

CHRISTOPHER SMITH. I am a registered Republican at the moment.

The CHAIRMAN. That is a little out of the ordinary, Senator. We swear in the witnesses. [Laughter.]

You strike that from the record unless he will be sworn first.

Senator KENNEDY. Yes.

The CHAIRMAN. Any other?

Senator KENNEDY. Well, then I will mention as a member of the committee that Christopher Smith was here at this table, and that it is my judgment is registered as a Republican.

The CHAIRMAN. But you are not testifying, Senator.

Senator KENNEDY. But I can say what I please.

The CHAIRMAN. Well, you can say what you please but—

Senator KENNEDY. Well, I just did. [Laughter.]

The CHAIRMAN. I will let him come up and swear him if you want to do that.

All right, we will move on.

Are there any other questions here?

Again, I repeat, that this side agreed to 4 hours today. And you have already had 8 hours. And we are going to finish this matter up today.

Senator Pena? Do you have any statement to make?

STATEMENT OF MANUEL PENA

Mr. PENA. Yes, Mr. Chairman.

I was a volunteer party worker for the Democratic Party.

The CHAIRMAN. If you could summarize your statement in about 3 minutes; then there will be questions.

Mr. PENA. I was a volunteer party worker for the Democratic Party in the general election of November 3, 1964. My assignment was to cruise south Phoenix precincts and western Maricopa County precincts. I was provided an automobile with a telephone. And what I was to do is, whenever I got a call, if a problem existed at one of the precincts, I was to go there and try to resolve it.

I was called to Butler precinct. All of this occurred in the morning of that day. I was called to Butler precinct and told to go check a problem, there was a hangup on voting.

And when I got there, there was a long line of people standing outside of the polling place, waiting to get in to vote. The line was four abreast. There had to be about 100 people waiting to get inside the polling place.

I went on into the polling place and asked the inspector what the hangup was. She told me that there was this fellow sitting at the end of the table, and he was sitting at the wrong place, was questioning everybody that came in, and slowing down the process.

We had six machines inside of that Butler precinct, and only two of them were being utilized as a result of the slowdown of voting.

I told the inspector that the proper thing to do would be to take the challenger and whoever he is challenging and move him to a corner of the building; let him ask all the questions that he wanted to; and allow the rest of the people to vote, instead of questioning the voter in line, holding up the other people from voting.

The fellow objected to this. And at that point I stepped in between him and the people who were moving into the line, and I told him, you are in the wrong place as a challenger. You should be behind the inspector, and you should only challenge if you have a good cause to challenge.

He was asking everybody who came in what their name was, where they lived, how long have they lived there, that kind of thing. I told him that was not a legal way to challenge. And he said he wanted to make a telephone call, so I took him into the principal's office—Butler is a school—and he made his call.

I do not know who he called. But after talking to somebody for a few minutes, he told me that he was told that what he was doing was correct, and that he was going to continue to do it.

And I told him that he was not going to do it because it was not the correct way to challenge. He could challenge if he wanted to if he did it in a correct manner.

At any rate, he insisted that he was going to do it again. He went back into the polling place. My job was to call back to headquarters and tell them what had occurred, and they would send somebody out to take care of the problem.

When I did that, I was given a message to go to another precinct and check another problem there. I returned to Butler precinct about 30 or 40 minutes later, and the line had diminished, people were voting. I went inside the polling place and asked the inspector what had happened.

And she said that somebody came in and had an argument with the challenger, physically removed him from the polling place, and had a conversation with him outside, and the fellow disappeared.

And so we had kind of a peaceful election after that at that polling place.

Now, later—a few years later—I saw a picture in the paper of William Rehnquist. And I recognized him from that picture as the person who was doing the challenging inside the polling booth, inside the polling place, and who was impeding the traffic of voters into the booth.

And that is how I came to know that Mr. Rehnquist was involved.

The CHAIRMAN. What year was this?

Mr. PENA. 1964.

The CHAIRMAN. 1964.

And you did not recognize him until years later, did you say, you saw a picture of him?

Mr. PENA. That is correct, yes.

The CHAIRMAN. That is all.

The distinguished Senator from Massachusetts.

Senator KENNEDY. You have no doubt in your own mind, having seen that picture a number of years ago and of pictures subsequently, about the identification of the individual that you claim to be Mr. Rehnquist?

Mr. PENA. I do not have any doubt at all. It was him. We had a close confrontation. And we had some words for at least 30 minutes, both inside the polling place and on our way to the telephone at the principal's office, in the principal's office, and after his telephone call.

So when the picture came out in the paper, I told my wife—I read the paper at breakfast, and I told my wife, this is the guy that was challenging people and holding up voting at Butler precinct in 1964.

Senator KENNEDY. As a result of those challenges, did any of the people leave the line?

Mr. PENA. I think that was the whole idea, to discourage people from voting. I did not see anybody leave, because—

Senator KENNEDY. What was the color of the people being challenged? Did you make any judgment?

Mr. PENA. The precinct at that time was about 40 percent Hispanic and perhaps 1 percent black.

Senator KENNEDY. No further questions.

The CHAIRMAN. The distinguished Senator from Maryland.

Senator MATHIAS. No questions

The CHAIRMAN. The distinguished Senator from Ohio.

Senator METZENBAUM. Are you presently a State senator?

Mr. PENA. Yes; I am.

Senator METZENBAUM. And how long have you been a State senator?

Mr. PENA. Fourteen years, and prior to that—I was 6 years in the House. It is my 20th year in the legislature.

Senator METZENBAUM. For 6 years you were a house member?

Mr. PENA. For 6 years.

Senator METZENBAUM. I am not sure I heard all of your testimony. You may have stated this.

But when you told Mr. Rehnquist that the correct way to do the matter, to raise these issues, is to take the person aside. Is that what you said?

Mr. PENA. Yes.

Senator METZENBAUM. And what did Mr. Rehnquist say to you?

Mr. PENA. He objected to that procedure. He said he had a right to stay where he was. And he had a right to question anybody that he wanted to.

And at that point, I stepped in between him and the people who were coming in to vote to stop him from asking those kinds of questions.

Senator METZENBAUM. I have a statement here, I am not sure whether it is yours. Pena was close to taking a poke at him. I do not know if that is a correct statement or not.

Mr. PENA. Well, when we went into the principal's office to make that telephone call, after making the call, we had another conversation where he told me that he had been told that he should continue doing what he was doing. And I told him that he was not going to do it.

And I do not know whether—I think probably I pushed him first, backward, saying, you are not going to do it anymore. At that point, he measured his fist at my face, and I said, OK, if that is what you want I will get somebody to take care of it.

And he went back into the polling place, and that is when I went out to make my call to headquarters.

Senator METZENBAUM. Thank you very much.

The CHAIRMAN. The distinguished Senator from Arizona.

Senator DECONCINI. Mr. Chairman.

Senator Pena, thank you for joining us and being here. Senator Pena has an outstanding career of service to the State of Arizona, State house and in the senate.

Senator, in the course of your statement that I read—and I am sorry that I had to be out for the first part of your statement here—you indicate, if I am correct, that on the phone call that you got when you were a troubleshooter driving around, and you went to the Bethune precinct and that—is that not correct? Please correct me.

Mr. PENA. Butler precinct.

Senator DECONCINI. I mean Butler precinct. When you went to Butler precinct, you encountered Mr. Rehnquist?

Mr. PENA. I did not know it was Mr. Rehnquist.

Senator DECONCINI. You did not know then, but it turned out to be Mr. Rehnquist?

Mr. PENA. Yes.

Senator DECONCINI. Were there other people there, other Republicans, challengers, or anybody else?

Mr. PENA. No.

Senator DECONCINI. He was the only one?

Mr. PENA. He was the only one inside the polling place.

Senator DECONCINI. And did you observe him—what did you observe him doing?

Mr. PENA. He was asking each person as they came in what their name was. He was doing this before the inspector had a chance to recognize the voter.

Senator DECONCINI. At the door, but before they signed in?

Mr. PENA. Well, he was sitting at a table like this, where the inspector, the judge, the clerk, and a marshal sit, and he was at the end of the table:

Senator DECONCINI. He was asking their names?

Mr. PENA. Asking their name as they came in, what is your name, where do you live. And since you can only come in in a single line, that delayed the other folks from coming in and voting.

Senator DECONCINI. You mean the fact that he asked the question and slowed it down?

Mr. PENA. Yes.

Senator DECONCINI. Now, when you confronted him, apparently you confronted him about this. And if I understand your statement, you stepped out into another room and made some phone calls, or did he do that, or what?

Mr. PENA. No; he said he wanted to make a telephone call.

Senator DECONCINI. He wanted to make a phone call?

Mr. PENA. Yes; so I said, all right, come on. he did not know the area too well. So I took him around to the principal's office, which is in another building. And there I asked the principal's secretary to allow this fellow to make a call, which she did.

Senator DECONCINI. Were you there when he made the call?

Mr. PENA. Yes; I was inside the office.

Senator DECONCINI. Who did he call?

Mr. PENA. I have no idea.

Senator DECONCINI. You do not know who he called?

Mr. PENA. No.

Senator DECONCINI. Do you think it was Republican headquarters?

Mr. PENA. I think that is obvious, but I am not sure.

Senator DECONCINI. He did not say to you.

Mr. PENA. He did not tell me who he was going to call.

Senator DECONCINI. After the call, what did he say?

Mr. PENA. He said that he was told that what he was doing is correct and that he was to continue to do it.

Senator DECONCINI. Now, that person turned out to be, in your judgment, later, Mr. Rehnquist?

Mr. PENA. Yes.

Senator DECONCINI. Based on a picture that you identified?

Mr. PENA. Yes.

Senator DECONCINI. Based on what you have heard today, that Mr. Rehnquist was the strategist or the head of this 12-man committee, according to then-Chairman Staggs, to do what they could toward the election challenges, does it make sense to you that he would call anybody when he was the lead guy to get permission to come back and tell you that, I know it is all right, or I am told it is OK to do what I am doing?

Mr. PENA. Yes, it does; because in the other precincts we encountered the same thing. They would called for reinforcements.

Senator DECONCINI. They what?

Mr. PENA. They called for reinforcements.

Senator DECONCINI. You mean for more people.

Mr. PENA. Right. And I am assuming that is what he did.

Senator DECONCINI. Oh, you think he called, not—you think he called to have more people come down and help him.

Mr. PENA. Yes.

Senator DECONCINI. Not to conclude that what he was doing was OK?

Mr. PENA. No, to help him continue to do what he was doing.

Senator DECONCINI. To help him? But he told you that what he was doing, he had checked out, and it was OK?

Mr. PENA. Yes.

Senator DECONCINI. Did you—how long did you stay there, Senator? Do you remember?

Mr. PENA. I believe that I was there approximately 30 minutes, maybe 40 minutes, trying to—

Senator DECONCINI. Did you leave before mister—this gentleman, Mr. Rehnquist?

Mr. PENA. Did I do what?

Senator DECONCINI. Did you leave before this gentleman, Mr. Rehnquist?

Mr. PENA. Yes, when I called in to headquarters and told them what the problem is, and what I thought we needed to do to clear it up, at the same time, they gave me a message that I was to go to another precinct and try to correct another problem in that area.

Senator DECONCINI. And so did you go?

Mr. PENA. I left.

Senator DECONCINI. Did you go to another precinct?

Mr. PENA. Yes.

Senator DECONCINI. Which one did you go to?

Mr. PENA. Let us see. We were at Butler's, so I think I went up to Brown precinct.

Senator DECONCINI. Brown, and what did you find there?

Mr. PENA. It was a—at Brown precinct, we had the identical thing, except that the fellow who was doing the challenging realized, or apparently believed what I said, and he quit doing what he was doing.

Senator DECONCINI. And you did not make any telephone calls from Brown?

Mr. PENA. No.

Senator DECONCINI. Did he leave, or did he just—

Mr. PENA. He stayed. I came back later on to check and see if—

Senator DECONCINI. Were there Democratic poll watchers there, too?

Mr. PENA. I was the poll-watcher—

Senator DECONCINI. For several polls?

Mr. PENA. Yes.

Senator DECONCINI. Roving around between poll-watchers?

Mr. PENA. Yes.

Senator DECONCINI. I mean between polling places.

Did you ever go to Bethune precinct?

Mr. PENA. Yes.

Senator DECONCINI. And what did you find there?

Mr. PENA. That was early in the morning, and what we had there was a slow reader.

Senator DECONCINI. A slow what?

Mr. PENA. Reader.

Senator DECONCINI. OK.

Mr. PENA. You know, the inspector gets the name and then passes the name on to a judge or a clerk.

Senator DECONCINI. Yes; I just did not hear.

Mr. PENA. And there was a hang-up before she could find the name, and so what we did is replace that reader with another—that judge, or I think it was a clerk, with another person who was a faster reader.

Senator DECONCINI. So it was moving slowly?

Mr. PENA. It was a slow-moving line, yes.

Senator DECONCINI. Was there a Republican challenger there, do you recall?

Mr. PENA. Yes, yes, there was.

Senator DECONCINI. Do you remember the name Wayne Benson at all?

Mr. PENA. No; I did not ask for names.

Senator DECONCINI. Was there any confrontation or anything other than delay or moving slowly at Bethune when you were there?

Mr. PENA. Not at Bethune, no.

Senator DECONCINI. Did you only visit Bethune once that day?

Mr. PENA. No, no. I—

Senator DECONCINI. Went back and forth?

Mr. PENA. I must have hit Bethune three or four times.

Senator DECONCINI. Just for the record, Senator Pena, what was your understanding—and I realize that is a long time ago—as a

Democratic representative, a poll-watcher or challenger—what was your understanding of what the law that a challenge could be made?

Mr. PENA. In my opinion, a legitimate challenge should be based on probable cause, on concrete evidence that that individual failed to do something; he did not live where he lived.

Let me point out to you that that year, the Republican Party sent out a mailing to every Democrat, registered Democrat, in south Phoenix. They might have done this throughout the State; I do not know. But they did that, and so if any envelopes were returned, that was their basis for a challenge.

Senator DECONCINI. That is what they primarily used?

Mr. PENA. Right.

Senator DECONCINI. Was it effective, do you remember?

Mr. PENA. It is a challenge in that manner, yes, and it was legitimate because if a person did not live where he said he was registered to vote and he had moved away from there to another precinct, then he was not eligible to vote in that precinct.

This fellow at Butler was not using the envelopes. They were there, but they were not being used.

Senator DECONCINI. And you probably already told the committee; what was he doing?

Mr. PENA. He was challenging each one that came through the line, asking what is your name, which is the responsibility of the inspector, but he was up front, the first one up there.

Senator DECONCINI. Was he next to the inspector?

Mr. PENA. At the end of the table, the inspector sitting where Charlie is sitting and—

Senator DECONCINI. And this man was sitting next to him?

Mr. PENA. Right at the end of the table.

Senator DECONCINI. Oh, right at the end?

Mr. PENA. Yes.

Senator DECONCINI. And he was asking the name instead of the inspector asking?

Mr. PENA. Yes; as they came in. What is your name?

Senator DECONCINI. Did he do something else?

Mr. PENA. Other than ask him questions in that manner and slowing down the flow—

Senator DECONCINI. Mostly delay, causing delay?

Mr. PENA. Delaying tactics.

Senator DECONCINI. Thank you, Senator Pena, very much.

The CHAIRMAN. The distinguished Senator from Alabama.

Senator HEFLIN. Senator Pena, let me try to get it straight. You were there and you saw this; you protested it. And he indicated he wanted to go to the phone; he did not know where to go. You took him and guided him to it.

Now, when did the fray occur between you? Was this after the phone call or before the phone call, where you pushed him and he balled his fist up?

Mr. PENA. After the phone call.

Senator HEFLIN. After?

Mr. PENA. Yes.

Senator HEFLIN. And that was where he came back from the phone call and told you that he had been told that it was all right to do what he was doing?

Mr. PENA. That is correct.

Senator HEFLIN. And then you—did he say he was going to continue to do it?

Mr. PENA. He did not say it. He went back to inside the polling place and continued to do it.

Senator HEFLIN. And when did you push him?

Mr. PENA. When we were inside the principal's office.

Senator HEFLIN. When he came from the phone?

Mr. PENA. Yes, after he got through with his telephone call and he told me what they had told him, and I said you are not going to do it anymore because that is not the right thing to do.

And he looked a little belligerent to me, so I pushed him back and he balled up his fist and aimed it in my face and I pushed him again and I—

Senator HEFLIN. You pushed him again?

Mr. PENA. Yes. I pushed him away from me because we were, you know, this close and—

Senator HEFLIN. Eyeball to eyeball?

Mr. PENA. Eyeball—we were eyeballing each other, yes.

Senator HEFLIN. How tall are you?

Mr. PENA. I am about six foot, maybe six-one in my shoes.

Senator HEFLIN. I had not seen you standing up.

Now, when he balled up his fist, what did you say then?

Mr. PENA. I did not say anything. I just pushed him back and then I said, if that is what you want, I will get some of that for you.

Senator HEFLIN. Now, at that time, did he have on glasses?

Mr. PENA. Yes.

Senator HEFLIN. All right. Now, did you have on glasses?

Mr. PENA. Myself?

Senator HEFLIN. Yes.

Mr. PENA. Yes, sir.

Senator HEFLIN. You both were wearing glasses.

All right, sir. Now, the picture that you—the photograph that you saw, you said you saw it a few years later. What is your best judgment as to the length of time from that incident until you saw the photograph in the newspaper? I suppose you saw it in the newspaper, was it not?

Mr. PENA. Yes; since this came up, I have been trying to pinpoint the time, more or less, and I would suspect that it must have been in 1971, although it could have been prior to that, as Mr. Rehnquist was very active with the Goldwater campaign and the Richard Kleindienst campaign. So it might have been before 1971.

This is the first time I had ever seen that picture and I recognized him immediately as the fellow who was doing the challenging at Butler.

Senator HEFLIN. Now, the incident that occurred, did it occur in 1960 or 1962?

Mr. PENA. 1964.

Senator HEFLIN. 1964; is that when this occurred?

Mr. PENA. Yes.

Senator HEFLIN. This was in the Goldwater campaign at that time?

Mr. PENA. Yes.

Senator HEFLIN. That is when the incidents occurred out at the—what is it, the Butler precinct?

Mr. PENA. The Butler precinct.

Senator HEFLIN. Now, you are not certain as to whether you saw the photograph in 1971 or when it occurred—but you said a few years. Could it have occurred in the Goldwater—it must have been, because Goldwater ran in 1964.

That would have been the same year. When you said a few years then, it would not be that one, or could it have been the Goldwater year?

Mr. PENA. I had not seen his picture before and, as I said, it could have been anywhere in between, after the election in 1964.

Senator HEFLIN. Well, you said a few years.

Mr. PENA. Yes.

Senator HEFLIN. Is it your best judgment that there was a passage of at least 1 year, 2 years, 3 years, 4 years, between the incident and the time that you said you saw the photograph?

Mr. PENA. As I indicated, I have been trying to pinpoint the date when I might have seen that picture. I cannot be specific, but I do know that the picture did appear when he was nominated to the bench, so that might have been when I saw the picture.

Senator HEFLIN. Now, was the picture that you saw in the paper, was it a mugshot—that is, a picture of him alone—or was it a picture of more than one individual in a photograph?

Mr. PENA. It was a face shot.

Senator HEFLIN. A what?

Mr. PENA. Face.

Senator HEFLIN. Face shot, a mugshot?

Mr. PENA. Yes.

Senator HEFLIN. And was that picture—did he have glasses on in that picture?

Mr. PENA. Yes.

Senator HEFLIN. I believe that is all.

The CHAIRMAN. The distinguished Senator from Utah.

Senator HATCH. Mr. Pena, I have a couple of questions for you. Did you personally know Mr. Rehnquist in 1964?

Mr. PENA. No, no.

Senator HATCH. You did not know him from the man in the moon. Is what you are saying? Is that right?

Mr. PENA. I do not know the man in the moon either.

The CHAIRMAN. Speak out so we can hear you.

Mr. PENA. Pardon?

The CHAIRMAN. Speak out so we can hear you.

Mr. PENA. I wonder if Senator Hatch would do the same because I cannot seem to hear you too well.

Senator HATCH. I am sorry. I could not hear you.

Mr. PENA. Would you speak up so I can hear what you are saying?

Senator HATCH. In 1964 did you know Mr. Rehnquist?

Mr. PENA. I did not know Rehnquist, no.

Senator HATCH. Not at all?

Mr. PENA. Not at all.

Senator HATCH. According to a recent statement that you made, your sole basis for identifying Mr. Rehnquist at that time, a man you had only met once, which you claim you met in 1964, was a picture you saw 7 years later in the newspaper. Is that correct?

Mr. PENA. Well, I did not say 7 years later. I said—

Senator HATCH. Approximately 7 years later.

Mr. PENA. All right, approximately is fine, yes.

Senator HATCH. Approximately 5 years later. I am sorry; I did not mean to misstate it.

Mr. PENA. Approximately, in between 1964 and 1971.

Senator HATCH. That is why I said 7 years.

That is all I have, Mr. Chairman.

Senator HEFLIN. Let me ask you this: Why do you pick out the year 1971 as being the latest year you would have recognized the photograph?

Mr. PENA. Well, the reason I am doing that is because as the nominee, as President Nixon's nominee, he had to have appeared not only in the newspapers, but on television. And like I said, I wish I could pinpoint the day when the picture I saw and recognized him as the fellow who was a Butler precinct—

Senator HEFLIN. But you associate seeing the photograph, whenever you saw it—do you associate that with his nomination to the Supreme Court as Associate Justice, or do you associate it with some other factor?

Mr. PENA. I associated him with the challenging at Butler School.

Senator HEFLIN. I know, but do you associate why the photograph was in the newspaper?

Mr. PENA. No.

Senator HEFLIN. You say it is 1971, and I assume that what you are doing is that you are assuming that that would have been the height of his publicity; that you would have had an opportunity to view it, and therefore that would be the latest possible date, since, that was the way that you put it, as to the—somewhere between 1964 and 1971.

But you do not associate any material fact about the photograph or what newsworthiness he had obtained to be in the newspaper?

Mr. PENA. I do not.

Senator HEFLIN. You do not.

Mr. PENA. I just remember a picture, and it looked like the fellow.

Senator HEFLIN. Were you then in politics in the State senate?

Mr. PENA. No, sir. I was elected in 1966 and began serving in 1967.

Senator HEFLIN. Well, what I am saying is that at the time that you saw a photograph, could you have been in the State senate?

Mr. PENA. No; I was elected to the house. I served in the house for 6 years, so my first election was 1966.

Senator HEFLIN. Your first election was 1966?

Mr. PENA. Yes.

Senator HEFLIN. While I am here, might I ask Dr. Smith something about those glasses? I see something about a Mr. Robert Tate talking about glasses. I did not know who it was, but someone did

present it and I read it. So it was not you, if there was any confusion on that.

The CHAIRMAN. Senator Simon, do you have any questions?

Senator SIMON. I do not. I regret I have been away at another meeting

The CHAIRMAN. I just have one question I would like to ask each one of you for the record, and we will just start with Mr. Brosnahan and go on down to Mr. Mirkin and Mr. Pine, Mr. Smith, and Mr. Pena.

What positions have you held as a Democrat, and what, also, positions have you held in the Democratic Party?

Mr. BROSNAHAN. I was a member of the town committee, which had 700 members, in Wellesley, MA, for about 2 years when I was in college.

The CHAIRMAN. Speak a little bit louder.

Mr. BROSNAHAN. Yes; I am sorry, Mr. Chairman.

I am just trying to recall because it is not—in this group, it is not a terrific political career. The only other position that I have ever held in the Democratic Party—I was some kind of—I was a precinct person in Phoenix in about 1960 and I was—this is not the Democratic Party, but if you are talking about campaigns, I have been in a lot of campaigns.

And I was, in 1960, the chairman of the Youth for Kennedy in the State of Arizona, and then I have been in other campaigns in San Francisco and California. I do not know if you want those or not, but I have participated in Presidential campaigns, usually on behalf of lawyers' groups and that kind of thing, and that is the extent of it.

The CHAIRMAN. You were assistant U.S. attorney under what administration?

Mr. BROSNAHAN. I was appointed by Robert Kennedy, effective April 10, 1961, and then I was reappointed for the San Francisco office in February 1963, and I believe that was still Robert Kennedy at that time.

The CHAIRMAN. Thank you.

Mr. Mirkin.

Mr. MIRKIN. Yes; all my positions were in Arizona. In the 1950's, I was a precinct committeeman. In the late 1950's, early 1960's, I was Young Democratic National committeeman, and in 1964 I was a delegate to the National Nominating Convention.

The CHAIRMAN. Mr Pine.

Mr. PINE. Mr. Chairman, I was active initially in the Democratic Party in my native State of Rhode Island. I was secretary of the Young Democrats. I was vice chairman of the Providence City Democratic Committee, and I was chairman of the State Committee Speakers Bureau.

I moved to Arizona 33 years ago because of my infant son's health, asthma. I could not become active in the party immediately because I was public relations director for a major bank. I was forbidden from taking a public role.

When I left the bank to establish my own business, I gradually became more and more active with the party. In 1978, I was a member of the delegation in Chicago. I became a precinct commit-

tee person in 1968; I have held that title of precinct captain ever since.

I became a district chairman in 1969, 1970, and 1971. I became chairman in 1971 of Nucleus Club, our principal fundraising arm. I became chairman of the Democratic State Party of Arizona in 1972, and I held it for 4 years and stepped down.

I am currently a member of the executive committee. Of course, as I was chairman for those 4 years, I was also a member of the Democratic National Committee. Currently, my only two political affiliations, other than the precinct committeemanship which I still hold—I am captain of my little precinct. I must hold that position in order to be eligible for the State committee.

I must be eligible for the State committee in order to be elected to the executive committee. I am on the executive committee. I also author as a labor of love a political news weekly called "Political Potpurri," in which I comment on the local, State, and sometimes national scenes, and I have several hundred private subscribers, one-third of whom are Republicans or Republican-oriented.

The CHAIRMAN. Senator Pena.

Mr. PENA. Yes, sir, as a precinct committeeman, precinct captain, district chairman, assistant county chairman, county executive board, State executive board. I was vice chairman of voter registration for the State party in 1964, and I was chairman of the Maricopa County Democratic Party's effort on voter registration in 1964.

The CHAIRMAN. Mr. Smith.

Dr. SMITH. I was elected precinct committeeman, which was a job I held for 2 years.

Senator SIMON. Mr. Chairman, may I—

The CHAIRMAN. The distinguished Senator from Illinois.

Senator SIMON. If I may just ask one question to follow up the chairman's question I would like each of you to answer. Are you here for any partisan reason, or are you here simply because, as good citizens, you are interested in justice in this country?

Mr. PINE. May I respond to that, Mr. Chairman, if that question is directed to us individually or collectively?

Senator SIMON. I would like each of you to respond.

The CHAIRMAN. If you will please make your responses very brief now, we are going to move right on to the next panel.

Mr. PINE. I understand, Mr. Chairman; you are quite correct.

Senator Simon, I am here today as a concerned citizen more than a Democrat, as a concerned citizen who questions the advisability of confirming the nomination of William Rehnquist as Chief Justice of the U.S. Supreme Court, in view of the fact that over a period of 6 years, he exerted tremendous efforts to deny people and to discourage them from exercising their most—

The CHAIRMAN. We are not going into all the evidence again.

Mr. PINE. That is the end of my response, Mr. Chairman.

The CHAIRMAN. OK, all right.

Any other questions?

Senator SIMON. If I may ask each member to respond.

Mr. BROSNAHAN. The only thing I would say, Mr. Chairman, is that the truth is this: When I became a prosecutor, and I was prosecutor for 5 years, I threw myself into it with tremendous enthusi-

asm and, during that period, prosecuted a lot of people, of whom, in Arizona, regrettably, I would guess about two-thirds were Democratic because of the registration.

And I am not here as part of any political-oriented view, but rather because, as we have gone into, I have a recollection of certain events and you have asked me to give you those. Thank you.

Mr. MIRKIN. I have not been politically active for 20 years. I am here because the committee, or members of it, asked me to come.

Mr. PENA. Yes, I am here also because I was invited to be here.

The CHAIRMAN. Mr. Smith, do you have anything to say?

Dr. SMITH. Well, yes. I am here to keep from being shamed in the eyes of my own children.

Senator DECONCINI. Mr. Chairman.

The CHAIRMAN. All right. I believe that covers—at this point now, we are ready to move on.

Senator HATCH. Senator DeConcini—

Senator DECONCINI. Mr. Chairman, I beg to indulge the chairman's patience, but let me ask Senator Pena a question

Senator Pena, it just occurred to me, based on your experience, not what you have heard here necessarily, but just based on your experience, having identified, in your judgment, that this was Mr Rehnquist that delayed the votes at Butler precinct, is that reason enough to deny him confirmation to be Chief Justice of the Supreme Court?

Mr. PENA. In my opinion, yes

Senator DECONCINI. Thank you.

Senator HEFLIN. Let me ask Mr. Pena one question.

Have you ever seen Justice Rehnquist in person and has it been pointed out to you that he is Judge Rehnquist?

Mr. PENA. No, I never have.

Senator HEFLIN. You never have seen him in person?

Mr. PENA. Other than the time that I saw him at Butler—

Senator HEFLIN. I mean since that time.

Mr. PENA. No.

Senator HEFLIN. You never have.

Senator KENNEDY. Mr. Chairman, just a one-word answer, if they feel that they can answer it.

There is one question about Mr Rehnquist's activities. I think the question is whether he personally challenged any—if you can personally state that he challenged any of the voters. I would like to just go across.

Mr. PINE. Yes, he personally challenged.

Mr. BROSNAHAN. Based on what I was told, yes.

Mr. MIRKIN. No.

Mr. PENA. Yes.

Dr. SMITH. Yes.

Senator KENNEDY. That is an issue because that is what Mr. Rehnquist's sworn testimony is, that he did not, and we have four sworn testimonies that he had, and the other affidavits, plus the other testimony of Mr. Mirkin.

No further questions.

Senator HATCH [presiding]. We will be happy to excuse the panel at this time. We appreciate your coming.

Mr. PINE. Thank you.

Senator HATCH. We will call our next witness. However we will take a 5-minute recess. We would like you Mr. Vincent Maggione, Edward Cassidy, William Turner, all three from Phoenix, AZ, and Ralph Staggs from Coronado, CA. to take your place at the witness table.

[Whereupon, a brief recess was taken.]

The CHAIRMAN. The committee will come to order.

Mr. Bush, I understand you have to leave right away. We are going to go 10-minute rounds with members of the committee.

Mr. Bush, you may proceed now.

TESTIMONY OF A PANEL CONSISTING OF JAMES BUSH, ATTORNEY, PHOENIX, AZ; VINCENT MAGGIORE, PHOENIX, AZ; FRED ROBERTSHAW, ATTORNEY, PHOENIX AZ; WILLIAM C. TURNER, PHOENIX, AZ; EDWARD CASSIDY, PHOENIX, AZ; GORDON MARSHALL, PHOENIX, AZ; RALPH STAGGS, CORONADO, CA; AND GEORGE RANDOLPH, PHOENIX, AZ.

Mr. BUSH. Thank you, Mr. Chairman. My name is James Bush. I am a resident of Phoenix, AZ. I am a practicing lawyer there.

The CHAIRMAN. If you would all stand and raise your right hand and be sworn.

Will the testimony that you give in this hearing be the truth, the whole truth and nothing but the truth, so help you God?

Mr. MAGGIORE. Yes.

Mr. BUSH. YES.

Mr. ROBERT-SHAW. Yes.

Mr. TURNER. YES.

Mr. CASSIDY. Yes.

Mr. MARSHALL. Yes.

Mr. STAGGS. Yes.

Mr. RANDOLPH. Yes.

The CHAIRMAN. Have a seat. OK. Mr. Bush, you may proceed.

And I will ask you to make your testimony as brief as you can to cover the points that you wish to convey.

Mr. BUSH. Very well, sir. As I said, I am a resident of Phoenix. I am a practicing lawyer. I have been a practicing attorney there for 32 years. I was a registered Democrat from 1943 to 1953. I have since been a registered Republican. I do not hold any office. I never have held any office in either the Democratic Party or the Republican Party.

I am a uniform laws commissioner from the State of Arizona. I was originally appointed by a Republican Governor. I have been reappointed twice by Democratic Governors.

During the 1960 and 1962 general elections in Arizona, I worked with William Rehnquist in organizing and supervising a lawyers committee to counsel and advise Republican Party officials and representatives with respect to legal questions that might arise during voting on election day.

It is my recollection that in both of those years Mr. Rehnquist acted as chairman and I was vice chairman, although I am not certain whether there was any formal title given. In any event, our functions and responsibilities essentially included the following: