

# L O Y O L A

LAW SCHOOL ♦ LOS ANGELES

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## VIA OVERNIGHT MAIL

The Honorable Arlen Specter, Chairman  
The Honorable Patrick J. Leahy, Ranking Minority Member  
United States Senate  
Committee on the Judiciary  
Washington, D.C. 20510-6275

### *Re: Nomination of Judge John G. Roberts, Jr., to the Supreme Court*

Dear Senators Specter and Leahy:

I am the William H. Hannon Distinguished Professor of Law at Loyola Law School in Los Angeles, specializing in election law. I am writing to bring to your attention a recent article of mine that may be relevant to the upcoming confirmation hearings for Judge Roberts to the Supreme Court.

In Senator Specter's August 23, 2005 letter to Judge Roberts, the Senator indicated he intended to question the judge on his views of the Supreme Court's recent opinion in *Tennessee v. Lane*. I recently completed a law review article, a copy of which is enclosed, entitled *Congressional Power to Renew the Preclearance Provisions of the Voting Rights Act After Tennessee v. Lane*, 66 OHIO STATE LAW JOURNAL 177 (2005) (also posted at <http://electionlawblog.org/archives/osu-final.pdf>).

My article considers whether the Supreme Court would hold that Congress has the power to renew section 5 of the Voting Rights Act. *Tennessee v. Lane* gave some hope that the Court would do so, but with Justice O'Connor leaving the Supreme Court, the prospects for the Court using *Tennessee v. Lane* as a basis to uphold a renewed Voting Rights Act are more uncertain. The uncertainty is increased by Judge Roberts' views of the Voting Rights Act expressed when he worked as a special assistant to the Attorney General during the Reagan Administration. See Richard L. Hasen, *Roberts' Iffy Support for Voting Rights*, LOS ANGELES TIMES, August 3, 2005, at B.13.

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I hope that members of the committee will explore Judge Roberts' views on this topic and other important election law topics, such as the constitutionality of spending limits imposed on corporations and unions in federal elections. In *McConnell v. Federal Election Commission*, the Supreme Court upheld such limits and other campaign finance laws contained in the Bipartisan Campaign Reform Act of 2002 by a 5-4 vote. With Justice O'Connor leaving the Court, longstanding sensible limits on corporate and union involvement in the electoral process may be open to renewed judicial challenge. See Richard L. Hasen, *O'Connor and Election Law: Rock the Vote*, THE NEW REPUBLIC ONLINE, July 2, 2004 (also posted at <http://www.tnr.com/doc.mhtml?pt=V720p%2FUC3dX5jFIV1RbK7C%3D%3D>).

Please do not hesitate to contact me if I may provide additional information.

Very Truly Yours,



Richard L. Hasen

Enclosure