



Registry Matters Podcast

Episode 219

Recorded 3-26-22

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Andy 00:17

Recording live from FYP Studios, east and west. Transmitting across the internet. This is episode 219 of Registry Matters. Good evening, Larry. How are you, sir?

Larry 00:28

I'm doing awesome. It is a balmy 81 degrees here today.

Andy 00:32

I'm so jealous. It snowed up north today. And I wasn't there. I came home yesterday. But it's still like in the 60s. I would be tickled pink with 80s. That would be amazing.

Larry 00:44

Well, I want to ask you a question. Because when it hits 80, people start needing a little bit of ventilation in their homes, depending on what exposure their windows are and whatnot, and what type of insulation factors they have. And there are some folks who say that you cannot turn on your air conditioner to a particular date in the calendar. And I'm just wondering, what is your doctrine? Do you believe that you judge the air conditioning or the heat based on the temperature? Or do you base it on the calendar when you can engage those?

Andy 01:15

Just to take a teeny, little sideline story, isn't there like a women's clothing rule that you can't wear some color after such and such, regardless of what the weather is? The Navy also has, they wear their blues in the wintertime, and they wear the whites in the summertime. And it's based on a date. And if you're in New Orleans, and it is hot as you know what outside, and now you're wearing your wool blue uniform, it's miserable. So I would personally base it on if it's freaking hot inside, I'm going to turn on some temperature things. And so I'm going to base it off of that.

Larry 01:52

Well, that's always been my analysis. It's based on the temperature, not the calendar. It yesterday got warm enough that I fired up the AC. But there are people who swear you can't turn it on until at least May 1st, some people say May 15th, some say Memorial Day. Now there's a sidebar to that. In the climates where they use the evaporative cooling, which is a water based system, you can still have freezes here. At this point in the calendar, we can still have a freeze, and therefore those small copper tubes and those plastic tubes that supply the water to the evaporative cooler, those can break easily. So therefore, people don't turn on the evaporative. But if you're using what we call refrigerated air out here, which you would just call AC where you are, it doesn't matter because nothing freezes. But when they're using evaporative, which the overwhelming majority of people do here, you can freeze up your lines and they'll break.

Andy 02:49

Okay, but yeah, so if you're in Minnesota, you're turning on the heat until, I don't know, June or something. And if you're in Orlando, you're turning on the AC in February.

Larry 03:00

Absolutely. So it's based on temperature. Good we agree on something.

Andy 03:05

Yay, we agree on something. Larry, do you want to tell me what we're going to cover this evening?

Larry 03:13

Well, it's gonna be very easy tonight. We're gonna stay focused on the Supreme Court confirmation process and the fallout from that process. And we've got one submission from a person that just arrived today. So I will not have had time to review the packet. But we can read the letter and tell you that we'll look at the packet in the coming days. But there's a letter that came with a large packet that was sent.

Andy 03:40

Okay, I just saw this one. Will is in chat tonight. Hey, Will, welcome. Thank you. You haven't been here much lately. But he wrote a comment on our Patreon page. And this is related to our episode from last week talking about the confirmation hearing that had not yet begun. But he said, "Conservatives are making every effort to skitter around her nomination by engaging in sophisticated fearmongering. I have contacted my senator and voiced my support for her confirmation." You think you think that's going to do any good?

Larry 04:13

Well it's certainly a step. You'd need a lot more people to be doing that. One person is the beginning of that. But they would need to hear from hundreds and 1000s of constituents in Tennessee before it would have much of an impact. But it is the right thing to do. And I'm glad that he said conservatives rather than a political party because we are nonpartisan here at FYP. And we attack ideology, not parties.

Andy 04:41

Very good. Well, thank you for putting that on the Patreon page Will and, again, welcome. Oh, he says he's mobile, even. That means he's on the move, Larry. Is that allowed? Is he allowed to be on the move?

Larry 04:53

As long as he understands that there is tracking continuously of a PFR. There's a certain amount of level of background radiation with a normal person but it increases. They inject you with something. I'm not familiar with the term but they inject you with something on your first registration. And that way it's easier for them to pick up your movement.

Andy 05:13

Alright then, alright. You gave me this to read and I have, let's see. This is a letter that I'm going to read. So "Dear Larry and Andy. I

hope this letter finds you well. I appreciate you reading my Christmas card over the podcast. Our community here at the Midwest Joint Regional Correction Facility is growing larger every day. The Registry Matters podcast and NARSOL publications are instrumental in our group to educating and assisting one another in preparation for life after military service and prison alike. Under the Uniform Code of Military Justice, and that's UCMJ jurisdiction, we fall under Title 10 judiciary. This makes qualified immunity of staff and prison standards ripe for abuse. Furthermore, I am writing a book on UCMJ and sexual assault convictions. There were 28% unfounded sexual assault cases in appeals only a few years ago and the number has been growing over the past 10 years. All sexual assault military convictions are placed at the MWJRCF. That's here at the Midwest Joint Regional Correctional Facility. Hundreds of innocent soldiers are being imprisoned to fulfill a political agenda and quota. I would love to expand on the growing issues here with your podcast in the future if you'd like. There is an abundance of research and law review journals on the problem of UCMJ sexual assault convictions. However, nothing has changed. I read this letter to in leading our community. I was recently denied parole and granted mandatory supervised release on my minimum release date November 14th of 2022. The last few podcast episodes have revolved around MSR conditions and had been very helpful. Enclosed is a copy of my parole appeal, mandatory supervised release conditions, and MSR condition challenges. I've referenced several case law in an argument over the MSR conditions to the parole board. I've submitted the parole appeal already however, the MSR conditions are not due until April 15th. Any guidance and assistance you may provide is immensely appreciated. The Army Clemency and Review Board applies blanket cookie cutter conditions to everyone granted MSR after being denied parole. My challenges are not only for my own conditions. However, these conditions are shared by nearly everyone in our community here. Any help you may provide will be distributed to your loyal listeners and help us in our fight against the injustice while confined and thereafter. I do not pretend to be a jailhouse lawyer. And moreover, I do not have the resources to cite military law under Title 10 here in the legal library. I do not seek assistance in writing my parole packet and subsequent appeal because I was under the impression law wasn't a preliminary factor. Someone who represents himself as a client has a fool for a client. Thank you so much for your consideration and continued effort as we move forward during this strife." So thank you guys very much. And do you know how many people are there reading the transcript and so forth?

Larry 08:10

I don't know. But they have told us that they share it and that they assemble and they go through the transcript. And I would help if he would clarify parole versus MSR, cuz neither of us know much about the military system and how they work. He was denied parole, but he was granted MSR. So some clarity on that would help. And I'm going to, without making any promises, I'm going to look at the packet, and I'm gonna pass it on to an attorney that I hope will take some interest in it and see if we can get some feedback. But as he listens and reads this podcast that we're going to do tonight, it will become a lot clearer why things are not going to change much in the foreseeable future, as we go through what's happened that transpired over the previous week.

Andy 08:57

I can see that things are gonna go back pedal just a tad on anything criminal justice reform related. But in closing on this little segment, thanks guys. If you can tell us, maybe, at least some of the first names. If you can write back and tell us some of the first names and we can announce them over here. And just I appreciate you guys getting together and using this as a resource to help you all get ready for what is coming down the pike. And there is a future for you. Like Larry, legit. Just to pile on top of that is I heard from one of our patrons that he had been accepted to get a job that was paying well into the six-figure income. And I was super excited for him. It's in the IT world. It's like security related stuff. But unfortunately, they did the background check. And so that has disappeared out from underneath him, but the opportunity was there just had this stumbling block. That means other people will hire him at some point, maybe for a little bit less money. But there are opportunities for quote unquote, our people moving forward

Larry 10:00

Absolutely. And we did receive, he sent actually, this writer sent two packets. And one was sent Priority Mail, one was sent just regular mail. And they arrived simultaneously. So, Priority Mail did not gain any advantage, just FYI. So when you send us the next packet, it'll be okay to use regular mail, in most instances. Except for he knows when you do use Priority Mail, you have a confirmation of when it was actually received.

Andy 10:26

Gotcha. Well, Larry, um, let's go over to this whole thing with the nominee Judge Jackson and her nomination to the Supreme Court. And we have just a whole mountain of stuff to cover related to this. I did some research on the credentials of the different Supreme Court nominees. And you brought up something to me in the last few days when we were talking about the... and this probably only applies to the last handful because those are the ones that we certainly know about going back to like Kavanaugh, and maybe even Sonia Sotomayor and gosh, I've lost her name. The other woman that was appointed during Obama's administration, Kagan. Elena Kagan... Like their history, their work history, and you weren't aware of that Miss Jackson has served as like a DA- not a DA, excuse me- a public defender. And was it a trial judge? Is that what you had said to me?

Larry 11:26

Correct. I did not realize- I had pontificated on the last episode that that the Trump appointees were clearly qualified and they may well have been qualified, because qualifications are in the eye of Beholder as a subjective thing. Not objective. It's subjective. But she was a trial judge, which neither of the three Trump appointees had ever served as a trial judge. They were appointed for their first judgeships to be on the court of appeals of the United States. So therefore, as an appellate judge, you're reviewing the work of the trial judge, and where the facts have been established, and where the case has been developed below. And she understands the development of a case because she's actually served in that role. And that's what she's being hammered on right now is her decisions as a trial judge. There are no decisions of trial judges for the appellate judges if that's the first appointment that they're offering. So in that regard, and plus the fact that she's been a public defender, she was actually more qualified than a lot of appointments of people who had never

served as a trial judge. I'm not just picking on the Trump nominees, there's other appointments that have not served as a trial judge. But if you're going to look at strictly qualifications, she was more qualified than the previous three, and possibly before that, because I don't know if Kagan or if Sotomayor served as a trial judge, either.

Andy 12:46

I don't believe so. I remember that coming up. I can't remember if it was Kagan or Sotomayor of them essentially just being like- if I use the term theoretical lawyer. Like I mean, they just did their law degree stuff. Maybe they served corporate law, and then they got assigned to a federal judgeship somewhere, but they were not hearing cases.

Larry 13:09

Well, if you're a federal judge, if you're not an appellate judge, you do hear cases.

Andy 13:13

Okay, well, then they were on... I'm pretty sure they were on appellate level thing, and I could have this wrong. It's a lot of research to go track these things down. But she sat there hearing cases in, I think, in DC, is that correct?

Larry 13:29

Yes, she was actually a district judge. I just pulled it up. She served on the United States District Court for the Southern District of New York from 1992 to 1998. She was appointed by George H.W. Bush, who's hardly a flaming liberal. And then she was appointed to the United States Court of Appeals for the Second Circuit by Bill Clinton. And then she was appointed to the Supreme Court by President Obama. So she was qualified in that she did have trial judge experience that was justice Sotomayor.

Andy 14:04

And so, in going forward, we have a bunch of clips. We'll start off with the ones that you provided that, I guess you're going to be critical of the whole process, and maybe give us a little bit of a history lesson of where the partisanship and nastiness in this process comes from. So do you want to set up the first clip?

Larry 14:25

Well, sure, but there's a whole bunch of reading for you to do before we get to that point.

Andy 14:31

Oh, that's right. That's right. That's right. I'm sorry. I'm out of order. All right. Sorry, I thought we just dove right into clips. Right. Right. Um, so but so, going forward. So obviously the hearings for Miss Jackson started on Monday, and that has dominated everything about the news and all the nastiness that goes around it. And the Senate Judiciary Committee wrapped up several days of contentious hearings and what will happen next?

Larry 14:57

Well, what happens next is the Senate Judiciary committee will take a vote to recommend whether she be confirmed or whether she not be confirmed. And the unique circumstances that exist with the committee being evenly split means the judiciary vote could very well end in a tie.

Andy 15:14

Alright, so dig into that a little bit more. How would it end in a tie?

Larry 15:17

Well, there's the committee. A lot of folks don't understand that the committees are made up of direct ratios in proportion to the membership and the body as a whole. So the Senate, it's very easy, because it's a membership total of 100. So if you have 30 Democrats and 70 Republicans, that's a 70-30. ratio. So a committee would be divided 70% in the majority party and 30% in the minority party. So that would make it very easy if we had majority, but we have a divided Senate, which means... so the Judiciary Committee with 22 slots is 11 to 11. So that means we could end up in a tie vote with that, assuming that people vote lockstep with their parties, which is what is likely to happen in this case.

Andy 16:10

Do you think that it is... I looked at an article that showed the likelihood of which direction who will vote and they had 47 saying yes, I think it was 11 that have decidedly said no, but 47 have been left undecided. And I was like, that's a lot. Do you think they should perhaps... should they indicate, should they telegraph what they're going to do? Or should they not? Should they leave it as in, "I'm just gonna go vote with what I think is the right answer for what we're hearing."

Larry 16:43

Now, there's two votes gonna take place. The judiciary committee is going to vote, and then it's going to go to the floor afterwards. And that's where the confusion comes in. In a vote on the judiciary, since it's a tie, it's going to proceed to the floor anyway. But under normal circumstances, a tie would not go to the floor, because a move to pass something in a tie vote fails. But under this power sharing arrangement we have in the Senate right now, there's an agreement in place already that a tie vote with legislation goes to the floor. So you want to know if they should telegraph how they're going to vote. Judiciary members could telegraph how they voted after they've heard the testimony. But it would be premature for the Senate as a whole for the people that weren't on judiciary, because they haven't heard the arguments. If it goes to the floor, they're going to get to have a debate as well.

Andy 17:36

Okay, I see what you're saying. Um, we talked about this when the Senate was initially divided 50-50. Dick Durbin, I believe, is the one that's in the chair of the Judiciary Committee.

Larry 17:46

He is currently the chair. Yes.

Andy 17:49

We had talked about that you weren't sure what would happen with the divided. Is it still that he like, quote unquote, the only one and there's not co-chair because it's 11-11?

Larry 17:59

Well, even if there is, the power sharing agreement has already said that tie votes will go to the floor. So if they vote 11-11, which is a very good chance they will, they've already pre-agreed when

the power sharing arrangement was set when this tie senate took office in January 2021, that the ties would go to the floor. So we're gonna go to the floor on this. Unless she loses in the Judiciary Committee, it will go to the floor.

Andy 18:31

All right. I gotcha. And so then, like, take it one step at a time. How many senators serve in the judiciary committee again?

Larry 18:39

22.

Andy 18:41

All right, how many from each party? Well, if it's 22, it's 11. Right?

Larry 18:44

So 11-11 from each party. This is just as just a rare situation. It's happened one time in recent memory during the Bush administration. So they had to hammer out a power sharing agreement back then. And it looks as if they just restored the same rules they had back then. So tie committee votes go to the floor. But in normal circumstances, one party has more senators than the other party. And that party would also have more members on the committee. And that's because of proportional allocation of committee seats. For example, take a look at the legislatures across the country, you'll see that the Republican Party, they have significant large majorities. And if you look at the committee makeups in those same legislatures, you'll see that there's 11 Republicans and three Democrats, or whatever that ratio is. If you take a state like Wyoming, where Democrats virtually don't exist in Wyoming. You would see that there are very few Democrats assigned to committees. First of all, they don't exist in the legislature. But even if they did, they don't deserve a ratio greater than what their membership is. And if you flip that in California, you'll see the same thing. In a heavily Democratic state, you'll see that the committees in that legislature are largely made up of Democrats, because that's the ratio that they have in that membership.

Andy 19:58

Okay. I couldn't see how you would end up with a tie if somebody had 70-30. But obviously people can vote yes or no. And you can end up with a tie. And so you're saying a tie doesn't move forward, but because of the 50-50 split, a tie does move forward.

Larry 20:13

In this particular instance. If you had a normal situation, a tie would not move forward.

Andy 20:19

Only because it's a Supreme Court nominee?

Larry 20:22

Well, no, because of the power sharing arrangement. (Andy: I gotcha. Okay. Okay.) We've got extraordinary circumstances. In normal circumstances, motions on tie votes, Robert's Rules of Order generally die because there's not enough to move it forward. Now, the body as a whole can demand that they want something to be blasted out of the committee if it doesn't get a do pass recommendation, and they can move it out of the committee despite the do pass recommendation. But that is so rare that that

doesn't happen very often. But the body as a whole can say we want to take a look at this, and we're gonna spring it from Committee. What it's called is we're going to rescind the assignment to the committee. We can bring it directly to the floor.

Andy 20:58

I see. And then obviously, Kamala Harris, the vice president votes in if there is a tie when it goes to the floor?

Larry 21:07

That would be correct. But let's hope it doesn't get to that. That's not necessary. In my opinion, it would be a tragedy if not a single Republican supports the confirmation of Judge Jackson. It would be truly tragic after 240 years of never having a black female dominated. And the only thing that they've got her on is her sentencing practices, and that she couldn't explain what a woman was, which was a totally inappropriate question. But that's all they can come up with. It would be so tragic, if not a single Republican can find it within their selves to vote for her.

Andy 21:44

I found some interesting articles on National Review on them questioning her answers to some of the questions, specifically the one about a woman and then asking about when is conception? And when is it a life? And all that stuff. I knew where they were going from that publication. And so their comments were very interesting. Do you think going forward that she will be confirmed?

Larry 22:09

I absolutely think she'll be confirmed. I'm hoping that she'll be confirmed without the necessity of the Vice President to break the vote. The tie, they will allege that that makes her illegitimate if that happens. And that will be a part of their talking points if that should happen. It didn't happen with all the controversy with Judge Kavanaugh. It was not a tie vote. It wasn't necessary to go that extreme. I hope it doesn't happen. But if it does happen, she will be still sworn in as a Supreme Court justice. There's nothing that's going to stop that from happening in terms of what happened over the previous week. So I think she'll be sitting on the Supreme Court very shortly. Probably shortly after Easter, sometime in April.

Andy 22:52

I'm thinking back to when someone like RBG, just in my memory, she was confirmed with like 97 votes, something along those lines. And somewhere around Kavanaugh and Barrett, we're talking like barely in the 50s were the number of votes. It was essentially all one party voted yes. The whole other party voted no.

Larry 23:16

Yes. And we're gonna get into that quite a bit tonight on how that started once we get through all this small talk that we're going through.

Andy 23:24

All right. And you people wanted to talk about how the confirmation process became so politicized. Let's examine the confirmation of Supreme Court justices in modern times. When I say modern times, Larry, I know you can't really relate to that term

since you served in the Lincoln administration, and you're like 170 years old. What is that number?

Larry 23:41
177.

Andy 23:44
177. I'm thinking beginning in the 70s, which goes back about 50 years. And when did that process change do you think?

Larry 23:51
Well, it's great question. In my recollection, the biggest change occurred in 1987 when President Reagan nominated Robert Bork, and Judge Bork was sitting on the Court of Appeals for the DC Circuit. And his nomination was very controversial, even though he was eminently qualified to be confirmed. He had not only served on that position, he had been the Solicitor General, which was the number three position in the Department of Justice. We only have to go back 12 years prior to that incident in '87 with the nomination Robert Bork when we go back 12 years to demonstrate how the process worked in the good old days. President Gerald Ford nominated an unknown person named John Paul Stevens to replace a very liberal Justice named William O. Douglas. And Stevens was confirmed by a vote of 98 to zero and was seated on the court on December 17th, 1975, which was less than one year before the presidential election of 1976. The Democrat Party had huge majorities in both houses of Congress at the time, which only the Senate matters. But in fact, they held 61 of the 100 seats in the Senate. This means there was nothing the Republicans could have done had the Democrat Party decided that an unelected president should not be making nominations to the Supreme Court. The funny thing is, I don't even recall anyone even making such a suggestion or even a hint of that, that the President should not be appointing someone to Supreme Court. So 12 years before the Bork fiasco, they were confirming a judge to replace a liberal judge being appointed by a moderate to conservative Republican with a 61 seat majority, and they confirmed him 98 to nothing. So we don't have to look too far back in modern times to see when it was not that way.

Andy 25:42
All right, and I want to play a clip no. This will be clip 1. Judge Bork's appointment was voted down by the Senate, President Reagan addressed the nation prior to the vote and quoted from Judge Bork here. What do you want to say about that?

Larry 25:55
Well, I want to make it clear that the process went off the rails, in my opinion, in '87. Subsequent to Judge Bork, we have had some confirmations that have gone smoother than others. Unfortunately, too many have been politicized. I agree with what Judge Bork said that this is dangerous. So let's listen to the quote from Judge Bork.

Andy 26:13
Alright, so this is clip number 1.

Clip 1 26:19
Unfortunately, the confirmation process became an ugly spectacle, marred by distortions and innuendos and casting aside the normal rules of decency and honesty. As Judge Bork said last

Friday, and I quote, "The process of confirming justices for our nation's highest court has been transformed in a way that should not and indeed, must not be permitted to occur again. The tactics and techniques of national political campaigns have been unleashed on the process of confirming judges. That is not simply disturbing, it is dangerous. Federal judges are not appointed to decide cases according to the latest opinion polls. They are appointed to decide cases impartially, according to law. But when judicial nominees are assessed and treated like political candidates, the effect will be to chill the climate in which judicial deliberations take place, to erode public confidence in the impartiality of courts, and to endanger the independence of the judiciary." End of quote.

Andy 27:29
Sorry, my screen crapped out for a minute Larry.

Larry 27:33
I agree with what President Reagan said. So in 12 short years, we went from a collegial process of respect for the fact that the President makes appointments, and if they're qualified, they are put on the court, to running through a political analysis. And it didn't take long for us to see what's been happening. But then we've got another clip from a senator I think it was John or James McClurke But the next is from the conservative side of the aisle regarding what happened to Judge Bork.

Clip 2 28:06
There are members of this body who are desperate, absolutely desperate to keep from the American people the real story of what has happened here, just as the real record of Robert Bork has been kept from the American people. If our constituents only knew. If they only knew how few of us took the time to look at the record before leaping to opposition, if they only knew how some of us walked onto this floor and parroted the very same distortions and lies that was exploded as false during the hearings and before and after the hearings. If they only knew how cowardly the submission to interest group pressure has been. If they only knew how all the contrived excuses and rationalizations have been used to explain negative votes. If they knew, I think a lot of us wouldn't be here after the next election. So it's vital to keep up the front. The opponents of Judge Bork have to stick by their guns and stick together. There is safety in numbers. Wolves know it. And interest groups know it. And senators apparently know it.

Andy 29:15
Do you think that this whole superduper partisan world we live in originated probably even before that, but like you're pointing at something in the 70s or early 80s where this started going down? Do you think it's all the way back that far?

Larry 29:32
I do. I think what happened, we were, in the 70s, we were still in the era of the Warren Court. Even though Chief Justice Warren was no longer there. We had a different Warren. We had Chief Justice Warren Burger versus Chief Justice Earl Warren. And the appointees of President Nixon had turned out after a couple of rejections early in his term, in first term. He had two appointees / nominations turned down and it was based on qualifications. I don't recollect anything political about them. They just weren't of the caliber that would be suitable for Supreme Court

appointments. But I think after the court began to be perceived as endangering the '73 decision in Roe versus Wade, there was a lot of fear of that right being removed by the court. And Reagan had been making appointments. He had pointed Justice O'Connor. He had appointed Justice Scalia. And he was now on his way to another appointment. He ended up having to appoint Anthony Kennedy for that seat, but he was on his way to a third appointment. The fear was, from the progressive side, that they were going to lose that decision. That it was going to be overturned. So when you have nothing else left in your ammunition, you have to go for something. And they cannot win the abortion debate in the Congress. They cannot muster the votes to pass a statute. So that right is interpreted in Roe vs. Wade hangs on a ruling from 1973 when the court was much more liberal. And that's where the politicization started, because if you can't win it in public opinion, you've got to try to win it in courts. And if you can't win it in courts, you've got to try to make sure that the people that you think want to do that ruling, never make it to the court. And that's what was going on here with Bork. He had made pronouncements that that there was no such right in the Constitution, that that was an invented right. And therefore, he could not serve on the Supreme Court.

Andy 31:43

I see. I'm assuming he was eminently qualified as the all the other ones have been?

Larry 31:49

In my estimation, I think he was qualified. And people say, well, Larry, you don't understand, we should try to get the best qualified. Yhere's no way to determine the best qualified person, because there are hundreds, if not 1000s, of people who are qualified to sit on the Supreme Court. And it's a subjective determination of the most qualified. So therefore, you have to discern, if you're in the Senate reviewing them, are they qualified? You don't get to determine who's the best qualified. The American people bestowed that honor to the President. Your job is to determine if they are qualified, in my opinion. Not if they're the best qualified. You run for president if you want to get to decide who the best qualified person is.

Andy 32:30

I got you there. If we were to compare this to- I use this analogy fairly regularly, that forgive me for not knowing how many football teams there are. It's either 30 or 32, I think. (Larry: 32.) So you can objectively determine the best quarterback just by running numbers. And then you could try and see if they fit in with the team, culture, etc. But it's not terribly difficult to look at the guy who can make the most completed passes and see who would be the best guy for the team. But we have eight-bajillion judges that you could potentially appoint. And then like, how do you make sure that this one is more qualified than that one? Or that one? You have a gajillion to choose from. So pick the most qualified, I don't know that you could get there? All you could say is, are they qualified? Does this person meet the credentials that you would want to sit in this position?

Larry 33:25

Correct. That's my point. You can never get the most qualified person. Because that's all very subjective. And I think even what the quarterback, you know, the completion rate has a direct

relationship to the offensive line, to the protection of the quarterback, how much time the quarterback gets to make the pass. Accuracy is one thing, but also protection is another part of it. How fast the receiver runs, how well they can get in position to receive the pass. So it's not just about the quarterback. I mean, it's a team effort.

Andy 33:53

I didn't realize you were such a sportafile, Larry.

Larry 33:56

So we've got another clip coming up from my very little known senator who was the chair of the Senate Judiciary Committee at the time, and he went off on a rant. And I'll let you unpack the rant after you play the clip.

Andy 34:13

Very well. Here we go with the third clip.

Clip 3 Senator Judiciary Chair (Now President) Joe Biden 3 34:17
40 million people watched him. He spoke. I time and again raised the gavel and said, "Are you certain judge? You've had enough time to respond to the questions." And when it was all over? I said to Judge Bork, "now Judge Bork, do you think you got a fair hearing? He said, 'Yes.' Anything else you want to say? Judge Bork? 'No.' Anything at all you want to clarify? 'No.'" Then the public opinion polls were taken and then the American people said Judge Bork should not be in the court. That should not in any way direct us here how we should vote. I don't care of all the American people say he shouldn't be on the court. If I thought he should be, I would vote for him on the court and vice versa. That's my responsibility, my sworn responsibility.

Andy 35:21

So that's from 1987. And there is our current president going on a rant in the Senate.

Larry 35:28

Yes. And that rant was so totally disingenuous. I mean, that's the nice way to put it. He said he would have voted for Judge Bork, even if all the American people were against him. Really? I don't think so. That's the whole reason this big... That's the reason why they created the brouhaha was to put pressure to vote against Bork. That's the reason why they made issue of his pronouncements on abortion. That's the reason why they brought the Saturday Night Massacre, which I may have to remind people what that was about. But that's the very reason why all this stuff came out. And Nina Totenberg- no, she was not the one who did anything with Bork. She did it with Thomas. But that's the reason why they whipped up so much public opinion was so that senators would feel the heat not to confirm judge Bork. But I think that rant was disingenuous. And there may be a little bit of chickens coming home to roost now. There are people alive that haven't forgotten about that. You know, this was the chair of the Judiciary Committee. And there's a term that that that's used now. He was "Borked." In any Supreme Court nominee that has had trouble confirmation-wise, there's a term. Is that nominee going to be "Borked?"

Andy 36:40

I think that's just in the general vernacular, like, don't Bork that up.

Larry 36:44

So but yeah, that's I don't believe that the President was truthful at that time when he was Senate Judiciary chair was saying he would vote for him if all the American people were against him. And I, to this very day, don't know why. Well, I do know why. But I don't know that it was justified. I know exactly why they did it. What I just explained about overturning Roe versus Wade. There was the fear that that would tip the balance of power on the court. And that's how we ended up with Judge Justice Kennedy.

Andy 37:12

And to respond to your statement about disingenuous. Brian Louisiana in chat says, "A politician, disingenuous?? Where's my shocked face."

Larry 37:22

So, well at FYP we call out disingenuous from all sides of the aisle. And we're going to be calling out the other side as we progress through this, but I just wanted to set it up that this is not something that started by the conservatives. It just didn't. They have really perfected the art, but it didn't start there.

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Andy 38:28

Why is it fair to say that the equal side, not the opposing side, that they would then just lob generally speaking the softball kinds of questions? Thank you for coming. What color do you wear to your mom's birthday kind of things. And the opposing team would always ask challenging questions that would then bring up controversy. Is that fair?

Larry 38:59

In current day. In yesteryear, they didn't do that. It was softball questions, mostly from the minority party as well. It's one of the perks of being President is you get to nominate people to the court. The American people spoke when they elected the president. People forget that. It is with advice and consent. But the norm standard was if the person was qualified, they would be confirmed. There was a slight deviation in '68 when the Chief Justice announced his retirement when Earl Warren announced his retirement. There were a lot of conservatives. And believe it or not, folks, listen carefully. Those conservatives were in the south and they were Democrats. They did not want any more of the Warren Court. It had been too liberal. It had done too much for suspects, the rights of the accused, and they were fed up with the Warren Court. And LBJ, Lyndon Baines Johnson, wanted to appoint and elevate a sitting judge to be the Chief Justice. And the Southern Democrats, being conservatives at that time, blocked that. But that opening didn't come till June of '68 and election was coming on in November. So I think I'm right on the on the

sequence. It was summer of '68. And they did not allow him to be confirmed. That's how we ended up with Nixon appointing Chief Justice Warren Burger. But prior to that, it was pretty collegial. The processes were very collegial.

Andy 40:25

Sure. And the reason why I asked that is because I didn't hear any reporting of any Cory Booker, anybody asking judge Jackson anything that had any level of controversy to it. So all I ended up with was finding them throwing snowballs at her from the right, asking her questions, particularly. And it really totally resonates with our issue of talking about these handful of child porn cases that she sat as a judge on, which then they have record to go after her and how she ruled on these different cases. So I have five or six clips, and then we'll return to one of yours that goes along with mine. But so here's my first clip from Senator Josh Hawley. He's from Missouri. Is that right, Larry?

Andy 41:13

(Larry: Yes.) Okay. So here's the first one.

Clip 4 Senator Josh Hawley 41:16

I've got a nine-year-old, a seven year old, and a 16 month old at home, and I live in fear that they will be exposed to, let alone exploited, in this kind of material. I don't understand you saying to him, that "there appears." And that therefore, you are viewing sex acts between children who are not much younger than you. And that that's, that's somehow a reason to only give him three months. Help me understand this.

Andy 41:45

One of my main reasons for bringing that one into the fold is because just the term fear, because he has three minor children. And I'm not in denial that there aren't bad people out there that you should be fearful of. But the idea that he is living in fear, is that posturing? Is that grandstanding? Is that just fueling the fear wagon train that we're going on? And I just didn't find the comment, him bringing that whole thing up with that particular case, I didn't find it to be tasteful.

Larry 42:22

Well, as I said last week on the episode, at some point, folks are misunderstanding what's going on here. There is an election in November where 1/3 of the United States Senate is up for reelection. And I'm guessing, and I think I'm gonna be a pretty good guesser, that Mitch McConnell would like to be majority leader again. Would you tend to agree with that? He would like to have the majority party status again.

Andy 42:48

Listen, so of all the people that I don't want to have power, he is the one that I don't want to have power.

Larry 42:52

But whether his caucus, as it's called... but whether they elect him majority leader to lead their caucus, that party would prefer, rather than having 50-50 tie, they would rather have the majority. Would you agree with that?

Andy 43:07

Oh, totally, totally, totally. Of course. The power- the team that is in power wants to keep it and the team that doesn't have power wants it. It's totally just all the way true.

Larry 43:15

Okay, so this, if people would stop focusing on... They want to submit reams of data. I saw this on the listserv of all these people saying, we need to send them data. They don't need any data. This is not about any of the stuff that you're thinking it's about. It's about moving the 50/50 division to 54/46, 55/45. Something that puts the Rs back in charge. So they have done their focus groups. They have done what political parties do. The Democratic Party does the same thing to figure out how they can sway voters. The Republicans struggled a lot in suburbia in the 2020 election cycle. A lot of people in the suburban communities around the country voted. They felt confident, comfortable and confident enough to vote democratic. Look at Georgia, you had a special election. And you sent two Democrats to the US Senate. One of those seats is going to be yanked away from you in the fall with Herschel Walker in all likelihood. It's gonna switch. But this is all about moving the majority status back to the Republicans. They are using the tactic that always works. If you scare people about their safety, their family's safety, particularly their children's safety, and you say this is the type of Judge you're going to get with this type of administration, that is only designed to move voters in the swing areas, which is suburban voters, back to the Republican side of the aisle. That's what this is about. Throw your data in the trash. Because it'll do you no good. This is what they're doing. They're using this tactic and the only communication they need to hear from you is, "I find this tactic revolting." That's what they need to hear from you. Okay, go ahead.

Andy 45:06

All right, continuing along.

Clip 5 45:11

You also said to this individual who is an adult- tried as an adult, 18 years old- you also said to him, besides saying that you thought his victims were his peers, you also said, there's no reason to think that you are a pedophile. And then you went on to say, again, that's another reason why you weren't going to give him, you're only going to give them three months because you judged that he wasn't a pedophile.

Andy 45:37

So neither you or I are clinically able to label someone as a pedophile. But as I understand it, this is someone that is attracted to prepubescent kids, I guess, would be the term. And so this guy is 18 years old. The specific case that he is picking on is about an 18 year old, who, like a day ago, or you know, whenever it was, was 17, therefore not an adult, and I just, I have a really bad problem with the idea that just all of a sudden you cross this threshold, and everything about you is supposed to be different. He's still in high school with sophomores and freshmen, and they are much younger than him. And kids start swapping pictures in school, now you are distributing child porn, or you at least are in possession of it. And I just find that whole thing just to be so weird that all of a sudden, you're 18. And everything about your life is supposed to be squared away, and you're of this legal age.

Larry 46:37

Well, unfortunately, that's where we have drawn the line as a society. (Andy: Sure. Sure. Sure. Sure.) There are there are movements around the country to raise that age. I think Connecticut, I think, we've heard they advocate about raising the age to 26, or something like that in that vicinity. But you are magically transformed at that age in most states. In many states, even before that age. So, in the federal system, at least they hold off till you're 18 before you're considered an adult. They don't get to do the game the states do. They're states who put people in adult court at very young ages. I find it repugnant, but it happens all over the United States.

Andy 47:13

And a question that I have for you from this particular clip is that with the separation of powers that we do have, and I think we're only talking about legislative and judicial pretty much here, legislators write the law that the people they represent want. Why would we want to tie the hands and take away the power from lawmakers in the view of having a judge that knows all the details of the individual being sentenced? Why do we have laws written that have things like mandatory minimums, where the judge cannot use any discretion in the case?

Larry 47:41

You'd have to go back to the Reagan administration where that debate occurred. When they came out with sentencing guidelines, there had been a study of judicial sentencing practices. The United States federal system is a vast apparatus. At that time, it contained about 20,000 prisoners where that level had been roughly 20,000 for 40 years. From 1940 to 1980, there had been roughly 18,000 to 22,000 federal prisoners. But within that number, there was an analysis done, and there was such broad, broad disparities. And it tended to be that the more conservative the state was, even though these are federal courts, they tended to sentence for more leniently. A bank robber in San Francisco, for example, would get a more lenient sentence than a bank robbery in Alabama. So when we were in the throes of the higher crime rates in the early 80s, there was a sentencing reform effort that was called the sentencing reform act of 1984. And we took away that discretion. We put the guidelines in place. When I saw "we", we the people that existed back then, we enacted that through our elected officials. They ran on platforms to be tougher on crime, and they won. And we have those sentencing guidelines. Ultimately, in a case, US versus Booker, I believe it was, the sentencing guidelines were ruled unconstitutional. They're only advisory. The courts are not bound to follow them. And, but that's something that we the people imposed on the judges. So you'd have to ask We the People why We the People do not want discretion, but yet when We the People have one of our own in front of a judge than We the People get angry because the judge doesn't have any discretion. Would you like to explain that one to me?

Andy 49:22

Man, that's way beyond my paygrade. I'm with you though. Um, so I'm just struggling with this. I mean, I guess the whole thing is that they are on camera, and they get to- someone told me that the word would be posture. They get to throw their issue out there, and essentially not give Miss Jackson the opportunity really to respond. They get to throw all these darts and tomatoes and make her look terrible because she supports these terribly heinous

people. And it's just it's just a really bizarre process the way this is playing out. (Larry: Sure.) This is next clip I have going along with the same theme. I think this is clip 6.

Clip 6 50:05

You said to him, "This is a truly difficult situation. I appreciate that your family's in the audience. I feel so sorry for them. And for you. And for the anguish this has caused all of you. I feel terrible about the collateral consequences of this conviction." And then you go on to say sex offenders are truly shunned in our society.

Andy 50:31

So, Larry, in your position of working closely with different legislators about town, do they know or not know the collateral consequences? Sure, you go off to prison, you do your thing. And then you have some kind of supervision requirements afterwards. But do they really actually know about all of the garbage, the baggage that comes along with the registry stuff?

Larry 50:53

Not all of it. They know that the registry is pretty bad. They know that they hear a lot of complaints about it, but they truly don't understand all the nuances. You'd have to have a family member or a loved one on it to really understand it. They truly don't grasp everything. This judge gets it. You would think that that would be the kind of judge we would want on the court from our side. But interestingly enough, I hear a lot of our people that say that they're for reform, that they are against this judge. I find that a little bit puzzling to say the least.

Andy 51:24

Really? There are people in our ranks that say they are not for her?

Larry 51:28

Yes, they say that because she's a token. You know what that means? (Andy: I do.) That they find it disgusting that this token appointment is being made.

Andy 51:39

I know who you're talking about now.

Larry 51:41

Yeah. Yes. So I said, well, you know, after 240 years, and 115, or whatever it is, appointments to the court, you're appalled? Were you appalled when President Reagan in the in the final month or so off the 1980 campaign when he announced he would appoint the first woman if he won the election. The polls were not as lopsided as the election ended up being in 1980. And he was struggling because he was viewed out of the mainstream of what was the traditional Republican Party in those days. And he proclaimed, if elected, he would appoint the first woman. I said, did you find that appalling? And they said, Well, I didn't know about it. I said, well, you know about it now. Do you find it appalling now? And they say no, that's different. And I say, that excluded, by today's standards, at least 50% of the eligible candidates. But back in 1980, there would have been fewer women in the law, fewer women to pick from. So that excluded maybe 75% of the candidates that could have been considered if you look at the women that would have been available in 1980. So you didn't find that appalling? I find that very confusing. You did

not find it appalling when President George H. W. Bush, when Thurgood Marshall stepped down, when he said he was going to strive to appoint another black? Were you appalled by that? And they said no, I wasn't. I said, Wait a minute, wait a minute. It's okay to strive to appoint a black, just not a black woman. Do I have that correct. And apparently that is the way that this person looks at it.

Andy 53:21

Very strange, all right. Uh huh. We will continue.

Larry 53:28

Let's do it. So what do you got for us?

Clip 7 53:30

It reminds me, it echoes what you said as early as law school on that Harvard Law Review article Senator Blumenthal was just talking about. There you say, and I'm quoting you now, "in the current climate of fear, hatred and revenge associated with the release of convicted Sex Criminals, courts must be especially attentive to legislative enactment."

Andy 53:52

I wrote that our society is so soundbite driven that these clips of these lawmakers, their tone is so seething to speak to their constituents as if it's a wink to show their constituents where they stand on an issue. What do you think that we could do to change this in the future, though?

Larry 54:10

It would require us communicating with our lawmakers, which I do regularly. I think I'm kind of an anomaly. But when I find something that my representative or Senator does to be repugnant, I let them know that. Matter of fact, I'm going to be meeting with a candidate tomorrow. We're going to be doing some door knocking, as far as this goes. I do the driving, she does the knocking. But when I have a philosophical disagreement, I let the candidate or the office holder know and it would require a repudiation from the American people. I don't know that the American people are capable of that repudiation, but it's kind of like when same sex marriage was taboo. It was only when they started hearing from their constituents that these people do not have cooties, they're not mentally unstable, they're not anti-patriotic, all the different things. Remember, there was a time when homosexuality was supposed to be a national security threat because... (Andy: I don't remember that one.) Oh, yes, yes. Yes. Being inclined to the same sex was supposed to be a detriment to national security because you could be blackmailed easier than a person who was a happily married heterosexual that was having an affair on his or her wife or husband. So, but it was only when people, particularly on the conservative side of this particular issue of same sex marriage, it was only when they started saying, Senator / representative, my son is LGBTQ. And I find your stance to be repugnant on that issue. Magically, their stance changed. And the same magic would occur again. But I don't see that uprising happening. I think the American people have been very pleased by this. It has frightened them dramatically. And I think that we're not going to see that kind of pushback. I think we're going to get vindication at the polls in November for this keep going.

Andy 56:17

Alright, this will be clip number eight.

Clip 8 56:19

My, as I've said over and over, part of my concern with Judge Jackson is that she has not followed the prosecutors sentences. She didn't in the Hawkins case we were just talking about or the guidelines. And I'm happy to have a policy debate about whether or not the guidelines are too lenient. I would argue in this era of exploding child pornography, they're not too lenient at all. I think you were right the first time when you voted in 2003, to make...

Andy 56:43

A couple points that I wanted to make about his comment there. He was responding to the chair, asking Miss Jackson a few questions and then pointing out some things. But so my question to you first of all, is, should judges be allowed to use all of the information available to them in a case to sentence an individual appropriately?

Larry 57:04

That is exactly how the process is intended to work. I find it very troubling that a senator would say she didn't take the prosecutors recommendation. Hello? That's not the way it's supposed to work.

Andy 57:18

Then everybody would end up with whatever the maximum is, because the DA is probably almost always going to seek maximum. Probably. Maybe not always.

Larry 57:30

Well, the prosecution has their own agenda. And that's why we have the defense side of the equation. So the prosecution gets to write their sentencing memo, and they get to make their arguments about how they think this crime has impacted the community and what justice would mean. But you people in Missouri, if you truly are for reform as you say you are, and we have a huge audience over there, then you would be shocked by this comment by your Senator, because he has telegraphed to you unequivocally that only the prosecution's arguments matter. He said that. That was him saying it. Not us.

Andy 58:10

She pushed back repeatedly saying that I also had information from the probation office and other things that she was considering, along with family and other things to work with it. But only in the cases where she was allowed to have the discretion. So there were cases where she had to do mandatory minimums, and she always did. She executed those, but when she was given the discretion- the term is downward departure, I think.

Larry 58:35

That's correct. But we get to write a sentencing memo as well. We get to look for mitigation. We try to humanize our clients when we argue in sentencing factors, and we are arguing for what we think Justice would look like. The victim gets to be heard from. They get to make their impact statements. The probation office does their own analysis, they apply the guidelines of the US sentencing guidelines. They go through that computerized analysis of how many points are awarded for this and how many points are reduced for that, and the arguments are made. This is the process

Senator Hawley. Obviously, you don't understand the process. And of course, you understand the process quite well. What you're doing is you're placating a constituency that supports that and you're trying to move the dial more in your favor so that people like you even more. But again, you need to register resentment. You Missourians need to say, That's not who we are, Senator. We don't believe that everybody should get whatever the prosecution recommends.

Andy 59:34

The other piece of that particular clip that I wanted- and I didn't get a chance to do much research into it- I have heard and I'd have to go verify specifically, I saw like a 2016 USA Today article that like 50% of the minor image websites that exist are run by our government. So if you end up with a child that ends up with those images, there is a fairly decent chance that that kid got it from a site that is run by our government trying to entrap people into having those images. That maybe they would not have stumbled upon them if our government didn't house images to be distributed out to the population.

Larry 1:00:15

I'm gonna dodge that one like a politician because I don't have the proof on that. I've heard that a number of times, but I don't have the proof. So I try to stay out of stuff that I don't know.

Andy 1:00:26

I'm with you. But if that's the case, that is infuriating. That goes right along with the CAGE folks that we had Kathleen on several episodes go to talking about the kids that are entrapped into those situations. All right, so then I did get one clip from Senator Ted Cruz of Texas. And then we have one more after that. And then we'll go back to your clips.

Senator Ted Cruz Clip 9 1:00:52

I would note in the state of Texas, a state court of appeals relying on very much the same sort of reasoning you advocated in your note, struck down Texas' sexually violent predator civil commitment law. At the time, I was the Solicitor General of Texas, I personally argued that appeal in the Texas Supreme Court, and the Texas Supreme Court unanimously reversed the Court of Appeals.

Andy 1:01:16

So he's talking here about the civil commitment issues, and he is raising more of this fear mongering stuff about 6,500 civilly committed individuals. Do you think Americans would care, Larry, if doctors were to independently evaluate these individuals to determine their threat level if they were then released? So if you get a normal doctor person that's not part of a political process, or the sex offender industrial complex, to go out and evaluate all of these people, and they say, yes, no, maybe a threat? Do you think the population would care?

Larry 1:01:47

I don't think so. You didn't hear an uproar when John Hinckley was released. But that wasn't the bigger point in that article. The bigger point of that is that you folks in Texas that are so proud that when you reelected Cruz back in 2020, remember, you did it. You did it in 2020. You had a choice. You chose Cruz. This man just told you, from his own lips that there would not be PFR specific civil

commitment in Texas but for the fact that he appealed the lower court's determination that it was unconstitutional, and that he personally argued it before the Texas Supreme Court. So he got the favorable decision of the Court of Appeals overturned. This is the guy that YOU sent to the Senate. And you say that you want reform, but yet YOU voted for this guy.

Andy 1:02:43

Simmer down, Larry. Calm down.

Larry 1:02:45

But I'm tired of people, I'm tired of people claiming they're reformers, and yet they vote for the people that do these horrible things to them. And they're shocked that they get this outcome.

Andy 1:02:57

All right, final clip. And we're getting kind of long on the time, too. All right, final clip.

Senator Graham Clip 10 1:03:02

Now, didn't you also say that the number of images should not be considered as a sentence enhancement?

Judge Jackson 1:03:10

Senator, with respect to the computer, one of the most effective deterrence is one that I imposed in every case, and that judges across the country imposed in every case, which is substantial, substantial supervision.

Senator Graham 1:03:27

You think it is a bigger deterrent to take somebody who is on a computer, looking at sexual images of children in the most disgusting way, is to supervise their computer habit versus putting them in jail?

Judge Jackson 1:03:42

No, Senator, I didn't say versus.

Senator Graham 1:03:43

That's exactly what you said. I think the best way to deter people from getting on a computer and viewing 1000s and hundreds and overtime, maybe millions, the population as a whole, of children being exploited and abused every time somebody clicks on is to put their ass in jail, not supervise their computer usage.

Judge Jackson 1:04:07

Senator I wasn't talking about versus.

Senator Graham 1:04:12

You just said you thought it was a deterrent to supervise them. I don't think is a deterrent. I think the deterrent is putting them in jail. So to have a deterrent component.

Senator, would you let her respond?

Yes.

Andy 1:04:23

Larry, did he let her respond after that?

Larry 1:04:25

He did not. That was not relevant to this to this discussion. I mean, he wasn't wanting her response. But I can tell you folks that this fiasco has set our reform back for years, if not decades.

Andy 1:04:46

Why do you think that exactly?

Larry 1:04:48

Well, I say that because the reality of politics. There are hundreds or maybe even 1000s of clips available to be used in the 2022 election cycle by the conservatives. Too many people mistakenly believe that the senators who threw the grenades are simply misinformed. When I say people, our people believe that. In fact, some advocates have been forwarding reams of recidivism data research and saying that they're trying to help enlighten them. That is of no use because the reason for their attacks is to win control of the Senate in November. With control of the Senate, President Biden will not be able to achieve confirmation of any more justices in the Supreme Court. In fact, if the Republicans gain control, I anticipate they will probably not confirm any appellate judges either. They're likely to repeat what they did in the final two years of the Obama presidency when they stopped confirming Obama's nominations when they had control in 2015 and '16. And they didn't confirm judges. That's what they're likely to do once they take control of the Senate in 2022. If you want more judges like this, if you want the reforms you say you do, then you need to lean on these people and tell them they are not speaking for you. That these are not your values.

Andy 1:06:07

And I don't know that we have a whole lot else to cover. Larry, we're at an hour and five minutes, give or take.

Larry 1:06:14

You got a couple more questions.

Andy 1:06:16

I do have more questions, don't I? Sorry. Sorry. Sorry. Sorry. Um, so yeah. You've stated that this process has set our movement back for years or even decades. Is that hyperbole or are you serious?

Larry 1:06:36

I'm totally serious. The average person has never, never thought much about child pornography, the average citizen that is. Unless a member of their family has been convicted. Now everyone has heard of child pornography offenders. And they've heard they're being sentenced too leniently According to multiple senators that they elected and that they trust. Do you think the already harsh sentencing guidelines will be relaxed or made harsher in view of what's transpired over the past week?

Andy 1:07:04

With what's transpired? Yeah, well, are they gonna agree with it? No, they're not gonna agree with it.

Larry 1:07:09

So do you think they're gonna relax the standards?

Andy 1:07:13

No, definitely not. No, I can't see that. Now, this has been brought to light and several of the politicians during those hearings were saying like, we are partly to blame here, too. We haven't touched this stuff in two decades. So they might end up on the docket next go around.

Larry 1:07:28

That's correct. And so, as I said earlier, even though it doesn't have a direct relationship- you know, Federal sentencing, because the laws for state penalties are made by the states. Unfortunately, it's not that simple, because there are other factors that come into play. Let's take a look at the states that have meritorious parole of a person serving only a portion of their sentence. Do you think that the state parole authorities will be inclined to release PFRs at the earliest possible time in view of all this controversy? Or do you think that they will be a little bit more cautious? There's a political component to most parole entities that the board members are generally appointed by their governors. Do you think that the governor of a particular state is ready to take this kind of heat for releasing a PFR earlier than what they can hold him on to him for? I mean, you'd have to be really naive about politics if you think this is gonna do anything other than harm us.

Andy 1:08:16

Yeah, sure. Um, someone in chat a little while ago said, we were talking about Judge Persky, that he was lenient on a PFR. And look what happened him. This is this is all going to trickle down in the same way towards us in this direction, too.

Larry 1:08:30

Absolutely.

Andy 1:08:32

Um, so I see why you're concerned. So what do you think that, specifically we the PFRs of the United States of America, what can we do to try and move this situation to benefit us?

Larry 1:08:45

Well, as a group, we have to put pressure on these people. You can't get Cruz out of office for four more years. But you can, if you live in Texas, tell him how revolting you found his behavior. You can tell Cruz and Graham and go down the list, Hawly. You could tell them that those values are not your values. And your United States senator needs to hear that over and over again. You need to let him or her know that you condemn and find this unacceptable, and it's beneath the dignity of the Senate. And I'm doing it here today. I'm doing it. I'm saying I find this to be repugnant and beneath the dignity. I found it to be repugnant in '87. I found it to be repugnant again when they did it with the more recent confirmations. I did not appreciate how they hijacked the process. But I think all the nominees were qualified that were put on during the Trump presidency. I felt that they stole the first seat because it was properly President Obama's to fill. And they invented a rule that had never existed before that in the final year of a presidency, the sitting president who was president for the full term doesn't get to make the appointment. I found that repugnant. But the nominee of Gorsuch, he was clearly qualified.. I found concern about the alcohol use of Kavanagh.

Andy 1:10:12

Do you like beer Senator? I like beer.

Larry 1:10:13

I found it concerning. I didn't put a whole lot of faith in the accusations that were made against him because that, to me was secondary. I don't have a lot of faith in people who use alcohol excessively. I don't like my airplane pilots using it. I don't like people who are doing surgery on me using it. I don't like people, they act stupid. I don't think people realize when they're drinking, how ridiculously loud, obnoxious they sound in how they act. If you'd watch as many videos as I have of dashcam video of people when we used to do the DWI practice, and you saw how foolish you look, you'd probably drink a whole lot less. But I had concerns about him being an alcoholic. I had concerns about the final nominee, not because she wasn't qualified. I had concerns because the rule that the Republicans put in place in 2016 that there couldn't be a confirmation in the final year of a President because it belonged to the American people. Then they jettisoned that rule. And they approved her one month before the national election. That's the concern I had about it. But I never said she wasn't qualified. I never raised any qualification issues about these people in terms of whether they were competent to be a judge. But my condemnation goes to the Democratic Party for their participation in it. Democrats, behave yourself. Do the right thing. And look at a judge when they're appointed by a president that you would prefer not to be in office, you look at them the way you should look at them based on their qualifications. I asked the people in our audience who are Republicans, please join me in that condemnation. I'd like to hear you do the same thing. Tell the people who are doing this now that they're wrong, because I have no problem telling the Democrats that they were wrong. And I have no problem doing it again.

Andy 1:12:09

Anything else Larry?

Larry 1:12:11

Well, do we have Who's that Speaker this week or not?

Andy 1:12:14

I don't think we have time to. We'll will kick that for another week. But we did get three new patrons, and I definitely want to highlight them. Mike Deanna. Deanna is joining us this evening. Good evening Deanna. And then also CR came in, just, I think, a few hours ago. Thank you all very much for becoming patrons. And what came to my attention, Larry, is that I don't really say when we do the live stream, but it is on Saturday nights at about seven o'clock Eastern time, plus or minus a little bit depending on how saucy you get with your imbibing before we start recording. And so again, thank you very much to all of our patrons, and then especially to our new patrons, thank you so very much.

Larry 1:12:53

Well, I wonder how many I've run off this week after they hear this episode.

Andy 1:12:57

Well, I will let you know. I'll give you a tally of an up or down number next week after they hear this and see if there's some mass exodus of people. So we do the recording usually on

Saturday night around seven o'clock. And you can find us over on Discord. You have to be a patron to listen to the live stream unless you ask me nicely. And then maybe I'll let you in. And there's an invite in the show notes if you want to find it to join the live stream. You can find that all over at fypeducation.org on the website. If you want to leave a voicemail message that's 747-227-4477 Larry's email is crackpot at registry... Just kidding. You can email the podcasts at registrymatterscast@gmail.com. And then, of course patreon.com/registrymatters if you want to become a financial supporter of the program. And we appreciate that very much to show support for the show. Larry, do you have any final words before we get out of here?

Larry 1:13:52

And those of you who don't hear this website very often, you need to be going to FYPeducation.org. We have free resources that you can send to your loved ones. Transcripts. We have summaries of state registration statutes. We're now 501(c) 3, which means if you make a donation to support the cause it's fully tax deductible. So keep in mind FYPeducation.org as well.

Andy 1:14:19

Very good. Larry, without anything else to go into the program this evening, I will bid you a farewell and I hope you have a wonderful warm rest of your weekend. And warm those old bones of yours and we will talk to you very soon. Thank you all very much for joining in the live stream and I appreciate y'all hanging out with me. And sorry for any technical problems. But a good night, Larry, I will talk to you soon.

Larry 1:14:40

Good night.

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Glossary:

PFR – Person Forced to Register
 NARSOL – National Association for Rational Sexual Offense Laws
 AWA – Adam Walsh Act
 BCC – Bureau of Community Corrections
 CCC – Community Corrections Center
 CCF – Community Corrections Facility
 ICAOS - Interstate Compact for Adult Offender Supervision
 PC – Protective Custody
 PREA - Prison Rape Elimination Act
 DOC – Department of Corrections
 CSL - Community Supervision for Life
 DCS – Department of Community Supervision
 IML – International Megan’s Law
 SOMP – Sex Offender Management Program
 BOP – Bureau of Prisons
 STARC - Secure Treatment and Rehabilitation Center



CAGE – Citizens Against Government Entrapment
 PV – Parole / Probation Violation
 SMART Office - Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking
 MSR – Mandatory Supervised Release
 ICAC - Internet Crimes Against Children
 ACLU - American Civil Liberties Union
 ACSOL - Alliance for Constitutional Sexual Offense Laws
 ALI - American Law Institute
 NCIC – National Crime Information Center
 UCMJ – Uniform Code of Military Justice

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