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**Subject:** : fcfnnn053002 Inside: John Nowacki's Commentary: Brooks Smith: It's Not Over Yet

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Free Congress Foundation's  
Notable News Now  
May 30, 2002

The Free Congress Commentary  
Brooks Smith: It's Not Over Yet  
By John Nowacki

Last week's Senate Judiciary Committee vote on the Brooks Smith nomination was good news for conservatives, but they must remember that the campaign against Bush judicial nominees is far from over.

Judge Smith was and still is under fire from various left-wing groups determined to block his confirmation to the U.S. Court of Appeals for the Third Circuit. Those groups have cobbled together attack after attack, moving on to something new each time it became clear that the previous one was a non-starter. Although the committee voted 12-7 to report his nomination to the full Senate, liberals remain determined to defeat him -- though they know that if the vote were held next week, Smith would be confirmed.

Judge Smith will eventually receive that vote, but the left-wingers would undoubtedly like more time to work on building opposition in the full Senate. With Senator Arlen Specter as a patron, generating that opposition will be a difficult task.

In fact, a lot of credit goes to Specter for his work on getting Smith out of the Judiciary Committee. His discussions with Senator Joe Biden played a large part in persuading the Delaware Democrat to vote in Smith's favor. That vote in turn opened the door for Senators Herb Kohl and John Edwards -- already being pressed by conservatives -- to vote for Smith as well.

But there won't always be situations where a Republican committee member can work to persuade a Democrat committee member as they ride home on the train each weekend. Conservatives still have their work cut out for them.

They have to bring pressure to bear on Democrats in the full Senate, regardless of whether they're up for re-election this year. People in South Dakota ought to be asking Tim Johnson why President Clinton saw 86 percent of his circuit court nominees confirmed during his first two years while President Bush has seen just 30 percent of his confirmed, with the Senate nowhere near a pace to match the Clinton numbers. They should press him to explain whether he's really using that special relationship with his fellow South Dakotan, Tom Daschle, to end the obstruction and allow the full Senate to actually advise and consent on Bush's longstanding nominations.

People in Louisiana ought to be asking Mary Landrieu what she thinks about Northeastern liberals insisting that nominees to the Fifth Circuit share their politics, regardless of how qualified, experienced, or committed to following the law those nominees are. As long as the Democrats control the Senate, Charles Pickering will never get a floor vote, but conservatives in Louisiana should press her on whether she's doing all she can to prevent other Fifth Circuit nominees like Priscilla Owen from getting the same treatment.

The appeals court for Ohio, Tennessee, Michigan, and Kentucky is half-empty, thanks to efforts by Michigan Democrat Carl Levin to get his cousin-in-law - a Clinton nominee - re-nominated to the Sixth Circuit. Meanwhile, nominees from Ohio, Tennessee, and Kentucky - and even Michigan - are still waiting for the Senate to act. Is it fair to litigants in any of those states to keep seven of the eight vacancies unfilled because Levin can't get his cousin's wife re-nominated?

President Bush has sent up nominees for 22 of the 29 court of appeals vacancies. Eleven of them have waited more than a year for an up or down vote in the Senate, despite Judiciary Committee Chairman Patrick Leahy's having frequently said nominees deserve to get that vote within 60 days. Leahy has actually said a lot of things about fairness - fairness to nominees, fairness to the President, and fairness to litigants. Conservatives shouldn't hesitate to point out that his idea of fairness is one thing, while his treatment of Bush nominees is something else entirely.

But beyond pushing Democrats on the issue, beyond calling attention to the vacancy crisis, the qualified nominees, or double standards, conservatives



should keep one thing in mind. Judiciary Committee Democrats have shown that it doesn't matter whether a nominee is qualified. Experienced. Committed to setting personal views aside. Or all but certain to be confirmed if he receives a Senate vote. If his politics aren't their politics, that could very well be it -- the end of the road.

And as long as the Democrats continue to control the Senate, it's going to stay that way. Will conservatives work to do something about it? We'll just have to wait and see.

John Nowacki is Director of Legal Policy at the Free Congress Foundation.

Chandra Levy Needs Our Prayers;  
But Not Our Glorification  
By Paul M. Weyrich

It is tragic when anyone loses a loved one. It is especially dreadful when that loved one turns out to have been murdered. So our prayers are with the Levy family whose daughter, Chandra, is now the subject of a homicide investigation.

But just what is it that made Chandra Levy such a special person that her families' loss has received such massive media coverage? She had an affair with a married Congressman!

There are thousands upon thousands young women who turn up missing every year. Indeed in the Levy's hometown of Modesto, California., there are other young women who have disappeared and who have never turned up. You have never heard of those poor unfortunate families because their daughter didn't have an illicit affair with a married Congressman.

There are many, outstanding young people who volunteer to help the less fortunate, who have gone into the drug infested inner city to care for addicts. Undoubtedly, some of these young adults have turned up missing and are probably dead. But again, these young people weren't sneaking around with a married man.

I do not wish to -- in any way -- minimize the loss that the Levy family is suffering. Chandra is God's child no matter what the sin. But her glorification is hardly appropriate. Fine that she covered baseball for a local paper. Fine that she did an internship with local law enforcement officials. Great that she had completed her internship in Washington. These are positive contributions but they hardly justify her being put on a pedestal, as if she were a contemporary Mother Theresa.

But for Congressman Gary Condit (D-CA) Chandra would have been one more homicide case. There are dozens upon dozens in the Washington D.C. area alone.

It was her sin, having this illicit affair with a Congressman no less, that caused the spotlight to be upon her. And while she was precious to her family, as well she should have been, she was not extraordinary by any measure. There are hundreds, if not thousands, of young people who come to Washington as interns each summer. They profit from the experience. They

are  
also often of help to those for whom they intern. At the Free Congress Foundation we have benefited from interns for more than two decades now. Some of them have done extraordinary work. They have conducted research, contributed to chapters in books, and helped to arrange for conferences and so on. Their contributions have exceeded what we know of Chandra Levy. Still, the media portrayed her as if she were someone far more special than she apparently was.

There are two reasons for this, in my view. First, because a Congressman was involved, the story was irresistible. The media loves to contribute to the rise and fall of public figures. Besides, Gary Condit voted to impeach Bill Clinton. The only sin left in the media is hypocrisy. Second, because so many media people would fancy themselves as having a beautiful young intern. If they glorify Chandra, maybe their chance will be forthcoming.

We can't take away what Chandra did. That is in God's hands. Let us at least re-think what it is we have come to glorify. Chandra was old enough to know better. Let's at least not handle her and what she did as if it were something to be admired and emulated. Let us at least pray for her immortal soul.

Paul M. Weyrich is President of the Free Congress Foundation.

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