

May I make one point, Mr. Chairman. Nobody has asked this question. I think it is significant. Why did Mr. Rehnquist organize these "flying squads," and what did he hope to gain by disqualifying Democratic voters in heavily Democratic districts, districts that honestly might be described as strongholds?

Obviously he could not affect the districts if he could disqualify several hundred voters. He could not change the outcome of the legislative races.

The members of the Arizona House and the Arizona State Senate continue to be Democrats elected from those districts, because their nomination was tantamount to election. But if he could disqualify a substantial number of votes, it conceivably could have an impact upon closely contested statewide races and we had many of them in those years, because we elected, in those years, every 2 years. We elected a Governor, an attorney general, a secretary of state, a State treasurer and members of the Corporation Commission who regulate our utilities. Highly important offices, and some of these were very closely contested, and 300, 400, 500 votes could make a great difference and determine who would be the victor and who would be the loser.

And that was the obvious strategy of this. A young attorney told me, who is now a Democrat and was then a young Republican:

I was addressed by a member of, of Rehnquist's group and was told, if we can disqualify enough blacks and enough Mexican-Americans, we can elect Paul Fannin Governor in 1962.

And that is precisely what happened. Paul Fannin was elected Governor in 1962.

The CHAIRMAN. The distinguished Senator from Ohio.

Senator METZENBAUM. Just one simple question. Is there any doubt in your mind that the man with whom you were speaking at Bethune was William Rehnquist?

Mr. PINE. There is no doubt in my mind. I was 6 feet away from him when I was listening to the conversation as he approached the people in the line, and by coincidence, Senator Metzenbaum, a few weeks later, at a downtown Phoenix restaurant, I sat almost next to him. He was pointed out to me again. He is approximately my build, my height, strong jaw, wore glasses, and even then he was beginning to bald.

Senator METZENBAUM. What was the color of—

The CHAIRMAN. I do not want to inhibit anybody, but if we could answer the direct questions and not go into other things, it would save a lot of time.

Mr. PINE. Yes, sir.

The CHAIRMAN. You may proceed, Senator.

Senator METZENBAUM. What was the color of most of the voters that were in the polls?

Mr. PINE. Sir?

Senator METZENBAUM. What was the color of the voters in the polling place?

Senator DECONCINI. What was the color of the voters? What were they, Mexican-Americans, or Anglos?

Mr. PINE. Oh. There were about 30 or 40 in line when I arrived, and I would say at least half of them were blacks, and I would say the preponderance of the remainder were Hispanics, Mexican-Americans, and perhaps there was a scattering of 5 or 6 Anglos.

Senator METZENBAUM. Thank you very much.

The CHAIRMAN. The distinguished Senator from Arizona.

Senator DECONCINI. Mr. Pine, welcome very much, and good luck to Selma. Please tell her that I hope she passes the bar, be an outstanding lawyer, and I want the record to show Mr. Pine is an outstanding businessman, and has a long career of community service to the city of Phoenix, and we, as Democrats, are indebted to his service as our party chairman for a number of years.

He is a good friend of mine, and I appreciate that he is here. I do want to ask you, Charlie, if I can, a couple of questions.

When you were at the polls, at the Bethune precinct, and you saw what was happening there, were there any other Republicans there?

Mr. PINE. There were two, two members of—with Rehnquist, two other men standing there, but they did nothing but—

Senator DECONCINI. Do you know who they were?

Mr. PINE. No; I did not. I never saw them before in my life, and I do not think I have seen them since.

Senator DECONCINI. Could one of them have been Wayne Bentson?

Mr. PINE. I do not know, Senator. I do not even know Wayne Bentson.

Senator DECONCINI. When you went and called the Democratic—

Mr. PINE. I called county headquarters on East Roosevelt.

Senator DECONCINI. You were at the school, when you were at the Bethune precinct, you went and used a phone and called the Democratic headquarters to alert them that there was a problem down there?

Mr. PINE. Yes, sir.

Senator DECONCINI. Do you remember who you talked to?

Mr. PINE. I think I talked to Frankie Archer—

Senator DECONCINI. Frankie Archer.

Mr. PINE [continuing]. Who was the acting executive director of the party, and Frankie said she would get somebody on it right away. She would contact Charlie Hardy. I believe Charlie was coordinating the Democratic rescue squads that day.

Senator DECONCINI. And did anyone come?

Mr. PINE. I do not know. I left. I left shortly after—she said they would be on their way, shortly. I left a few minutes after Mr. Rehnquist and his party left. I wanted to tour other precincts and see if similar situations were taking place.

Senator DECONCINI. Do you know if anybody ever arrived from the Democratic headquarters?

Mr. PINE. I understand just a few minutes after I left a couple of attorneys arrived, and nothing happened then.

Senator DECONCINI. Did you ever—

Mr. PINE. Nothing happened then. The Rehnquist party had left, the line was shorter, and I do not know what took place the rest of the day.

Senator DECONCINI. Did you ever ask, or, do you know today, what took place after you left Bethune precinct?

Mr. PINE. I heard there was a disturbance the latter part in the day, but it had nothing to do with Mr. Rehnquist, to the best of my knowledge.

Senator DECONCINI. At Bethune precinct?

Mr. PINE. I believe it is the same—yes, at Bethune.

Senator DECONCINI. Do you know if there was ever any complaint filed against any Republicans who were challenging voters in the Bethune precinct?

Mr. PINE. I do not know. It was not my prerogative. At that time, as you know, Senator, I was a volunteer. I was not a county chairman. I did not become a State chairman until 1972. I assumed it was the responsibility of Charlie Hardy, the county chairman, or, later on, Herb Ely, the State chairman, to file complaints.

I asked Mr. Ely, in 1971, if he planned to testify at the time that Mr. Rehnquist was being nominated as Associate Justice. He said no, he was not. I felt that it was his prerogative; he should do it.

The reason I did not testify in 1971 was nobody asked me.

Senator DECONCINI. Did you talk to Charlie Hardy, then then Democratic—

Mr. PINE. I spoke to Charlie Hardy. I spoke to Charlie Hardy that day, yes, and I told him about my experience.

Senator DECONCINI. And you told him about your experience?

Mr. PINE. Yes.

Senator DECONCINI. Did he tell you that anything had happened at that precinct as a result of your complaint?

Mr. PINE. I do not recall.

Senator DECONCINI. Did he tell you that he had visited precincts with Mr. Rehnquist?

Mr. PINE. He did not tell me that. I gathered from Mr. Brosnahan's, and other comments made today, that is what occurred. I believe you brought that out earlier today.

Senator DECONCINI. He happens to concur with you, in his statement that he gave, as to what the Republican Party was up to, but he also states that he did not think Mr. Rehnquist was involved in the challenges, but was involved in the legal representation of the party.

But he leaves a scathing report as to, or statement as to what the process was, and what the intent was, similar to what you have laid out today.

Now Mr. Pine, thank you for your time, and your commitment to our democratic process. I appreciate your being here. Thank you, Mr. Chairman. I have no further questions.

The CHAIRMAN. Mr. Sydney Smith. You have a statement you would like to make?