



November 16, 2004

The Honorable Orrin Hatch
United States Senate
Washington, DC 20510

Dear Senator,

The media have reported that Republican senators of the Judiciary Committee such as yourself are meeting with your colleague Senator Arlen Specter (R-Pennsylvania). The issue, according to reports, is Senator Specter's desire to serve as chairman of the committee in the new Congress.

As you are aware, Concerned Women for America (CWA) objects to Senator Specter becoming chairman for many reasons. In our November 4, 2004, letter to Senator Bill Frist (R-Tennessee), CWA noted that by his intemperate remarks to the press, "Sen. Specter has signaled in advance that he does not intend to conduct the Judiciary Committee in a fair and impartial manner. Therefore, *he has disqualified himself* from consideration for that position." [Emphasis added].

All Americans have an interest in Senator Specter's possible elevation to the chairmanship of your committee. Attached please find ten questions that we believe the senator ought to answer. I commend them to your attention as you meet with him today.

Thank you for your consideration.

Respectfully submitted,

Jan LaRue
Chief Counsel

Cc: Sen. Saxby Chambliss
Sen. John Cornyn
Sen. Larry Craig
Sen. Mike DeWine
Sen. Lindsey Graham
Sen. Chuck Grassley
Sen. Jon Kyl
Sen. Jeff Sessions
Sen. Bill Frist
Sen. Rick Santorum

CONCERNED WOMEN FOR AMERICA

Ten Questions Sen. Specter Ought to Answer

1. If Sen. Specter, as chairman of the Judiciary Committee, intends to help the president get his judicial nominees confirmed, why didn't he make strong statements of support instead of statements that undercut the president and gave aid and comfort to the Democrats who have filibustered ten of the president's nominees? ["We have a narrowly divided country, and that's not a traditional mandate. ... [T]he number one item on my agenda is to try to move the party to the center." Specter statement, November 3]
2. If Sen. Specter intends to support the president's nominees, is he repudiating his long-held belief that the Constitution "is a living and growing document"? If not, how can he support the president's nominees despite the fact that he completely disagrees with the president's philosophy of constitutional interpretation? If he does so, how, having compromised his credibility, can he be effective?
3. Will Sen. Specter "resist, if not refuse, to confirm Supreme Court nominees who refuse to answer questions on fundamental issues," as he states in his book, *Passion for Truth*, on page 342? How will he be able to do that when he writes: "No contests are more important than Supreme Court confirmations. That fifth vote in 5-4 decision determines who will be born (abortion), who will die (the death penalty), and numerous important questions in between." [p. 393]
4. Why did Sen. Specter, when asked by George Stephanopoulos, fail to express support for Majority Leader Bill Frist's (R-Tennessee) efforts to push for a Senate rule change with respect to only permitting filibustering of legislation and not judicial nominees? Why instead did Sen. Specter say that the Senate ought to try first the "moderate solution" of Sen. Dianne Feinstein (D-California)?
5. Sen. Specter promised President Reagan that he would support his judicial nominees, yet vigorously opposed Robert Bork. Why should anyone trust Specter when he says he will support President Bush's nominees?
6. Why is Robert Bork "outside the historical constitutional continuum" but Justice Clarence Thomas isn't?
7. Why did Specter refuse to say anything positive about Justice Thomas when Stephanopoulos asked him about the possibility of Thomas being nominated as chief justice?
8. Will Sen. Specter ask Supreme Court nominees if they believe that *Roe v. Wade* is "inviolable" precedent and ask them to commit to upholding it?
9. If Sen. Specter thinks that Robert Bork and Sen. Jeff Sessions (R-Alabama) are "extreme," what makes Frederica Massiah-Jackson "mainstream" and fit for the federal bench? [Her nomination by President Clinton was opposed by the Democratic district attorney in Pennsylvania's Northampton County, the Pennsylvania District Attorney's Association, the Law Enforcement Alliance of America, the National Association of Police Organizations and the National Fraternal Order of Police.]
10. Why does Sen. Specter express concern "for an alarming Supreme Court trend of making law instead of interpreting it" when "trampling on congressional intent," yet he disagrees with those who believe in original intent with respect to interpreting the Constitution? [*Passion for Truth*, pp. 388-89].