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REDISTRICTING SUBCOMMITTEE

HEARING

GRESSETTE BUILDING

COLUMBIA, SOUTH CAROLINA

June 21, 2011, 10:00 a.m.

DEBORAH L. DUSSELJEE, Registered Professional Reporter

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1 APPEARANCES :

2

3 MEMBERS IN ATTENDANCE :

4

SENATOR McCONNELL

5

SENATOR FORD

6

SENATOR MALLOY

7

SENATOR CLEARY

8

SENATOR SHOOPMAN

9

SENATOR MARTIN

10

11 STAFF PRESENT :

12

CHARLIE TERRENI

13

DEBBIE HAMMOND

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KATHERINE WELLS

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1 10:25 a.m.

2 CHAIRMAN McCONNELL: All right. We will call
3 this meeting to order, Senate Judiciary Redistricting
4 Subcommittee.

5 We are here today to focus on a congressional
6 redistricting plan. Yesterday we heard from many people
7 about congressional plans they favor or do not favor.

8 Staff drafted for our consideration two
9 different congressional plans, and we heard about those
10 last night as well.

11 What I would suggest for our order of business
12 this morning is to allow Mr. Terreni to provide us with
13 information on the Senate staff congressional plans.
14 Frankly, all of you have -- were here at the hearing
15 last night, and I really don't know that we really need
16 to go into that in any depth.

17 I would ask that members of the subcommittee
18 wait to ask any questions of Mr. Terreni until after he
19 completes his presentation unless something needs
20 immediate clarification.

21 Next, we will hear from members of the
22 subcommittee about amendments or changes to the
23 congressional plans that they want to present to or
24 discuss with the subcommittee.

25 At the appropriate time, the subcommittee will

1 vote on proposed amendments or we may vote out a plan
2 with all the members reserving their rights to bring up
3 amendments at the Senate judiciary hearing today or on
4 the Senate floor later in the week or next week.

5 We are going to try to move this thing in a
6 timely fashion but a patient fashion to make sure that
7 everybody has time to get everything done.

8 So unless there are any questions or comments
9 from the subcommittee members, I will ask Mr. Terreni if
10 he has --

11 SENATOR MALLOY: Mr. Chairman.

12 CHAIRMAN McCONNELL: Yes, sir, Senator from
13 Darlington.

14 SENATOR MALLOY: I just want to make the Chair
15 and committee aware that I have the senator from
16 Orangeburg's, Senator Hutto's, proxy.

17 CHAIRMAN McCONNELL: All right. I will be
18 looking to you twice then when we vote.

19 Mr. Terreni, anything you need to tell the
20 subcommittee based on the public hearing last night? I
21 know some of us had some -- heard testimony and felt
22 like we could make some improvements.

23 MR. TERRENI: Yes, sir, Mr. Chairman.

24 As you mentioned, Mr. Chairman, last night we
25 heard public testimony, and two staff plans have been

1 released of a proposed draw termed, "Plan 1" and a
2 proposed draw termed, "Plan 2".

3 The subcommittee is familiar with those plans,
4 so I won't try to review them in detail.

5 In the course of the public hearings, we also
6 heard comments regarding the proposed staff plans,
7 specifically a great deal of comment concerning the
8 composition of the Pee Dee and the new district, as well
9 as competing plans, I should say, presented by the
10 American Civil Liberties Union and, last night, for the
11 first time, the South Carolina Democratic Party.

12 Briefly -- I would like to comment briefly on
13 the ACLU plan, which purports to create two
14 minority/majority districts in the State of South
15 Carolina.

16 Mr. Chairman, the federal courts have
17 struggled with the 6th District historically in South
18 Carolina and the configuration of the 6th District in
19 South Carolina and have observed, although never
20 specifically ruled on, potential Shaw problems presented
21 by the 6th District.

22 Of course, the current configuration of the
23 6th District in South Carolina is a federal court draw.
24 So we can take some comfort into the way that the 6th
25 District is assembled.

1 The ACLU would purport to create two black
2 majority districts with a configuration, which I would
3 submit, raises Shaw concerns anew regarding the state's
4 congressional plans. Specifically I will point your,
5 the subcommittee's, attention to a finger in the Upstate
6 minority/majority district. I believe it is their 6th.
7 They changed the numbering a little bit.

8 Is that the 7th or the 6th?

9 MS. HELMS: 7th.

10 MR. TERRENI: 7th.

11 Going into Spartanburg, we have a split in the
12 Town of Cheraw. We have a configuration that goes from
13 Chesterfield to Spartanburg Counties and raises some of
14 the issues that have historically been raised about the
15 current 6th District.

16 Whereas, the 6th District in this plan, I
17 believe, encompasses 19 counties. I believe 12 of them
18 are split. It is a -- it raises some of the same
19 issues, and I will leave it at that.

20 The South Carolina Democratic Party presented
21 a plan to the subcommittee yesterday which was
22 configured along the lines of two 45-percent districts.

23 While we received this plan at 7:00 last night
24 and haven't had the opportunity to conduct detailed
25 analysis about it, I would have some general

1 observations.

2 The prospect of the state without a 50-percent
3 majority black district raises Section 5 concerns, which
4 would cause me not to recommend such a configuration to
5 the committee.

6 It may very well be that the law will change
7 down the road, as it is changed every decade.

8 You know, the nature of redistricting, the
9 state legislatures go out and redistrict and try to
10 comply with the law as they know it, and then the
11 Supreme Court gets to review the plan for the next five
12 years and changes the law as we know it.

13 SENATOR FORD: Which plan is this?

14 MR. TERRENI: This is the Democratic Party
15 plan we received yesterday.

16 SENATOR FORD: You said two districts with
17 45-percent. What are they?

18 MR. TERRENI: Well, it would be the 6th and
19 the 5th, I believe.

20 A couple of things about this premise of --
21 all I would say is, this is premised on the idea of the
22 law in Section 5 as we know it is going to change.
23 Perhaps the law regarding Section 2 of the Voting Rights
24 Act is going to change.

25 For those reasons, I wouldn't recommend the

1 committee adopting such an approach. This plan
2 specifically is also not drawn within deviation of
3 plus-or-minus one as required by the courts and
4 constitution, although I will concede that that probably
5 could be fixed through amendment.

6 A third plan, Mr. Chairman, which staff has
7 worked on at your instruction, seeks to address some of
8 the concerns raised in the public hearing yesterday.

9 This is a plan which configures a Pee Dee
10 district with anchor counties as Horry County and
11 Florence County, both of which are whole in this plan.

12 The historical 6th District, as I think the
13 House of Representatives has had to concede and as the
14 Senate, I think, will have to concede because of sheer
15 mathematics, cannot be redrawn. There are just too many
16 people in the old 6th District that would include Horry,
17 Marion, Georgetown, Williamsburg, Florence, Dillon,
18 Marlboro, Darlington. You also cannot -- it also raises
19 problems in maintaining a viable majority/minority
20 district.

21 So what this plan does is it maintains Horry
22 whole. It maintains Florence whole, and it doesn't have
23 the split in Florence County that the House plan had.
24 It has Marion County, Dillon, Marlboro, Darlington, Lee,
25 and part of Sumter. Sumter is largely divided along the

1 same boundary with the 6th that the federal court drew.

2 Mr. Chairman, while there was growth in Horry
3 County, and the subcommittee heard a great deal about
4 it, there was also growth throughout the coast.

5 Horry County grew 36.9 percent in the 2010
6 census. However, Berkeley County grew 24.6 percent.
7 Dorchester County, lest we forget, grew 41.65 percent.
8 Charleston grew 12.69. Beaufort grew 34.14.

9 So there is growth throughout the coast. What
10 this new plan does is it brings three congressional
11 districts to the coast recognizing that growth.

12 You have a new district in District 7. You
13 have District 6 on the coast now in Georgetown County in
14 that lower NESAs area with Georgetown, Williamsburg, and
15 Clarendon Counties. And you also have the 1st District,
16 ranging from Beaufort through Charleston Counties.

17 Whereas, the coast of South Carolina was
18 previously represented by two congressmen. Under this
19 plan, it would be represented by three congressmen, each
20 with a substantial amount of population to bring to bear
21 on the issues that concern the coasts of South Carolina.

22 SENATOR FORD: Mr. Chairman.

23 CHAIRMAN McCONNELL: Yes, sir. Senator Ford.

24 SENATOR FORD: The new district, what would be
25 the racial breakdown?

1 MR. TERRENI: The new 7th District would be
2 30.8-percent non-Hispanic black voting age population.

3 SENATOR FORD: How about with the Hispanic?

4 MR. TERRENI: The Hispanic population, Senator
5 Ford, would be 3.42-percent voting age.

6 SENATOR FORD: The 6th would be what?

7 MR. TERRENI: Senator, the 6th would be 51.25,
8 3.35-percent Hispanic.

9 SENATOR FORD: Can I ask you a question?

10 MR. TERRENI: Yes.

11 CHAIRMAN McCONNELL: Yes.

12 SENATOR FORD: Yesterday down at the public
13 hearing, I seen a lot of anger, even bitterness, with
14 some of the people when I raised the same question about
15 -- I was just curious about percentages in the district
16 that they wanted us to adopt, which is not a bad
17 district.

18 But there was a lot of anger and bitterness
19 because of the fact I used -- I asked one simple
20 question about race.

21 Representative Cobb-Hunter got a plan that is
22 two 45-percent African-American districts.

23 MR. TERRENI: Uh-huh.

24 SENATOR FORD: Now, I don't think we should
25 use the -- I don't think -- I think somebody got to go

1 and set an example in this country in the South, those
2 states that is covered by the Voter Rights Act.

3 I really don't think it is always necessary to
4 maintain -- I mean, we struggling to the maintain the
5 51-percent district when it might not be necessary no
6 more. Because like everybody saying, Tim Scott won his
7 district with just 8-percent minority, and you got about
8 three or four senators who won in districts that is
9 lower than 45-percent African American.

10 I think the day will have to come soon, and I
11 think we should set an example where we could challenge
12 the court and go into some districts like 45 percent or
13 even 42 or 43 percent because I think we are going to
14 have to come together as a people in this state and in
15 this country.

16 So is it -- and I know you struggled hard to
17 come up with these districts, but there is no way
18 possible for you to come up with two districts like
19 Representative Hunter did that would not necessarily cut
20 up 19 -- how many counties, did you say, 19 counties?

21 MR. TERRENI: Well, Representative
22 Cobb-Hunter's plan, let me be clear, did not have a
23 19-county district because if you are drawing at 45
24 percent, you have a more compact configuration than if
25 you are trying to draw two majority African-American

1 districts, Senator Ford.

2 So I wasn't speaking about hers.

3 SENATOR FORD: Over 50.

4 MR. TERRENI: Over 50 percent, yes.

5 SENATOR FORD: I don't think we need to do
6 that any more in the future.

7 MR. TERRENI: Well, Senator, what I would say
8 is this. The 6th District --

9 SENATOR FORD: You don't think that courts,
10 and even the Justice Department, are willing to look at
11 the South differently now?

12 Because, see, I was in Selma in '65, and I
13 know, okay, at that time we had to do what we did. But
14 I think that we are not going to ever grow as a country
15 unless we make -- somebody got to be willing to
16 challenge this stuff, and I think it is the right time
17 to do it.

18 MR. TERRENI: Senator, couple of things.

19 Far be it for me to say what the Justice
20 Department would or would not look at. I don't think
21 anybody knows the Justice Department's attitude
22 regarding Section 5 going into this process. They have
23 been rather opaque in their guidance.

24 We do know congressional guidance, however.
25 In 2006, re-enabling legislation for the Voting Rights

1 Act is widely regarded as strengthening the
2 retrogression standards in Section 5 rather than
3 loosening the retrogression standards in 5.

4 That -- meaning that there is now a more
5 strict test on whether or not a jurisdiction has to
6 maintain the ability to elect for a majority/minority
7 district --

8 SENATOR FORD: They released -- they slacken
9 it up some.

10 MR. TERRENI: No, sir. I think Congress did
11 not slacken it.

12 I think Congress affirmatively took steps to
13 strengthen the retrogression standard in response to
14 cases such as Georgia versus Ashcroft that were decided
15 in the Supreme Court earlier in the decade, as well as
16 Reno versus Bossier Parish.

17 SENATOR FORD: Let's say ten years from now,
18 based on the kind of growth that -- the kind of white
19 population that came down to the South, South Carolina.
20 In particular, it is going to be humanly impossible to
21 maintain what Congress did a couple years ago. Would
22 you agree?

23 I mean, there is no way possible because right
24 now you are struggling just to come up with a
25 51-point-something district.

1 MR. TERRENI: Senator, I want to make a point
2 about that. I do want to urge that it really wasn't
3 much of a struggle. The 6th District that is configured
4 as you see it is very much the 6th District that the
5 three-judge federal court drew in 2002.

6 There are not many changes to the 6th District
7 to -- which maintains it at the level of 51.25 percent.

8 I don't want to give -- leave the impression
9 with the subcommittee that race was the predominant
10 purpose in drawing this district, nor do I believe that
11 it was --

12 SENATOR FORD: I didn't say that.

13 MR. TERRENI: Nor do I believe it was the
14 predominant purpose of the three-judge federal court.

15 I take comfort in the three-judge court's
16 decisions that were made in 2002 when they were
17 cognizant of the constitutional issues that were raised
18 by the previous configurations of the 6th District,
19 specifically re-entry into Charleston County in the 6th
20 District where it takes population and goes through
21 Berkeley County and comes through Daniel Island and goes
22 up into North Charleston. That's very much the same
23 draw the federal court drew. Entry into Richland is
24 very similar to what the federal court drew.

25 So in doing that, adhering to the federal

1 court lines in repairing some of the splits that
2 previously existed, such as Calhoun County is now
3 entirely in the 2nd District, I think we have come
4 closer into constitutional -- well, we are in
5 constitutional compliance.

6 And I think we are further bolstered in
7 defending this 6th District configuration against the
8 Shaw challenge, which was clearly on the minds of the
9 three-judge court last time around.

10 So you have a 6th District here that largely
11 maintains the core constituencies of the previous
12 district. You have a 7th District that unites the Pee
13 Dee with whole counties with -- and anchors it with
14 Horry and Florence Counties and, frankly, results in
15 what is a 30-percent BVAP district, which I will leave
16 to the subcommittee's judgment as to the political
17 implications of that.

18 I think it complies with legal requirements of
19 the Voting Rights Act.

20 SENATOR FORD: You did a good job on that.

21 But you know the problem, though, like when
22 the old guys from SCLC, Dr. King's organization, get
23 together like three weeks ago, right, in D.C.?

24 MR. TERRENI: Yes.

25 SENATOR FORD: It is a lot of disappointment

1 with African-American elected officials.

2 For example, when I was in Hartsville when
3 Senator Malloy was running, his campaign was totally
4 different from our campaign with these majority black
5 districts. He had to go, and he had to really campaign
6 just like with black votes but with a lot of white
7 votes. Otherwise, he wouldn't have won. When you've
8 got these districts, 54-, 55-, 56-percent African
9 American, those guys don't even make no attempt to do
10 that.

11 That's not what Dr. Martin said. I am just
12 saying that one day soon, we need to change, we need to
13 change that.

14 Whether we have to fight Congress or the
15 Justice Department to do that, I think we should because
16 it is not -- it is not -- this is just not plain, good
17 Americanism.

18 MR. TERRENI: Senator Ford, I hear you, and
19 what I would say is this. There is nothing in the law
20 that prevents the Senate from drawing 45-percent
21 African-American districts.

22 There is something in the law as currently
23 enacted by Congress that would, in my opinion, prevent
24 the Senate from drawing down a district that is
25 currently over 50 percent to below 45 percent.

1 In other words, I think the 6th District -- my
2 best advice to the subcommittee is if you want a plan
3 that's going to preclear with the Justice Department,
4 you need to maintain the 6th District at over 50
5 percent. At that point, demographics kick in to prevent
6 you from drawing a second district at 45.

7 So, also, just the natural configuration of
8 things, if you are going to unite -- for instance, the
9 Cobb-Hunter plan is unable to unite Florence and Horry
10 in the same district. It splits Marion County.

11 You end up -- you can't have the 7th as we
12 talk about having it, as Republicans talk about having
13 it, and also have the Cobb-Hunter plan, at least not --
14 I haven't seen a presentation of that configuration that
15 would satisfy these objectives.

16 But if you start from the premise that you are
17 going to work with safety and certainty, maintain the
18 6th District as it is configured, largely as it has been
19 recommended by the various constituencies involved and
20 by the court as it drew it in 2002, you work from that
21 premise.

22 After that, as we have seen with Plan 1 and
23 Plan 2, there are various configurations available to
24 the subcommittee.

25 This latest Plan 3 is one which unites the Pee

1 Dee district to the extent possible. I should also
2 point out it unites Greenville County as an anchor
3 county in District 4.

4 So you then have a whole county in District 4,
5 and you have -- you do have a split between the 3rd
6 District and the 2nd District in Aiken County, but it is
7 largely along the lines of the SRS community because the
8 edge -- the Aiken -- the 3rd District would come into
9 the North Augusta area and be the challenge area in this
10 draw. Otherwise, lines are very similar to what you
11 have on the map today.

12 SENATOR MARTIN: Mr. Chairman.

13 CHAIRMAN McCONNELL: Senator from Pickens.

14 SENATOR MARTIN: Mr. Chairman, members of the
15 Subcommittee, I would only comment that I think the
16 staff has done a great job in bringing together a lot of
17 the concerns that were expressed in the public hearing
18 yesterday evening.

19 I'm also convinced, based on Mr. Terreni's
20 reading of the Section 5 provision, particularly since
21 Congress re-enacted the Section 5 provision since the
22 last foray into the appellate process on the last round
23 of reapportionment -- I'm persuaded that if we go back
24 and go below the 50 percent in the 6th District, that we
25 are paddling up a stream that we won't be successful in.

1 And for that reason, I think the staff -- I
2 support the staff's move to keep the 6th District at
3 above the 50-percent mark. I think that's a very
4 reasonable objective for us to go with.

5 And I -- I just want to say from my vantage
6 point, the 3rd District, obviously, is one that -- the
7 3rd and the 4th interests me the most in my corner of
8 the state, and I think they have done a good job
9 responding to the concerns that were expressed there.

10 You know, I really didn't -- hadn't thought a
11 great deal about the demographics in Greenville County
12 until it was mentioned yesterday, about the minority
13 district that would be split when you cut off the
14 southern portion of Greenville County. Some of the
15 plans do. I like the fact that we are keeping that
16 together in the 4th.

17 Of course, Greenville, I believe, being the
18 most populous county in the state deserves that -- the
19 character of having its borders contained in one
20 congressional district.

21 But having said that, I like what was
22 accomplished with the Pee Dee. I think the 5th District
23 looks good. You know, you can't please everybody.
24 That's for sure. But I think this plan brings it
25 together in a way that my hope is that we can move it

1 forward to the full committee.

2 CHAIRMAN McCONNELL: Senator from Greenville.

3 SENATOR SHOOPMAN: Mr. Chairman, I would echo
4 what the Senator from Pickens just said.

5 I want to publicly thank, first, the staff for
6 their work and effort and responding so quickly to the
7 comments we received yesterday.

8 You know, yesterday we heard comments that
9 centered around keeping Horry County whole. We heard
10 comments yesterday as it relates to Aiken actually
11 wanting to be split. We heard that yesterday when we
12 heard a representative from my area, Mr. Fant, and --
13 talk about his concerns about the minority community in
14 Greenville County.

15 And so I believe the staff has done a yeoman's
16 job in just the short time we had from yesterday evening
17 to refine these plans, to incorporate the public comment
18 into a third alternative, which I would just want to
19 make sure that the record reflects that yet another
20 example, that from the beginning of this process, Mr. --
21 our Subcommittee Chairman has made it clear that we are
22 going to listen to the people, and we are going to make
23 sure that public comment is taken in and it is heard and
24 reflected in our work product.

25 And I see it. I see it in every evolution.

1 When comments come, that we are listening to them, and
2 we are showing that we are listening to them by
3 incorporating this plan. Are we going to please
4 everyone? No. But are we going to build a plan based
5 on public comment? I think we have done that.

6 I think we are continuing to do that. I would
7 say it is still evolving based on what we hear tomorrow
8 and the next day. And I know that's to -- maybe to the
9 -- not good news to the staff. That may mean a few more
10 sleepless nights in keeping up with our timeline.

11 But I do want to thank the Chairman of this
12 committee that has made it paramount from this
13 process -- from day one that we are going to have an
14 open process, that it is going to be built on public
15 comment, and if -- when people ask for more time, they
16 were given more time.

17 When people asked for -- when a member of this
18 committee asked for more hearings, it was given. And so
19 if there is one thing that I think has been paramount
20 from the beginning is that being flexible to make sure
21 we listen to the public in this process is one -- is
22 going to be the dominant trait of how we got to this
23 point.

24 And, Mr. Chairman, I just wanted to thank you
25 for that.

1 CHAIRMAN McCONNELL: Thank you, sir.

2 SENATOR FORD: Mr. Chairman.

3 CHAIRMAN McCONNELL: Yes, sir. Senator from
4 Charleston, Senator Ford.

5 SENATOR FORD: I want to make it clear. I'm
6 not taking away nothing from the wonderful work of this
7 committee, staff, Mr. Terrini, and this chairman.
8 Everyone did a wonderful job.

9 But listen, South Carolina have a beautiful
10 history. Like this morning, I came here late because I
11 was watching "Gettysburg", and there was some
12 interesting -- it was a new version of it, and there was
13 some interesting stuff that was done that I didn't even
14 know about.

15 And I have been reading a whole lot of --
16 South Carolina is a leader in this country, and we've
17 got bold leadership, and we ain't got to kowtow to the
18 Congress.

19 Listen, we know what's going on in our state.
20 Congress don't. They are in D.C. When they come home,
21 you know, they do all kind of stuff. We are here with
22 the people.

23 We heard those folks yesterday. And I'm
24 telling you, gentlemen, I heard a lot of anger when I
25 made that simple comment about -- just one little

1 question, what's the racial breakdown in that district?

2 And I didn't even think about, you know, no
3 racial issue. I just wanted to know because I had never
4 seen it before.

5 I don't think we should always have that in
6 our state. We don't need that in our state. And I
7 respect everything you gentlemen say about the staff and
8 Mr. Terreni and the Chairman. I have the same position,
9 but I think we could be leaders in the country on this.

10 And to struggle just to maintain a district
11 because of what we did in 1965, those days, this is
12 2011, and it should be a new day in South Carolina. And
13 a new day in South Carolina is that the South Carolina
14 Senate taking a lead in bold, bold leadership to let the
15 federal courts know, to let the Justice Department know.

16 And I respect those positions that they took
17 in the past because that's brought us this far in the
18 South, the fact that we can be here as black and white
19 senators. Everybody did a wonderful job back in the
20 day, back then; but this is a new day.

21 And I think a new day simply mean that we
22 should try some different stuff and fight for it. I
23 would like to see Mr. Terreni in court fighting for our
24 plan if we could go 45.

25 Because, see, those guys -- I go to D.C. every

1 other weekend. They don't know what's going on in the
2 real America. They have no clue. They have no clue,
3 Senator. I promise you, they have no clue. I will tell
4 you about yesterday. Here is what I know.

5 Every member of the tea party who spoke, they
6 was different from the comments they make nationally.
7 They was talking about -- even one lady say she would
8 like to see Aiken split because she talk about the need
9 of their two Congressmen. All over this state, they
10 were talking about how important our Congressmen were.

11 That's not no reality anymore. Congress is
12 not important anymore. They took away that, their
13 earmarks. Unless y'all don't watch the news, there are
14 no more earmarks in Washington. Even the Speaker of the
15 House, Mr. Boehner, couldn't get earmarks. He cried on
16 T.V. No more earmarks.

17 When Congress lost their earmarks, they lost
18 their effectiveness. Nothing they can do now.

19 I was talking to Lindsey Graham -- I mean,
20 Senator Graham a couple of days ago. He say that when
21 that happened, their power was diminished of helping
22 their constituents. Basically nothing they can do now.
23 They lost pork. They can't get that no more. They have
24 to fight for stuff in legislation.

25 So those people yesterday, even though they

1 made some good comments and I love it, it wasn't based
2 on reality, today's reality.

3 Today's reality is that the tea party fought
4 and won the end of pork, the end of earmarks, which
5 means Congress -- all the things they were saying
6 yesterday about why this is so important, I thought I
7 was in another world listening to this. Because I watch
8 Fox News all the time. I go to D.C. all the time, and I
9 know those guys ain't got no more power.

10 But yesterday, when you listen to them, they
11 think these people got -- they still think it's possible
12 for these Congressmen, Mulvaney and Clyburn and -- who
13 the rest of them? Who else they got?

14 Brown -- no, not Brown. Tim Scott.

15 MR. TERRENI: Duncan.

16 SENATOR FORD: Duncan. They think it is still
17 possible for them boys to say, I would like to have a
18 new library in Pickens County. Huh-uh. Them days are
19 gone.

20 So what we need to do now, I think, as brave,
21 powerful South Carolinians like we were -- I mean, not
22 we -- like y'all were in 1960, y'all brought that big --
23 I mean, that courageous challenge. Because this --
24 y'all said, this is the way it should be, and we should
25 have a right to run our state. I mean, I wouldn't have

1 made that decision because I was on the other side, but
2 I think we can do that now.

3 Listen, everybody know my civil rights
4 history, and I'm willing to put my -- I'm willing to put
5 that history on the line now to say that it is time that
6 we go forward. We don't need to fight for this kind of
7 stuff anymore.

8 All I'm saying, listen, you did a wonderful
9 job, man. I love it, but I think we should try
10 something different one day. Maybe not today but one
11 day soon we should try something different because I
12 want -- listen, when I run for office, man, I want to go
13 into those white areas and campaign.

14 I shouldn't have to say over here, I won the
15 Democratic primary, I got it made. No. That's not what
16 Dr. Martin said. That's not good politics.

17 Jerry Govan proved it. Mr. -- what's his
18 name? Nicholson proved it. Senator Anderson proved it,
19 that they can go in those areas and get enough votes to
20 win. It's about time that all of us have the
21 opportunity to prove it. It just makes better
22 government, I think.

23 That's my last comment on it, but I just
24 wanted to get it off my chest because it worried me a
25 lot, especially yesterday when people look at me like I

1 was a villain or racist villain because I raised one
2 question about what was the percentages.

3 SENATOR MARTIN: Mr. Chairman, I know we are
4 going to be running short on time. To get something on
5 the table, I would move for the adoption --

6 SENATOR MALLOY: I have a comment.

7 SENATOR MARTIN: Oh, I'm sorry.

8 CHAIRMAN McCONNELL: Senator from Darlington.

9 SENATOR MALLOY: Mr. Chairman, thank you. I
10 am -- I want to first thank you for this process, now
11 that we are coming toward the end of the process; and we
12 have heard a lot of public testimony.

13 Thank you for making it fair and keeping it
14 open, and the staff did a wonderful job as we traveled
15 around the state, and we have been doing this now for
16 several months. I think we went to eight different
17 places and saw some of the same people over and over
18 again.

19 Mr. Terreni has also -- with his leadership
20 and with the rest of the staff has given folks a great
21 opportunity to make certain that they have their voices
22 heard from this committee and from within.

23 I think under the circumstances that we
24 have -- I hear the community whenever they speak. I
25 think that this plan that we put together is a workable

1 plan, and I think it is a good start.

2 With all due respect to my friend and brethren
3 from Horry, that is not the Pee Dee. It is a matter of
4 convenience. The Pee Dee is whole -- I mean, Horry
5 County is whole now. It is whole in the 1st District.
6 So the argument on putting it together is just an
7 argument of convenience.

8 And so what has been happening is that the
9 representative blunder is when we talk about the North
10 Eastern Strategic Alliance. Williamsburg and Georgetown
11 is also in the North Eastern Strategic Alliance, and the
12 argument to put Horry and the rest of the areas together
13 is just different.

14 Now, I do recognize that the community of
15 interests is important. The testimony that is before us
16 was such that -- there was arguments to end up making
17 them part of the Pee Dee.

18 And with all due respect, we have to make
19 certain that the folks from the Florence County area,
20 their testimony was in unison against the current
21 Congressman of the 6th District. And so they lumped
22 themselves together with that.

23 And if you look at the positioning of the map
24 now, the -- it is a better looking map. I think that
25 from the work of the staff from yesterday evening, it is

1 a better looking map than we had from the precincts that
2 were broken.

3 I am -- look to my friend, Senator Ford, and
4 listen to the comments of Mr. Terreni. The courts may
5 at some point in time tell us that we can draw a
6 less-than-50-percent district, but that's not the law
7 now.

8 That's what we have to end up adhering to; and
9 we all recognize that this is a very fragile, fluid, and
10 very complex process. And every time when we put these
11 maps together -- now for Congress, it is the population
12 plus one person, as opposed to what we have been doing
13 with the Senate map where we had a deviation.

14 So again, the process is very -- is very
15 fragile.

16 Ideally if you were to speculate and say that
17 if a Congressman comes from Horry, he would go from the
18 Grand Strand, from where they are, up to the top of
19 the -- over near the York County line with two near the
20 Richland line, one up in the Greenville/Spartanburg
21 area, and then one over here near the coast.

22 There is a large portion of the state where
23 you would not have a Congressman. And so the arguments
24 that we heard yesterday economically and those issues,
25 they have some value.

1 And I heard a lot of discussion about I-73.
2 I-73, we want to make certain that it is not a
3 depository to Horry County from the Pee Dee. And so it
4 is the same thing from the Congressional seat as it
5 links down.

6 I would ask that the committee continue to end
7 up looking as we go forward. I heard the public, and I
8 think that this map reflects the testimony that was
9 heard. I am going to endorse this plan as well.

10 But I would query and ask the question. The
11 common thread between Horry and Darlington, particularly
12 on the Grand Strand, is an issue. I can make an
13 argument for Horry in the very rural areas.

14 John Edwards, who hasn't made great news of
15 recent is right in his comments about two Americas: The
16 rural area and the rest of the tourism area. The Grand
17 Strand and Horry is tourism. The rest of that Pee Dee
18 area is manufacturing and still some agriculture.

19 And so the common issues in that is that is a
20 dominant area.

21 So let's be frank about it. The folks that
22 testified, that came up from Horry, it was very
23 orchestrated. They all came up with a common theme
24 geared towards some common individuals.

25 And so what I would end up saying is that I

1 hear the public. I thank the staff. I think this is a
2 great job by the staff for putting the plan together. I
3 plan on supporting it, but I want to make certain that
4 we continue because Horry -- if the argument is to keep
5 Horry whole, they are whole now. So the argument to
6 make them whole is a -- not a very meritorious argument.

7 The argument is -- for them to join with the
8 Pee Dee at this point in time is an argument of
9 convenience. They have always considered themselves
10 pretty much a republic -- independent republic of their
11 own.

12 And my fear is that if they get a Congressman,
13 they will be an independent republic again and leave the
14 rest of the Pee Dee region by itself.

15 And so I would implore the committee and those
16 that end up supporting adding Horry as a matter of
17 convenience to the Pee Dee to keep that into
18 consideration whenever you start having a county that's
19 270,000 strong and where the Pee Dee River just really
20 goes all the way up that area, comes in around through
21 the Marion area.

22 That Pee Dee goes all the way up through
23 Chesterfield County, and so Horry County is not part of
24 the Pee Dee region I grew up in. I grew up in that
25 region. Whenever we talked about Horry, we talked about

1 the Grand Strand.

2 CHAIRMAN McCONNELL: Thank you, sir.

3 Senator from Georgetown, you want to be heard,
4 too?

5 SENATOR CLEARY: I hope -- yeah, it sounds
6 like it's on.

7 Again, I would like to congratulate the
8 Chairman of this, and Charles, because even throughout
9 the meetings that we went to throughout the counties, no
10 one was in the back drawing maps. We were listening,
11 and that is what we were entirely doing, was listening.

12 When it came to the Senate or congressional
13 districts, we were listening before we were drawing. I
14 think that bodes well for what the Senate has come up
15 with.

16 I also want to thank Charlie and the Chairman
17 because when I saw the first staff plan, I had concerns
18 with it. And for them to come up with a plan that --
19 just from a standpoint of -- a color standpoint, it
20 looks like it's communities of interest from a
21 standpoint of it's not like a salamander drawn all over
22 the place. It is compact in its issues.

23 Although the Senator from Darlington is a good
24 friend of mine, I will probably disagree on a lot of his
25 issues. When I was a dentist in Horry County, before I

1 moved to Georgetown County, I was on the
2 Florence-Darlington board.

3 When I have friends that have moved to the
4 area, they have come from Lake City, they have come from
5 Florence. It is a community of interest, and we do
6 relate.

7 And a lot of the western part of Horry County
8 is farming, but there is a relationship like you see in
9 some of the other areas.

10 I think this is a good starting point. I
11 would like to thank all the members that I serve with,
12 but especially the Chairman and Charles and the staff,
13 for the work they have done.

14 CHAIRMAN McCONNELL: Thank you, sir.

15 SENATOR MALLOY: What's the tourism in
16 Marlboro County?

17 SENATOR CLEARY: Tourism and rural farming.

18 I actually practiced dentistry in Marlboro
19 County.

20 SENATOR MALLOY: I just wanted to know what
21 the tourism was there.

22 CHAIRMAN McCONNELL: Very quickly, I want to
23 thank the staff for presenting two directions for us to
24 consider -- concept of the district to the north,
25 concept of the district to the south -- so that we could

1 take public comment on that. That's what we got last
2 night.

3 We had some revealing comments. I don't think
4 any of us understood that -- what the consequence of the
5 House split in Greenville was. It appears to -- some of
6 us heard that and asked the staff to take a look at
7 that, and it appears to me that you all have cured that.

8 It also appears to me in the 4th District that
9 you have maintained the nucleus of that district, which
10 is the I-85 corridor there, that urban, industrial,
11 manufacturing complex straight up there.

12 The traditional 3rd District appears to
13 basically be intact. We heard a lot yesterday about
14 history.

15 The 5th District appears to be basically where
16 it has been historically.

17 The old 6th District is -- we restore that
18 under this concept as the 7th District with historical
19 lines and anchors.

20 And then down in the 1st District, I say this
21 even though there is some House staff here, last night
22 as I looked at the plan that the House had, they come
23 around the top of the tri-county area, butchering the
24 Charleston metro area and swing around to the westside
25 of the county and then come straight down Bees Ferry

1 Road, taking those neighborhoods that have never been in
2 the 6th District and move them into the 6th District.

3 And then they get down Bees Ferry Road --
4 Senator, you know where I'm talking about -- then they
5 swing back up through the woods around a couple of
6 subdivisions and then go through Magnolia Gardens and
7 across the Ashley River and then drive down the
8 peninsula.

9 People want to talk about splits and things.
10 That made no sense to me. I know why it was done, but
11 that hadn't been said. It is not an acceptable thing.

12 This plan appears to pull the nucleus of the
13 tri-county area and the old historical 1st Congressional
14 District back together with Beaufort. It preserves what
15 the court has drawn up in the 6th, which is time-tested,
16 has a consistency of representation.

17 So it appears to me when I look at it, that
18 what the staff has done is heard the testimony -- and
19 this is up in the Edgefield/Aiken area -- and has made a
20 split there along the terms of the testimony that we got
21 and with a rational basis for it, which makes it appear
22 to be good.

23 So I think overall what y'all have done here
24 is responded to testimony, responded to public input,
25 responded to the benchmarks that we have had, the

1 testimony about historical areas.

2 What I also like is this also realizes that
3 there has been a migration of population toward the
4 coast, and three congressional districts have a more
5 coastal orientation. Three have an upper state, and one
6 has a mid-state.

7 It appears to me -- no, it is not perfect, but
8 we have to go down to -- what is it -- plus-or-minus one
9 person, and we can't protect all of the county lines. I
10 suspect that part of Georgetown might have liked to have
11 been somewhere else, but reality is reality, population
12 is population.

13 The same with areas of Charleston or Berkeley,
14 Dorchester, or up in Spartanburg. They can't be
15 perfect. We can't please everybody, but I think y'all
16 have done a very good job, Mr. Terreni, of taking into
17 consideration all of the testimony and all of the
18 consequences.

19 And I know that when you move in one place, it
20 starts causing turbulence in the whole map. So you
21 don't have the great flexibility with this.

22 That having been said, I'm prepared myself to
23 support the Staff Plan 3, as I think it really brings
24 together a whole series of things in the communication
25 we have had to this committee.

1 MR. TERRENI: Thank you, Mr. Chair.

2 SENATOR MALLOY: Mr. Chair.

3 CHAIRMAN McCONNELL: Yes, sir. Senator
4 Malloy.

5 SENATOR MALLOY: Despite the fact that I make
6 the comment about -- that Horry is not a part of the Pee
7 Dee in the fact that they had a very lack of meritorious
8 argument, that they needed to be alone because they are
9 already whole.

10 I do know that, one, in order to protect the
11 6th, which is one of our jobs and responsibilities, I do
12 know that staff has worked very hard and has tried to
13 put together the population such that you can maintain
14 the 6th.

15 I think that under the circumstances, keeping
16 the 6th in that position, that they drafted the best
17 plan that they could as it relates to the 7th.

18 And so with that, unless my senior Senator
19 would like to end up making the motion, I will move that
20 we adopt this and I move for a favorable report.

21 SENATOR FORD: That's Plan 3?

22 SENATOR MALLOY: Plan 3.

23 SENATOR FORD: Second.

24 SENATOR MALLOY: Senate Judiciary Committee
25 Proposed Staff Plan 3 from this subcommittee and move it

1 on to the full committee.

2 CHAIRMAN McCONNELL: The Senator from
3 Darlington moves the favorable report of Staff Plan 3.
4 The second has been made by the Senator from Charleston,
5 Senator Ford.

6 The floor is open for any further discussion.

7 SENATOR FORD: Can we present more than one
8 plan?

9 CHAIRMAN McCONNELL: Pardon?

10 SENATOR FORD: Can we present more than one
11 plan?

12 CHAIRMAN McCONNELL: Back to the committee.
13 It would then be up to the full committee if something
14 else is to go up before them. We have to have something
15 for them to act on this afternoon.

16 SENATOR FORD: Make sure Representative Gilda
17 Cobb-Hunter knows that I supported her plan.

18 CHAIRMAN McCONNELL: If I see her, I will tell
19 her face to face and that you spoke eloquently for her.

20 If not, then we will vote.

21 All in favor of Staff Plan 3, please raise
22 your right hand.

23 (All Subcommittee Members raised their right
24 hand.)

25 CHAIRMAN McCONNELL: Thank you.

1 Opposed?

2 Proxies?

3 SENATOR MALLOY: Senator from Orangeburg,
4 Senator Hutto, votes in favor.

5 CHAIRMAN McCONNELL: All right. The full
6 Senate Judiciary Committee will meet at 3:00 and see
7 y'all there later.

8 Thank you all; and, again, to the staff, thank
9 you for a job well done. Excellent preparation and
10 excellent work.

11 (Subcommittee adjourned at 11:13 a.m.)

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CERTIFICATE OF REPORTER

I, Deborah L. Dusseljee, Registered Professional Reporter, do hereby certify:

That the foregoing hearing was taken before me on the date and at the time and location stated on Page 1 of this transcript; that the hearing was recorded stenographically by me and was thereafter transcribed; that the foregoing text has been modified by Senate staff.

Witness my hand, this 21st day of July, 2011, at Columbia, Richland County, South Carolina.



A handwritten signature in black ink, appearing to read "Deborah L. Dusseljee".

Deborah L. Dusseljee, RPR