

OPINION

Los Angeles Times

Lionesses of the Left Eat Judicial Nominees Alive

SUNDAY, MAY 26, 2002 M5

By SHAWN STEEL

Bush administration officials are furious and frustrated with Senate Democrats for holding hostage dozens of qualified conservative judicial candidates by refusing to allow floor votes on their nominations. Meanwhile, back in California, Sens. Diane Feinstein and Barbara Boxer, both Democrats, are squeezing the

Feinstein and Boxer are exploiting a system to block conservatives.

administration by threatening to blue-slip all the nominees, who don't meet their political agenda. Even worse, they've been allowed to do this through a deal brokered by Republicans that was supposed to smooth the way for President Bush's judicial choices.

This untenable situation can partly be blamed on someone close to Bush: attorney Gerald L. Parsky, Bush's top political operative in California.

Shortly after Bush's inauguration, Parsky, who advises Bush on presidential appointments, convinced the newly installed White House counsel's office to gamble on a system of so-called bipartisan committees to screen judicial nominations.

The idea was to come up with federal district court candidates who were acceptable to both parties and thus ensure speedy confirmation by the nearly evenly divided Senate.

Historically, in a state like California where both U.S. senators are from the opposition party, the judicial selection process falls to senior Republican members of the House delegation.

Parsky's plan usurped that precious prerogative in favor of a bizarre system of committees—half of whose members are appointed by Feinstein and Boxer. Four committees, each made up of six members, evaluate candidates for the federal bench in sessions that are closed to public scrutiny. No judicial candidate is forwarded to the White House unless four of the six members agree, but this gives Feinstein and Boxer de facto veto power over anyone the White House wants to place on the bench.

Not surprisingly, speedy confirmations remain theoretical. The bipartisan panels have proved to be an abysmal failure.

For example, shortly after announcing formation of the panels last year, Bush nominated Rep. Christopher Cox (R-Newport Beach) and Superior Court Judge Carolyn Kuhl to the 9th Circuit Court of Appeals. Boxer, unre-

strained by any sense of fairness you would think she might have—given her participation in the bipartisan panels—launched one of her trademark verbal tirades against Cox's nomination, which was withdrawn. Neither Boxer nor Feinstein has assisted Kuhl, whose nomination drifts in limbo as the wait for a hearing drags into its second year.

Feinstein has shown her true colors in two big votes involving judicial candidates from other states who didn't pass her ideological muster.

A couple of months ago, Feinstein, a member of the Senate Judiciary Committee, voted against allowing the full Senate to vote on Bush's nominee, Judge Charles Pickering. Last week, she did the same against Judge D. Brooks Smith. This is the same Feinstein who recently stated that Bush should not be free to choose his own nominees because of the narrowness of his election.

"There is no mandate, in my view, to skew the courts to the right," she was quoted as saying. "And so I think you're going to see a Judiciary Committee that's really going to be looking for mainstream judges."

"Mainstream judges" is a Democratic code phrase for traditional, big-government, anti-individual-freedom and anti-property-rights jurists. Let's face it, it is virtually guaranteed that no conservative scholars—no matter how highly qualified—can survive the Boxer-Feinstein gantlet.

The bipartisan committee process has been conducted like a modern-day Star Chamber, shrouded in secrecy. The lack of open and recorded hearings makes for great mischief. More than one judicial district judge candidate has told me of being asked to state a position on *Roe vs. Wade*. One told me he was asked about his involvement in the Catholic Church. These kinds of questions are clearly improper.

The rumblings over judicial selection are getting louder. Even Alberto Gonzalez, a close Bush advisor and White House counsel, expressed somber dissatisfaction last week with the Parsky-designed district committees.

The bipartisan committees are a half-baked idea that has served as a weapon for Boxer and Feinstein to prevent Bush from placing conservative judges on the federal bench. These two lionesses of the left have taken Parsky's naive creation and are using it to eat him—and the president's judicial appointment power—alive.

The only solution is to return to the time-honored tradition of entrusting the selection of federal judge candidates to senior federal elected members of the president's party. It is a proven system that works.

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