

# BUSINESS MEETING

THURSDAY, MAY 21, 2020

U.S. SENATE  
COMMITTEE ON FOREIGN RELATIONS  
WASHINGTON, D.C.

The committee met, pursuant to notice, at 10:33 a.m., in Room 325, Kennedy Caucus Room, Russell Senate Office Building, Hon. James E. Risch, chairman of the committee, presiding.

Present: Senators Risch [presiding], Rubio, Johnson, Gardner, Romney, Graham, Barrasso, Portman, Paul, Young, Cruz, Perdue, Menendez, Cardin, Shaheen, Coons, Murphy, Kaine, Merkley, and Booker.

## OPENING STATEMENT OF HON. JAMES E RISCH, U.S. SENATOR FROM IDAHO

**The Chairman:** Senate Foreign Relations Committee will come to order.

Good morning, everyone. We have some business to conduct today, pursuant to notice, and I will note for the record that I have received a number of pieces of correspondence from the minority members of the committee, and I want to address a few things there before we move forward.

First of all, some members have raised the question of the health of the committee. But I would tell you that your chairman is as concerned as anyone with the COVID situation.

As a result of that, we consulted very, very, very closely with the Attending Physician's Office. As we all know, the Attending Physician's Office has cleared a handful of rooms for us to meet in. This is one of them.

I have seen a number of you in other committee meetings in similar situations. I want to commend the Attending Physician for the work that he has done and we are following scrupulously the Attending Physician's recommendations.

Secondly, a question was raised about the notice of this meeting. I have reviewed carefully Rule 3(d) as I did prior to noticing the meeting.

Under Rule 3(d) there is a ruling of the chair that the meeting has been properly noticed. Some of you have asked that there be a video -- not some of you. All of the Democrats have asked that there be a video link to this meeting.

Ordinarily, we would be holding this business meeting in Room 116. As we all know, Room 116 is not connected to video but -- nor is it connected to audio, to streaming.

But in the spirit of compromise, I have authorized this meeting to be audio streamed.

Next, you have raised the fact that on the eve of the last meeting before I postponed it, we received a letter from the Attorney General of the District of Columbia claiming an investigation regarding Mr. Pack's nomination or Mr. Pack's company.

Having had significant experience with this on the Ethics Committee where the Justice Department has asked us to stand down, I am going to do the same thing that we have done in the Ethics Committee, and that is if the United States Attorney General and Department of Justice ask us to stand down, we will do so.

That has not happened here. The Attorney General of the District of Columbia will be given access to the public documents that are there.

As far as documents that are not public, I will confer with the -- with counsel and make a ruling as far as those documents are concerned.

I note that this is a particularly partisan matter. We are going to consider the nomination of Michael Pack, which has been pending for just shy of two years, and the chairman believes it is time to move forward on this.

The hallmarks of this committee have always been civility, kindness, understanding, and tolerance. We would ask us to double down on that hallmark as we go forward with this.

With that, the matter before the committee is the nomination of Michael Pack.

**Senator Menendez:** Mr. Chairman?

Mr. Chairman?

**The Chairman:** The chair -- please do not interrupt right now, sir.

**Senator Menendez:** Well, Mr. Chairman, I have always --

**The Chairman:** Senator, I am not going to --

**Senator Menendez:** I have always seen the ranking member be able to give an opening statement at any --

**The Chairman:** I am going to -- I am going to call on you in just a moment, Senator.

**Senator Menendez:** Oh, okay.

**The Chairman:** Thank you.

Right now I am going to entertain a motion to --

**Senator Barrasso:** So moved.

**The Chairman:** -- send Mr. Pack out to be confirmed. It has been moved by Senator Barrasso.

**Senator Menendez:** Mr. Chairman?

Mr. Chairman?

The statement of a ranking member comes before any action of the committee. This is unprecedented. I have never, ever, when I was chairman or any other previous chairman, Democrat or Republican, silenced a ranking member before the committee's action.

**The Chairman:** Thank you, Senator.

Is there a second to Senator Barrasso's motion?

**Senator Menendez:** Mr. Chairman, I must object strenuously.

**The Chairman:** Motion has been -- the motion has been made and seconded.

**Senator Menendez:** What one sows, one sees --

**The Chairman:** Senator Menendez, you have the floor.

**STATEMENT OF HON. BOB MENENDEZ,  
U.S. SENATOR FROM NEW JERSEY**

**Senator Menendez:** Amazing.

I have two preliminary matters that I want to address.

As an initial matter, I ask for unanimous consent to enter into the record of this meeting a number of items related to the nomination of Michael Pack.

These materials include letters from all of the Democratic members of the committee to you, Mr. Chairman, letters to former White House Acting Chief of Staff Mulvaney, and current Chief of Staff Meadows concerning Mr. Pack, letters between Mr. Pack and myself, my QFRs to Pack and his responses, and other items.

I have a hard copy of each item with me. But in light of the current precautions related to COVID-19, I would be pleased to submit these documents electronically to the chief.

So I ask unanimous consent that they be included.

**The Chairman:** It will be included.

**[The information referred to follows:]**

**[COMMITTEE INSERT]**

**Senator Menendez:** Secondly, I am deeply troubled by the fact, and our discussions with the parliamentarian the Rules Committee indicate a totally different set of circumstances, that this business meeting is available to the American people and the rest of the world only through audio.

Every other committee that I have been on and that I have observed are conducting their hearings and/or their meetings with video as well as audio stream.

If you are deaf, an audio stream does nothing for you, at the end of the day. It violates the Americans with Disabilities Act. It violates the rules, from my perspective.

I am even more troubled by the fact that you have blocked a video live stream despite multiple requests for video, including all 10 members of the minority.

For a committee that promotes transparency, good governance, the rule of law around the world, and open societies, it is ironic. It is ironic that you, as chairman, are preventing the public from viewing this meeting.

So, certainly, it is unprecedented.

Now, Mr. Chairman, we are facing an unprecedented crisis. We are in the midst of a global pandemic which has taken more than 80,000 American lives, and threatens to take tens of thousands more.

Across the world, millions of people may die. The international community is banding together to find solutions to this deadly virus.

It is in times like these that senators from both parties have put their political differences aside to come together to pursue our best interests to help give our government the tools it needs to best serve Americans and present a united front to the world, and this committee has played a central role in these moments.

In this moment we should be utilizing all of our collective resources to marshal a strong and effective response on behalf of the American people.

We should be holding hearings on how to craft a bipartisan response that will save lives and help restart the economy in this country and around the world.

We should be working together to craft bipartisan legislation that will ensure that the United States government is appropriately organized and sufficiently funded to impact the global response to COVID.

But that is not what we are doing. This committee had not held any COVID-related hearings, and despite my repeated requests there has been no meaningful committee consideration of COVID legislation.

Committee Democrats have put forward a strong and comprehensive vision. We had hoped to work with you on the COVID-19 International Response and Recovery Act.

Since that was not possible, we introduced the bill three weeks ago and urged you multiple times, Mr. Chairman, to include it in this markup.

Beyond not even allowing it on the agenda, we understand that you may not even be willing to allow a COVID-related debate and amendment process at today's meeting.

Mr. Chairman, it is simply not right. The only way the committee can meet the challenge of COVID is if you lead in a bipartisan way, and we are eager for you to do so.

To the extent we were in normal circumstances, this legislative agenda would be a good one. These are solid bipartisan bills and I have been asking for many of them to be taken up for over a year.

I would also urge you to take up Senator Young and Van Hollen's New START legislation. Senator Young, as we recall, agreed to withdraw his bill as an amendment to another piece of legislation at the last business meeting six months ago, after you committed to marking it up at a future business meeting, and I hope that you will honor that commitment.

Similarly, Senator Cardin has been seeking a markup of his bipartisan legislation. I want to work with you and him to make that happen at the next business meeting, and I know that there are many others on this committee with priorities who wish to see a more active legislative agenda.



Now, I understand that it is your intention to pass most of these items on today's agenda en bloc, and that you may not consider any other piece of legislation that have amendments.

To me, that is simply unacceptable. To sit idle for six months and then, effectively, tell members of this committee they cannot offer amendments to legislation, that is not an approach that we can abide by.

Finally, Mr. Chairman, in this moment where we should be coming together to fight COVID, we are, unfortunately, being driven apart by your handling of the Michael Pack nomination.

Under both Republicans and Democrats this committee operated under the principle of comity. That means we did things together. We found common ground and we resolved problems through bipartisanship.

This does not mean that we voted the same way on everything. But the chairman respected the role and rights of the minority party.

This is the third time that you have broken comity in this Congress. The first two times we urged you step back from the brink and we tried to reach an accommodation that kept the spirit of comity alive, even if only on life support.

When I was the chairman of this committee, at the request of then Ranking Member Corker, I did not move my own State Department authorization bill.

At the request of the ranking member and despite pressure from a Democratic White House, I did not move nominees who I believed were qualified and who I strongly supported.

I respected the committee and upheld comity, and I respected the Senate as an independent and coequal branch of government. And I was not alone.

On a bipartisan basis, Democrats and Republicans alike carried on the best traditions of this committee. Corker, Kerry, Biden, Lugar, and so on, they all respected comity and they did it because it was right.

They did it because it was effective and they did it because when we worked together American foreign policy is stronger.

But now, Mr. Chairman, you are ending that bipartisan legacy. You did nothing to defend historical bipartisan committee or Senate prerogatives when Michael Pack broke his commitment to me and refused to engage in good faith on serious vetting issues.

You failed to even respond to the concerns of the entire Democratic membership of the committee when all 10 of us objected to noticing Pack and asked for a second hearing or a closed discussion.

And now you have put him up for a vote a second time with only two days notice despite the continued objection of all Democratic members and some shocking new developments in the Pack saga.

At your request, Mr. Chairman, I met with Michael Pack last year. He may not have been my chosen nominee, but in the interests of ensuring leadership at critical agencies last fall I cleared him to advance in the nominations process.

However, on the eve of his hearings last year new problematic information came to light concerning his taxes and other serious background issues.

In the spirit of cooperation, I felt it would be unfair to raise such issues publicly until he had an opportunity to address them privately.

So at his hearing I asked for his commitment to providing prompt and complete responses on those issues. At the time, he promised to do so. But in the end, he never engaged with the committee in good faith.

His responses to my questions were perfunctory and self-serving. He refused to provide any of the requested documentation that could have verified those responses if they were actually truthful.

So what do we know about Mr. Pack? Let us start with the issues that my staff and I have been raising with you, with Mr. Pack, and the White House for the last eight months.

We know that for years he misrepresented the relationship between his nonprofit organization and his for profit company to the IRS.

His film company received millions in grants from his nonprofit. Yet, he repeatedly told the IRS that there was no relationship between them when, in fact, he ran them both.

Mr. Pack admitted that he gave false information to the IRS. But he has refused to correct his past filings. Even after acknowledging this, he still wrote in his questionnaire to this committee that his tax returns are complete and accurate when he knew that was not the case. In other words, he lied to the committee.

Mr. Pack has also refused to provide basic information that would shed light on whether the transactions between the nonprofit and his business were above board, claiming that they were too sensitive for members of this committee to see.

Really? These agreements between two sides of Mr. Pack's business interests are so sensitive that United States senators cleared to review the most sensitive classified information cannot see them?

Colleagues, I am at a loss here. These are some of the most basic questions that we ask of all nominees and the minimum standard we use to ask them to meet.

Provide accurate information to the IRS. Provide accurate information to the committee. Do not lie. Is there a reason that Mr. Pack does not need to meet the basic standards of every other nominee before this committee?

I know there was a time that my colleagues used to care about tax issues. I have been here long enough to see many nominees, very qualified individuals, be disqualified by virtue of tax issues, including the former majority leader of the United States Senate.

But we seem to not care about these tax issues at all. And I am not just speaking about the tax issue. There are a range of other serious background problems that implicate Mr. Pack's fitness to serve. But I fear that you and the White House have looked the other way.

So that brings us up to May 7<sup>th</sup>, when you first noticed Mr. Pack for a committee vote over our strenuous objection. So it was a notice that broke comity. We did not agree.

But it is not the end of this adventure. You scheduled the original vote on May 14<sup>th</sup>. Had we taken that vote, and we came within hours of doing so, it would have likely been before members of this committee knew that Mr. Pack is under investigation by the attorney general for the District of Columbia for the very same allegations of self-dealing and self-enrichment that I have been highlighting for you since last year.

Just think about that. You almost had the members of the committee voting on a nominee only to learn hours later that he is under investigation and subject to a subpoena issued by the lead law enforcement agency in the very jurisdiction in which the Senate sits.

And not only is the D.C. attorney general's office investigating Mr. Pack, it has reached out to ask us for the committee's assistance.

I have made it absolutely clear, publicly and in communications with you and the Senate legal counsel, that we need to cooperate with this request, both this committee and the Senate as a whole.

We owe it to the American people to be transparent and promote the rule of law.

So I was stunned and saddened to see that before the Senate legal counsel even had an opportunity to respond to provide us guidance and before we had an opportunity to jointly engage the D.C. attorney general and learn more about the investigation, you rescheduled the vote on Pack and you did so with only two days notice.

So I have to ask what could possibly be so urgent about Mr. Pack that this single nomination that we are so desperate to move him forward.

You have stated that your standard for nominees with serious vetting problems, nominees that would have previously never been submitted to the Senate or received a committee vote, is to gather all of the information and then get it to the public and let the chips fall where they may.

But we have not even lived up to your own standard. We simply do not have all the information on Pack.

So I ask my colleagues on both sides of the aisle why are we doing this. Why are we voting on a nominee who has not been honest with the committee? Why are we voting on a nominee who has not been honest with the United States government?

Why are we voting on a nominee who is the subject of an investigation for unlawful self-enrichment? Is this really the person you want running a U.S. government agency with a budget of almost a billion dollars?

And what does this say to the American people? How can they trust this committee and why should they have faith in that Mr. Pack will not use taxpayer dollars for his own benefit?

At this point, let me raise one conspiracy theory circling around the internet, a conspiracy theory that, sadly, may very well be repeated at this meeting.

It goes something like this. The chairman had no choice but to schedule a vote on Mr. Pack because the pending investigation is "politically motivated," as evidenced by a letter from me to the D.C. attorney general, and that the D.C. attorney general is only investigating Mr. Pack because I asked him to do so.

So, colleagues, please, I did write to the attorney general. I did so eight months after Mr. Pack's suspect business practices were exposed. Not by me but by the so-called mainstream media outlet CNBC. Hardly a liberal bastion.

I did so eight months after Mr. Pack committed publicly to answer my questions about these allegations and then promptly refused to do so.

I did so eight months after repeatedly asking you and the White House to address these allegations. Absolutely I wrote a letter to the D.C. attorney general, the lead law enforcement official in the very jurisdiction in which the Senate sits.

In that letter, I explained my concerns over what I had been trying to get to the bottom of. Not because of politics but because the chairman and the ranking member of this committee have a duty to ensure nominees are fit for office, not to rubber stamp them regardless of whatever baggage they bring to the table.

And I got a response from Mr. Racine. Let me quote from it.

"Based on public reporting and publicly available materials, my office was already aware of issues similar to those discussed in your letter and we share your concerns. We currently have an open investigation into these concerns under our Nonprofit Corporations Act authority," closed quote.

So the D.C. attorney general was already conducting their investigation, already aware of Mr. Pack's legal problems before receiving my letter, and he already had an open investigation into Mr. Pack prior to my letter.

So, Mr. Chairman, that is what I did and I am happy to answer any questions about it. But now, let us ask, what did you do?



I think the committee would benefit from a better understanding of what specific steps you took to address this issue of Mr. Pack's other unresolved background problems.

What steps did you take to require Mr. Pack to correct his false statements to the committee? What steps did you take to require Mr. Pack to correct his false statements to the IRS and provide the U.S. government with legally required disclosures?

What steps did you take to ensure that we were not moving forward with a nominee who has violated the law?

We have a constitutional duty. If advise and consent means anything, at a minimum, at rock bottom, it means ensuring that people we confirm are suitable for that public service and if they are not we do not move forward.

So before concluding, I must note that the fact that this committee is about to vote on a nominee under investigation is not the only highly disturbing development of the week.

As we have seen, Secretary Pompeo has taken the drastic and likely self-interested step of causing the firing of the State Department inspector general.

This committee needs to be addressing that matter on an urgent basis.

So, Mr. Chairman, to get this business meeting moving in a bipartisan direction and to ensure that the meeting does not end before we take up the

business of the American people, I think we need an order of business for this meeting that reflects the priorities of the American people.

Accordingly, I move that we establish an order of business for this meeting as follows, that the committee, first, take up and vote S. 3667, the Consular and Administrative Authorities Act, and the COVID amendments filed for that bill, that we turn to the other important national security and foreign policy legislative items in the agenda, and that the consideration of the nomination of Michael Pack be postponed.

I so move it.

**The Chairman:** Is there a second?

**Senator Coons:** Second.

**The Chairman:** It has been moved and seconded that the ranking member order the meeting according to his wishes. I will be opposing the motion. Secretary will -- our clerk will call the roll, please.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** No.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** No.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** No.

**The Clerk:** Mr. Romney?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Graham?

**Senator Graham:** No.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** No.

**The Clerk:** Mr. Portman?

**Senator Portman:** No.

**The Clerk:** Mr. Paul?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Young?

**Senator Young:** No.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** No.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** No.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** Aye.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** Aye.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** Aye.

**The Clerk:** Mr. Coons?

**Senator Coons:** Aye.

**The Clerk:** Mr. Udall?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Murphy?

**Senator Murphy:** Aye.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** Aye.

**The Clerk:** Mr. Markey?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Merkley?

**Senator Merkley:** Aye.

**The Clerk:** Mr. Booker?

**Senator Booker:** Aye.

**The Clerk:** Mr. Chairman?

**The Chairman:** No.

**The Clerk:** Mr. Chairman, the yeas are 10 and the nays are 12.

**The Chairman:** Motion has failed.

Is there further debate?

**Senator Cardin:** Mr. Chairman?

**The Chairman:** Yes, Senator Cardin?

**Senator Cardin:** Thank you, Mr. Chairman.

I am going to move in one moment that we go into a closed session. Let me give my reasons first.

Mr. Pack is a Maryland resident. I think the issues that have been raised by Senator Menendez we need to have a discussion among ourselves.

This committee works in a historic bipartisan manner. I think it would be extremely healthy for us to have a private discussion before we act on this nominee as it relates to this nominee and the process that is being used that has the Democrats really so upset.

I think for the sake of this nominee and for the sake of the comity of this committee it would be useful for us to have that discussion.

And, therefore, Mr. Chairman, I move that pursuant to our House rules we go into a closed session.

**The Chairman:** Would you accept a unanimous consent request to do that, Senator Cardin?

**Senator Cardin:** Sure.

**The Chairman:** Senator has asked unanimous consent that we go into a closed session.

Is there objection?

[No response.]

**The Chairman:** Hearing none, it is to be so ordered. The media will be escorted, respectfully, from the room. The audio feed will be turned off. We will proceed into a closed session.

**[Members begin Closed Session discussion on Pack nominee.]**

**[Committee reconvened Open Session.]**

**The Chairman:** We have been rejoined electronically. We have completed our closed session.

And, Senator Coons, you have a motion to make, as I understand. Is that correct?

**Senator Coons:** I do. Thank you, Mr. Chairman.

I move that we postpone this committee's vote on the nomination of Michael Pack until he corrects the statements that he has made to this committee.

As we have all discussed, there are several years in his submitted nonprofit tax filings where he has admitted errors, and I think that is a longstanding tradition and practice of this committee that we do not advance confirmation votes on nominees where we know that they have failed to meet some of the most basic vetting requirements.

I ask for the yeas and nays.

**The Chairman:** Thank you.

Is there a second motion?

**Senator Menendez:** Second.

**The Chairman:** The motion has been duly made and seconded that we postpone the vote. I will be voting no, of course.

The clerk will call the roll, please.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** No.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** No.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** No.

**The Clerk:** Mr. Romney?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Graham?

**Senator Graham:** No.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** No.

**The Clerk:** Mr. Portman?

**Senator Portman:** No.

**The Clerk:** Mr. Paul?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Young?

**Senator Young:** No.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** No.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** No.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** Aye.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** Aye.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** Aye.

**The Clerk:** Mr. Coons?

**Senator Coons:** Aye.

**The Clerk:** Mr. Udall?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Murphy?

**Senator Murphy:** Aye.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** Aye.

**The Clerk:** Mr. Markey?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Merkley?



**Senator Merkley:** Aye.

**The Clerk:** Mr. Booker?

**Senator Booker:** Aye.

**The Clerk:** Mr. Chairman?

**The Chairman:** No.

**The Clerk:** Mr. Chairman, the yeas are 10. The nays are 12.

**The Chairman:** The motion has failed.

Is there further debate on the nomination?

**Senator Menendez:** Mr. Chairman?

**The Chairman:** Senator Menendez?

**Senator Menendez:** Mr. Chairman, before I make the following motion, I just want to preface it.

The reason I am about to make this motion, which is to postpone the committee's vote on the nomination of Michael Pack until Mr. Pack corrects his tax filings with the IRS and provides evidence of such to the committee, is that from all of the documents that we have reviewed, it appears that Mr. Pack transferred nearly \$4.3 million from his nonprofit that he totally controls to his for-profit company, which he totally controls.

The result of that creates the real possibility of tax consequences and liabilities as well as misfilings with the IRS. As such, it seems to me that he

should correct, as we have asked him, to correct his tax filings with the IRS and provide evidence as such to this committee.

So I move that the committee postpone the vote on the nomination of Michael Pack until he corrects his tax filings with the IRS and provides evidence of such to the committee.

**Senator Booker:** Second.

**The Chairman:** There has been a motion made and a second.

The motion is the same as the motion made by Senator Coons but for different reasons. I am going to allow a vote on this one. But we are not going to -- we are not going to just keep spinning the wheels.

So with that, clerk will call the roll.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** No.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** No.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** No.

**The Clerk:** Mr. Romney?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Graham?

**Senator Graham:** No.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** No.

**The Clerk:** Mr. Portman?

**Senator Portman:** No.

**The Clerk:** Mr. Paul?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Young?

**Senator Young:** No.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** No.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** No.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** Aye.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** Aye.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** Aye.

**The Clerk:** Mr. Coons?

**Senator Coons:** Aye.

**The Clerk:** Mr. Udall?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Murphy?

**Senator Murphy:** Aye.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** Aye.

**The Clerk:** Mr. Markey?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Merkley?

**Senator Merkley:** Aye.

**The Clerk:** Mr. Booker?

**Senator Booker:** Aye.

**The Clerk:** Mr. Chairman?

**The Chairman:** No.

**The Clerk:** Mr. Chairman, the yeas are 10 and the nays are 12.

**The Chairman:** Yeas are 10. Noes are 12. The motion has failed.

Is there further debate?

**Senator Kaine:** Mr. Chair?

**The Chairman:** Who is seeking -- oh, Senator Kaine?

**Senator Kaine:** Mr. Chair, I am going to make a motion and ask for a voice vote on it. I would move that the vote on the nomination be postponed until we can have a closed hearing and ask Mr. Pack about these matters directly.

They were not known to the committee when he was before us. No one has had the chance to have a direct interaction with him.

They are sensitive matters and I think the -- it would be respectful to him but necessary for the committee to allow us to now enquire into them.

And that is my motion and I would be glad to take a voice vote on it.

**The Chairman:** Is there a second?

**Senator Menendez:** Second.

**The Chairman:** A motion has been made and all -- and duly seconded.

All those in favor signify by saying aye.

[Chorus of ayes.]

**The Chairman:** Opposed, nay.

[Chorus of nays.]

**The Chairman:** The nays have it. The motion has failed.

Further debate?

Senator Murphy?

**Senator Murphy:** Thank you very much, Mr. Chairman.

I am going to make a similar but slightly different motion. Given the fact that the promises made in that open hearing to Senator Menendez were not fulfilled, that he has not produced any of those documents and that these allegations are serious and, frankly, very much germane to the job in which Mr. Pack is going to take -- he is going to be controlling millions of dollars that can be

awarded to outside for-profit film companies -- it seems as if this should be something we should also have the chance to talk to him about in an open hearing.

He did not get asked these questions in his hearing before us in large part because of a promise he made to deal forthrightly with the committee, in particular with the ranking member afterwards.

And so I would make a motion, and a voice vote is fine as well, to postpone the committee vote on Mr. Pack and move for a new hearing -- a public hearing, in this case -- so that the committee can examine these questions and information that has come to light on his fitness for confirmation.

**The Chairman:** Is there a second to the motion?

**Voice:** Second.

**The Chairman:** Been moved and seconded.

All those in favor signify by saying aye.

[Chorus of ayes.]

**The Chairman:** Opposed, nay.

[Chorus of nays.]

**The Chairman:** Noes have it. The motion has failed.

Further debate?

**Senator Menendez:** Mr. Chairman, I move to postpone the committee vote on the nomination of Michael Pack until the D.C. attorney general completes its investigation into Mr. Pack, and I ask for a recorded vote.

**The Chairman:** Is there a second?

**Senator Booker:** Second.

**The Chairman:** Again, this is, by my count, fourth or fifth motion to postpone. Very similar reasons on each one.

I am going to allow a vote but this is not going to go on very long. The clerk will call the roll, please, on the motion.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** No.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** No.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** No.

**The Clerk:** Mr. Romney?

**The Chairman:** No.

**The Clerk:** Mr. Graham?

**Senator Graham:** No.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** No.

**The Clerk:** Mr. Portman?

**Senator Portman:** No.

**The Clerk:** Mr. Paul?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Young?

**Senator Young:** No.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** No.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** No.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** Aye.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** Aye.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** Aye.

**The Clerk:** Mr. Coons?

**Senator Coons:** Aye.

**The Clerk:** Mr. Udall?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Murphy?



**Senator Murphy:** Aye.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** Aye.

**The Clerk:** Mr. Markey?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Merkley?

**Senator Merkley:** Aye.

**The Clerk:** Mr. Booker?

**Senator Booker:** Aye.

**The Clerk:** Mr. Chairman?

**The Chairman:** No.

**The Clerk:** Mr. Chairman, the yeas are 10 and the nays are 12.

**The Chairman:** Nays are 12. Ayes are 10. The motion has failed.

Is there further debate?

[No response.]

**The Chairman:** There being no further debate, the question --

**Senator Merkley:** Mr. Chairman?

**The Chairman:** Who seeks -- Senator Merkley?

**Senator Merkley:** Mr. Chairman, I move to postpone the committee vote on Michael Pack until we receive determination from other relevant jurisdictions as to whether he is subject to other investigations.

This could be relevant in California, in Maryland, or any other federal entities and it is important to have that information before we proceed.

**The Chairman:** Is there a second?

**Senator Menendez:** Second.

**The Chairman:** This is the last motion I am going to accept on postponing it. The motions are getting dilatory. I want to give everybody the opportunity to have it but this is, by my count, fifth or sixth motion we have had in this regard.

So given that, this will be the last motion to postpone. Everybody vote appropriately.

The clerk will call the roll.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** No.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** No.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** No.

**The Clerk:** Mr. Romney?

**The Chairman:** No.

**The Clerk:** Mr. Graham?

**Senator Graham:** No.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** No.

**The Clerk:** Mr. Portman?

**Senator Portman:** No.

**The Clerk:** Mr. Paul?

**The Chairman:** No, by proxy.

**The Clerk:** Mr. Young?

**Senator Young:** No.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** No.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** No.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** Aye.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** Aye.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** Aye.

**The Clerk:** Mr. Coons?

**Senator Coons:** Aye.

**The Clerk:** Mr. Udall?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Murphy?

**Senator Murphy:** Aye.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** Aye.

**The Clerk:** Mr. Markey?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Merkley?

**Senator Merkley:** Aye.

**The Clerk:** Mr. Booker?

**Senator Booker:** Aye.

**The Clerk:** Mr. Chairman?

**The Chairman:** No.

**The Clerk:** Mr. Chairman, the yeas are 10. The nays are 12.

**The Chairman:** Roll call is nays 12, ayes are 10. The motion has failed.

Is there further debate?

**Senator Menendez:** Mr. Chairman?

**The Chairman:** Senator Menendez?

**Senator Menendez:** I have one more motion to postpone the committee vote -- these postponements are for different reasons, I would note to the chair -- on the nomination of Mr. Pack until he provides information regarding the

contract between the nonprofit Claremont Institute and Mr. Pack's for-profit film company, Manifold Production.

**The Chairman:** I am going to rule the motion out of order as dilatory. We have had --

**Senator Menendez:** Under what basis is the motion out of order, Mr. Chairman?

**The Chairman:** The motion is out of order because it is dilatory. We have had six or eight motions on that.

So is there further debate?

**Senator Menendez:** Mr. Chairman, with all due respect, there has been no motion that specifically asks that the postponement of the nomination be contingent upon the nominee providing contract information between the Claremont Institute and his for-profit company, Manifold Production.

**The Chairman:** Senator, I will allow one more vote so long as everyone who wants this postponement will state their reasons and we can vote for them all on one -- all at one time.

This is the last vote we are going to have as it is -- it is dilatory.

**Senator Rubio:** Mr. Chairman?

**The Chairman:** Senator Rubio?

**Senator Rubio:** Perhaps it is a question as a parliamentary inquiry of the clerk. Can we -- is there a count now of how many votes we have taken on a motion to postpone?

**The Chairman:** I do not have a complete -- Clerk, do you have a --

**The Clerk:** Seven.

**Senator Rubio:** I am sorry?

**The Clerk:** Seven.

**The Chairman:** Seven motions. Last one.

Anybody who wants to get on the motion and add reasons for postponement please say so.

Senator Murphy?

**Senator Murphy:** Mr. Chairman, I mean, I think this is a fairly extraordinary precedent that you are setting here. You are suggesting that seven motions that have taken a grand total of 15 minutes are dilatory in nature and now robs from rank and file members the ability to make future motions on a nomination to head an agency that controls a \$750 million budget.

Just because they fail does not mean that they are necessarily dilatory or out of order. What is to then stop the chairman from preventing our ability to call amendments on legislation if a series of our amendments fail and postpone the passage of the legislation?

I mean, had we been here for four hours maybe I could understand a decision by the chair to order motions ceased because of the dilatory nature.

But by my count this has taken about 15 to 20 minutes, and I do not know, as a rank and file member who wants the ability to offer motions and amendments I just really worry and I want to put on the record my concerns about the precedent that is being set.

I understand that you do not like these motions. But I do not think you can suggest that they are dilatory, given the amount of time that they have taken.

**The Chairman:** Well, Senator, the -- you should note, first of all, there has been seven.

Secondly, all seek the same relief, and thirdly, the vote has been exactly the same on all of them.

Now, I think it is -- I think it is fair that people have their say. Senators made a motion to delay the vote, and I am giving anyone the opportunity to give their reasons on in addition to those.

But, look, I want to be fair on this and seven is certainly fair. But --

**Senator Murphy:** I understand. But the decision by the chair to shut down the ability of members of this committee to offer motions or amendments and to rule them out of order, I just -- as someone who sits down at the bottom of the -- of the dais here, whether it is a Republican or a Democratic chair making

that decision, I think it is an unnecessary one and one that comes with a dangerous precedent, moving forward.

**Senator Menendez:** Mr. Chairman, I understand there is a motion pending and I think I would second it.

**The Chairman:** There is a motion.

**Senator Menendez:** I would like to speak to it for a moment and just simply say to my colleagues I know there is a degree of silence here.

But understand that whatever precedents you set here, if a majority changes, and someday it will, they are going to follow those precedents. Do you really want that?

Do you remember a time when you might have been in the minority? Do you really want that? Do you really want not to be able to make motions? Do you really want not to offer amendments? Do you really want no comity?

Do you really want, at the end of the day, hearings to be noticed and nominees to be noticed without the agreement of whoever your ranking member is at a given time?

That is what you are setting the foundation for here. And so, you know, the one thing I definitely have about me that is a Republican trait is my elephant memory for good and for bad.

**Senator Romney:** Mr. Chairman?



**Senator Menendez:** So I hope, at the end of the day, you think about what precedent you are setting here in terms of the future, and it really is incumbent upon all of us to try to preserve it.

I have worked -- you know, incredibly hard to try to preserve it. But when it seems that there is an issue for which comity can no longer be observed, we break comity.

Well, then that is not comity. It is not comity to use it when it is to our advantage and then break it when it is not to our advantage.

So I will just urge members to remember that. In fact, you are setting the foundation, whether it is on votes, on motions, on amendments, on how we conduct these hearings, and when we hold a hearing what is the agenda. You are setting that --

**The Chairman:** Senator Romney?

**Senator Romney:** Mr. Chairman, comity works both ways, and when people raise the same issue again and again and again and again, with the certain knowledge of the same outcome again and again and again, it is clear that the intent is not to engage one another across an aisle and looking for a common solution but it is, instead, to try and delay for some other purpose.

Comity respects the integrity of one another, the integrity of the people's time and their interests. It is clear that the -- a number of people have looked at

these issues and have reached their own conclusion and that is why they are voting the way they are.

And so continuing to bring up issues that could be packaged together with objections for proceeding to a vote, that is a very appropriate amendment to bring. But putting the objections together so that we could vote at one time would be the kind of comity that is associated with any body, I would think.

So I fully support encouraging anybody who has a reason to delay this vote further to bring that forward so that in this -- you have indicated this final vote that we will be able to make that determination.

Thank you, Mr. Chairman.

**The Chairman:** Thank you, Senator Romney.

Also, on the matter of comity, let me state in the record, and I think I have said this publicly and I am going to say it again, the first time I met with the ranking member we talked about how to run the committee and to do it with comity and to try to get along.

I was informed by the ranking member that his view of comity was that anytime that I wanted to put something on the -- on the agenda that he had the opportunity veto it.

I indicated I would not agree to that. This is my fortieth year in a Senate, including both state and federal. Never heard of the fact that the ranking

member could actually run the committee by taking something off of the -- off of the agenda.

But I told him I would work with him and I have done so. But occasionally you get to one where, as chairman, you exercise the prerogative and that is how I am going to do this as long as I am chairman of the committee.

And I want to work with the minority but, on the other hand, I think the chairman has the ability to set the agenda and to put things on the agenda that the chairman deems appropriate, or else the chairman is not the chairman.

**Senator Cruz:** Mr. Chairman?

**The Chairman:** So in any event -- I want to get to you.

Senator Cruz?

**Senator Cruz:** Mr. Chairman, several of the members from the other side of the aisle have suggested that not allowing them to make an infinite number of dilatory motions is the same thing as denying amendments on substantive legislation.

And just for a point of clarification, those are completely and utterly different. If we were taking up legislation, I would strongly support any member's right to offer amendments, even if I disagreed with the amendments -- that you have a right to offer an amendment and have it voted, and assuming it - - they were substantively different amendments to continue offering amendments and get a vote on that.

In this case, we have had now eight votes on the identical motion -- delay the vote. We understand now that the Democratic members of this committee want to delay the vote.

We voted on that eight separate times. A number of people around this table have tried cases in a court of law. If you stood up in a court of law and made the same damn motion eight times in a row and it was rejected eight times in a row, and if you kept doing it you would be held in contempt.

And so I think the chair is entirely right. I also think this is a standard that would be applied on both sides.

If a Republican member of this committee decided to file an amendment to carve Ronald Reagan into Mount Rushmore and that was voted down and that Republican member kept filing the same motion 42 times, I have every confidence the chairman at some point would say, this is dilatory. Your motion has been voted on. It has been rejected. Let us move on.

And so I commend the chairman for moving on.

**Senator Menendez:** Mr. Chairman, one final remark since you invoked me in a comment.

**The Chairman:** Senator Shaheen --

**Senator Menendez:** I am sorry.

**The Chairman:** -- asked to be recognized.

**Senator Shaheen:** Well, Senator Cruz, I appreciate your willingness to stand up for everyone being able to make motions to amend, and I think that is an important tenet for all of us to support.

I think, though, what is going on here is something more than just filing motions to be dilatory. I mean, the reason we are trying to express our concerns about Michael Pack is because we think it is setting a really dangerous precedent for this committee because as I interpret what we are doing today, and, as I said, I am not -- I was not opposed to him.

I was planning to vote for him until the investigative issues came up. And I think that sets a serious precedent that what we are saying now is we -- any nominee for a position within government can have serious issues that are being investigated that are unresolved, and we are going to go ahead and move them regardless of what those issues are.

That is not a precedent that I want to support, and I think that is why you are hearing from all of us, that we have concerns about this.

It is not -- I mean, I am not trying to be obstructionist. I have worked with the chairman and the ranking member in other capacities and we worked very well together.

But I am trying -- I think it is important for us because of this legitimate concern that we make the point that this is not a position that I think we want the committee to be in.

So, you know, I am not trying to be dilatory. But I do think it is important to say I do not believe that we should vote for a nominee of either party as long as they are under investigation.

I can tell you, on the Ethics Committee I do not think we would recommend that, and so I just -- I think that is why you are hearing the concern that each of us are expressing today.

**Senator Menendez:** Mr. Chairman, two final points on this.

**The Chairman:** Senator Menendez?

**Senator Menendez:** To my dear friend, the senator from Utah, while the motions have had the same end results required, they have been offered for different reasons, and the reasons they are not lumped together is just like when we have amendments.

You could have five, six, seven amendments to a specific piece of legislation and you will not necessarily amalgamate them all and offer them all together.

Why? Because you might find comity with somebody on one of the elements of what you are trying to amend, but if you put in all the other ones that they are not willing to support, then you lose.

So very often what we have seen in the amendment process, for example, is for the same piece of legislation a series of amendments.

And you, hopefully, attract a colleague who might disagree with you in general but agree on an amendment. These motions specifically each call for the same result but a different reason.

Postponement until you get this, until you get a second hearing. Postponement until you get documentation. Postponement until an investigation is over.

Now, it did not attract any support but they were all for different reasons. And the same thing in the amendment process. You could say your amendments are being dilatory.

But, in fact, you are breaking up your amendments because you might find somebody who accepts one of your amendments but dispels the other four. So I would just to return to them.

And the final point, I never told you, Mr. Chairman, that I had a veto. You came to me and, in good faith, we spoke about how the committee process had worked and I asked you very simply, are you going to observe comity.

And you said, well, what does that mean, and I explained exactly how it happened since I got on this committee through Democratic and Republican chairmen.

And you said, does that mean the minority has a veto. I said, no, it does not mean we have a veto. It means we work together to come to a solution as to how we are going to proceed on any piece of legislation or nominee even if we

do not agree on the final result of that. That is not a veto. That is a process in work.

So I have a different recollection. I never said we had a veto. You interpreted the reality of such a process to be a veto.

But as I pointed out at the very beginning of this hearing, I did not even put my own state reauthorization bill because Bob Corker did not want to agree to put it on the agenda.

I did not put up Obama nominees who I thought were qualified because he would not agree, and because I did not want to break comity. That is what comity was all about.

Now, you might want to call that a veto. If that was a veto, then I guess I accepted a veto. I accepted comity.

And so this now has broken down where in fact when there is an insistence to move either a piece of legislation forward before it can be worked on to a point that it be at least acceptable for amendments -- or a nominee before the information is fully there, that then we say sorry, your opinion does not matter.

Well, that is not what I did when I was chairman. That is not what other chairmen did. I understand that that is what you want to do. That is what you want to do.



But we set a precedent for the future. I think it is a precedent none of us really want.

**The Chairman:** Thank you, Senator. I do not --

**Senator Johnson:** Mr. Chairman?

**The Chairman:** Before you do that, let me respond briefly, Senator Johnson.

I do not -- I do not view this as being comparable to motions to amend. If you make a motion to amend and you have a specific amendment, the result of a yea or nay vote on that is very different. That is, at the end of the day, you may have a bill that is altered by the amendment process.

On a motion to put off the vote and postpone the vote, the result is exactly the same on every single motion.

So, again, this is our eighth one. Anybody who wants to postpone for any possible reason this will be your chance when you vote.

Senator Johnson?

**Senator Johnson:** Mr. Chairman, first of all, I think you have shown a great deal of patience in this discussion.

The minority's views are well known. They have laid out all the reasons. They have put them on the record.

Again, this is the eighth vote. The result is obvious. We know what it is going to be. But I do want to address the point of precedent because I do not want to accept the fact that we are setting precedents here.

There is a unique set of circumstances and we are going to vote. It is a unique nominee. We are going to vote. We are not setting any precedents here other than the fact that at some point in time, once the result is just obvious, you move on. You do not keep the process going on ad infinitum when you end up knowing what the result is.

So we are not setting any precedents here. We are going to vote on a unique set of circumstances and a unique nominee, and I would suggest we get on and get it done and let us vote.

**The Chairman:** Okay. On the final vote, Senator Merkley?

**Senator Merkley:** Thank you, Mr. Chairman.

I cannot agree with my colleague who says no precedents are being set. We are examining the question on whether promised documents were delivered and they have not been, and we are saying it is okay to go forward if the committee affirms this nominee.

We have a nominee under investigation for potentially criminal conduct. This vote does set a precedent that the majority of this committee may be saying, if they vote in the affirmative, that is okay.

We have other key pieces that have been raised in these different amendments. Each of those is a serious and separate issue that would be addressed separately.

If the vote was that he needed to correct his tax filings before we considered him, that is different than whether or not he needs to provide key documents. It is a different path that is being laid out with each of these amendments.

But no one can accurately say that this is not setting new ground for this committee that will affect the future.

**The Chairman:** Thank you.

On the final motion to postpone, the clerk will call the roll.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** No.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** No.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** No.

**The Clerk:** Mr. Romney?

**Senator Romney:** No.

**The Clerk:** Mr. Graham?

**Senator Graham:** No.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** No.

**The Clerk:** Mr. Portman?

**Senator Portman:** No.

**The Clerk:** Mr. Paul?

**Senator Paul:** No.

**The Clerk:** Mr. Young?

**Senator Young:** No.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** No.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** No.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** I am sorry. What is the present vote being taken on?

What is the -- is there --

**The Chairman:** The motion is to postpone the vote.

**Senator Menendez:** Oh. Aye.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** Aye.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** Aye.

**The Clerk:** Mr. Coons?

**Senator Coons:** Aye.

**The Clerk:** Mr. Udall?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Murphy?

**Senator Murphy:** Aye.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** Aye.

**The Clerk:** Mr. Markey?

**Senator Menendez:** Aye, by proxy.

**The Clerk:** Mr. Merkley?

**Senator Merkley:** Aye.

**The Clerk:** Mr. Booker?

**Senator Booker:** Aye.

**The Clerk:** Mr. Chairman?

**The Chairman:** No.

**The Clerk:** Mr. Chairman, the yeas are 10. The nays are 12.

**The Chairman:** The roll call is 12 nos --

**Senator Booker:** Mr. Chairman?

Mr. Chairman, it is Cory.

**The Chairman:** Senator Booker?

**Senator Booker:** Thank you for recognizing.

I want to say, at the top, I do not have a motion to postpone but I would like to make a motion. You know, this is one of my favorite experiences as a senator because this is the committee where we have just tremendous bipartisan work and I am really proud of a lot of the work I have done.

And I know I am the least in seniority here and I have just been grateful for the relationships I have deepened with members on both sides of the aisle, and this is a very disappointing moment for me because I do think that there is a precedent being set.

And I am wondering if maybe, as a default or at least as a consolation, to the good faith comments by the minority, some of my members here have expressed that they were prepared to vote for this person but for the controversy, and I think it is hard to say that this is not a controversy.

Many of us have been involved in nonprofits. The fact pattern here, to me, is disturbing at the very least and suspect at the very least, and I do not think it actually is modeling the ethics of people on both sides of the aisle.

But there is something deeper that I do think is a bit of precedent setting is the fact that when this nominee submitted for the record statements that we now see were untrue, whether they were intentionally untrue or not intentionally untrue, I know Senator Menendez and others have asked him to correct the record and he has refused to do that.

That seems to me to be disrespecting this entire committee. If there is something that is factually untrue in the record that he submitted, he should be asked to correct the record.

And so that is problematic to me and I think, again, there is a lot of just goodwill on this committee.

So correct me if I am wrong. I do not have as much experience on this committee as others. But can we -- can I propose a motion that at least we, as a team here, as a committee, say it is the sense of the committee that this nominee before their vote on the floor of the Senate simply corrects the record out of a matter of respect to this body and who we are? That we should have a truthful accounting in the responses that he gave?

**The Chairman:** Is this a motion to postpone, Senator?

**Senator Booker:** Sir, it is not a motion to postpone.

**The Chairman:** What is it?

**Senator Booker:** It is a motion to offer the sense of this committee that if there are factual -- known factual errors in the record that he, in the responses to committee questions that he simply corrects the record before he -- before the vote takes place on the Senate floor.

**The Chairman:** Senator, I am going to consider that a motion to postpone. We have had eight motions to postpone and I am just not prepared to take another motion at some point in time.

**Senator Booker:** Mr. Chairman, if I may -- if I may just sincerely, in my hope that this --

**The Chairman:** I do not question your good faith.

**Senator Booker:** If I could finish my statement. I know you do not --

**The Chairman:** Please.

**Senator Booker:** -- question my integrity, sir. I know you are incredibly respectful to me always.

It is not a motion to postpone. It is just a sense of this committee, in no way having any binding nature. But perhaps we could speak into the annals of history and just say this committee believes that people should respond honestly, truthfully, and fully to the questions asked by this committee.

That should be something that is not controversial, in no way binding you are moving this to the floor of the Senate.

But cannot we as a committee find that comity that we agree that it is just the sense of this committee that people should be responding truthfully and accurately if there is a known error in the record that they submitted?

If not, we will see this pass, voted on the Senate floor, but someone purposefully did not fill out their responses with truth and integrity.

**The Chairman:** Thank you, Senator.



And with all due respect, and I say that as well as I can, I am going to consider it simply a motion to again put this off and we have done that eight times.

There has been every possible reason given and I am just not going to take any more motions on it. I am going to declare it out of order.

But it is time we got to a vote on this.

**Senator Booker:** And then may I just conclude, for my record at least, for my own just sense of fellowship here around this table that I am not at all asking for this vote to be postponed.

**The Chairman:** That is good.

**Senator Booker:** I want to say clearly for the record, the vote will go forward. I am not, for the record, asking for this vote to be postponed.

I am simply asking for an affirmation of sentiment that the people around this table, as a nod to the comity and the goodwill of this body, that we just believe people should respond truthfully and accurately when a nominee answers a QFR's questions for the record.

**The Chairman:** Thank you, Senator. You have made your record.

Is there -- is there --

**Senator Menendez:** Mr. Chairman, on -- Mr. Chairman, on Senator --

**The Chairman:** Please, Senator. Do not interrupt me when I am speaking.

**Senator Menendez:** I am trying to attract your attention in order to be recognized.

**The Chairman:** You are recognized.

**Senator Menendez:** Thank you.

Senator Booker's motion is not to postpone. It is to condition the reporting out of the nominee and that that condition be if the majority decides to vote out the nominee that it be conditioned, the recommendation to the Senate is that it not proceed to a floor vote until the appropriate documentation and changes have been made.

That is not a postponement of the moment. That is a conditioning. I think it is totally appropriate.

**The Chairman:** I hear your argument, Senator. I am going to use the prerogative of the chair to declare that it is indeed a vote -- a motion to postpone.

Is there further debate?

[No response.]

**The Chairman:** There being no further debate, the question before the committee is shall Michael Pack be sent to the floor with a recommendation that he be confirmed.

The clerk will call the roll.

**The Clerk:** Mr. Rubio?

**Senator Rubio:** Aye.

**The Clerk:** Mr. Johnson?

**Senator Johnson:** Aye.

**The Clerk:** Mr. Gardner?

**Senator Gardner:** Aye.

**The Clerk:** Mr. Romney?

**Senator Romney:** Aye.

**The Clerk:** Mr. Graham?

**Senator Graham:** Aye.

**The Clerk:** Mr. Barrasso?

**Senator Barrasso:** Aye.

**The Clerk:** Mr. Portman?

**Senator Portman:** Aye.

**The Clerk:** Mr. Paul?

**Senator Paul:** Aye.

**The Clerk:** Mr. Young?

**Senator Young:** Aye.

**The Clerk:** Mr. Cruz?

**Senator Cruz:** Aye.

**The Clerk:** Mr. Perdue?

**Senator Perdue:** Aye.

**The Clerk:** Mr. Menendez?

**Senator Menendez:** No.

**The Clerk:** Mr. Cardin?

**Senator Cardin:** No.

**The Clerk:** Ms. Shaheen?

**Senator Shaheen:** No.

**The Clerk:** Mr. Coons?

**Senator Coons:** No.

**The Clerk:** Mr. Udall?

**Senator Menendez:** No, by proxy.

**The Clerk:** Mr. Murphy?

**Senator Murphy:** No.

**The Clerk:** Mr. Kaine?

**Senator Kaine:** No.

**The Clerk:** Mr. Markey?

**Senator Menendez:** No, by proxy.

**The Clerk:** Mr. Merkley?

**Senator Merkley:** No.

**The Clerk:** Mr. Booker?

**Senator Booker:** No.

**The Clerk:** Mr. Chairman?

**The Chairman:** Aye.

**The Clerk:** Mr. Chairman, yeas are 12. The nays are 10.

**The Chairman:** The motion has passed on a vote of 12 to 10, and Mr. Pack will be sent to the floor. I will sign the document.

We have before us an en banc package of 15 bills that have been agreed to. I am, certainly, willing to send them out. If anyone has an objection they should so state and we will adjourn the meeting.

Otherwise, I would entertain a motion to send the en banc package out and as amended -- by the amendments that have been identified in that list.

So this was a bipartisan agreement, long negotiated, and because of the fact that we have had the COVID issue, that is why the list is so long. But I will certainly entertain a motion.

But, again, we may be too far aground to take it.

**Senator Menendez:** Mr. Chairman?

**The Chairman:** Senator Menendez?

**Senator Menendez:** Mr. Chairman, my question goes to how do you intend to deal with all of the pieces of legislation that are not in proposed en bloc grouping?

**The Chairman:** Well, we will get to them as soon as we can, Senator.

**Senator Menendez:** You do not intend to pursue them today even though you have listed them?

**The Chairman:** No, these are the ones that are agreed to. There are others. The staffs have gone back and forth and reached an agreement on these 15.

The others there was no agreement on. We have a vote starting in about one minute. So I do not intend to take them up today. But I do intend to have a business meeting as soon as we can to take these up.

I know you have legislation. Others have legislation. We have got some really important things. I am anxious to get to a discussion of the COVID situation. It is right in our wheelhouse, it being a global problem.

But we just cannot do it today, Senator.

**Senator Menendez:** Well, Mr. Chairman, I would just say I see that you noticed them so I understand the en bloc ones. But it was my assumption, and other members who prepared amendments, that they were going to move forward with calling up the non-en bloc pieces of legislation and then letting members offer an amendment and then creating final votes on that.

So even though you noticed it you are not going to proceed with them today?

**The Chairman:** Well, we are out of time, Senator. Number one.

Number two, it is --

**Senator Menendez:** Well, could we after the votes?

**The Chairman:** It is not my intent to block any amendments. I want people to have the opportunity to call up their amendments, to debate the amendments, and vote on the amendments.

But these 15 have no amendments and -- other than amendments that have been agreed to, and so I have this here.

But, look, I will proceed how you want. But we are out of time, since we do have to --

**Senator Cardin:** Mr. Chairman, if I could just --

**The Chairman:** Senator Cardin?

**Senator Cardin:** And I am in support of the 15 and I am glad we can move them forward. I am very disappointed there are some others that we are not going to be able to move where I think there is broad consensus, and if we had more committee time we would be able to get them done today.

It has been a long time since we have had a business meeting. I wanted to have some discussions in regards to some of the issues that are not on the agenda, and I have talked to you about that.

I just think now it is going to be at least two weeks before we have another business meeting. We are not going to be in next week.

Some of these issues are very timely such as what is going on in Afghanistan and what is going on in Cuba. These are not inconsequential areas of concern.

I would just ask the chairman to consider a time that we can have another business meeting and not be subjected to one member blocking us from being able to take up a bill, where even when we take up the bill for one member not being in total accord usually by the end of the business meeting we have total consensus, and we are not going to be able to do that today because of lack of time.

**The Chairman:** I share your -- I share your frustration.

**Senator Shaheen:** We lost a quorum.

**Senator Cardin:** What happened to the Republicans?

**The Chairman:** I have -- I have 12 members in the room right now. The motion is to -- is there a motion to adopt the en banc --

**Senator Kaine:** Mr. Chair, if I could -- this is Senator Kaine.

**The Chairman:** Yeah?

**Senator Kaine:** Could you specify? I came prepared to talk about 20 bills today. So I don't know which are the ones that are in the en banc list. So if you could just -- if you could just read the bill numbers.

**The Chairman:** I will. I will, and I appreciate that. And I am not trying to pull anything here. I want -- I want everybody to have an understanding.

This was circulated amongst the staff in negotiations.

It is Senate Bill 238, Senate Bill 712, Senate Bill 3176, H.R. 192, Senate Res. 567, Senate Res. 148, Senate Res. 392, Senate Res. 406, Senate Res. 454, Senate Res.



502, Senate Res. 511, Senate Res. 523, Senate Res. 525, Senate Res. 533, and Senate Res. 542.

Senator Merkley?

**Senator Merkley:** Mr. Chairman, I would ask to be added as a co-sponsor of the resolution supporting the Southeast Asia nations, supporting the U.S. role in the Vaccine Alliance, and supporting the goals of International Women's Day.

**The Chairman:** I am sorry, Senator. I did not understand. Are you asking for a unanimous consent or a co-sponsor?

**Senator Merkley:** Yes, I am asking unanimous consent to be added as a co-sponsor of those three items.

**The Chairman:** If there is no objection, you will be added.

**Senator Merkley:** Thank you.

**The Chairman:** All right. Has there been a motion made, Clerk, on the -- to adopt the --

**The Clerk:** So moved.

**The Chairman:** It has been moved. Is there a second?

**Senator Portman:** Second.

**The Chairman:** Is there a second?

**Voice:** Second.

Anybody object to moving forward on the en banc list with amendments?

[No response.]

**The Chairman:** There being none, all in favor signify by saying aye.

[Chorus of ayes.]

**The Chairman:** Oppose, nay.

The ayes have it. The en banc list has been adopted. The committee is adjourned.

[Whereupon, at 12:04 p.m., the hearing was adjourned.]