

Statement of

# **The Honorable Patrick Leahy**

United States Senator  
Vermont  
March 17, 2011

Opening Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Executive Business Meeting  
March 17, 2011

I was pleased to add to our agenda for today the Sunshine in the Courtroom bill that is led by Senator Grassley and Senator Schumer. This is Sunshine Week and earlier this week a number of Senators participated in our hearing on the Freedom of Information Act (FOIA). Yesterday, I also introduced with Senator Cornyn our Faster FOIA legislation, which this Committee has previously considered and which the Senate passed last year, to establish a bipartisan Commission to study FOIA and to make recommendations to Congress on ways to further improve our premier open government law. I hope the Senate will again pass our bill and that the House of Representatives will do so, as well.

Today we should be taking up Senator Whitehouse's bill to assist families whose homes are being threatened by foreclosure.

We also have the opportunity to consider six of the President's judicial nominees and the renomination of the Deputy Attorney General, which was blocked last year. For the second time, the Committee considers the nomination of Jim Cole to be Deputy Attorney General, the number two position at the Department of Justice. I cannot think of a time when the Senate was prevented from acting on a President's nomination of the Deputy Attorney General and this Committee was required to reconsider such a nomination.

When we first reported Jim Cole's nomination last July, I said that I hoped the Senate would treat his nomination to this critical national security and law enforcement position with the same urgency and seriousness with which we treated all four of the Deputy Attorneys General who served under President Bush. All four were confirmed by the Senate by voice vote an average of 21 days after they were reported by the Judiciary Committee. In fact, we confirmed President Bush's first nomination to be Deputy Attorney General the day it was reported by the Committee. That is not the treatment that Deputy Attorney General Cole received.

The nomination was pending last year for five months while Republican Senators objected time and time again to calling it up for a vote. I believe that Mr. Cole would have been confirmed by the Senate had his nomination been given an up-or-down vote. I believe he should be confirmed. As it was, after the Senate did not take final action on the nomination, President Obama exercised his authority after the Senate had recessed for the year to recess appoint him in order to

make sure this critical national security and law enforcement post was filled, and promptly renominated him when Congress returned this year.

This is not a nomination that should have been controversial. It is a nomination supported by former Republican Senator Jack Danforth, who worked with Jim Cole for more than 15 years. When he introduced Mr. Cole at his confirmation hearing, Senator Danforth described Mr. Cole as someone without an ideological or political agenda. I agree. Jim Cole served as a career prosecutor at the Justice Department for a dozen years and has a well-deserved reputation for fairness, integrity and toughness. He has demonstrated that he understands the issues of crime and national security that are at the center of the Deputy Attorney General's job. Nothing suggests that he will be anything other than a steadfast defender of America's safety and security.

Mr. Cole has now testified before the Committee at his confirmation hearing, answered written questions following his hearing, answered further written questions sent to him by Senator Grassley and Senator Coburn last November and has now answered an additional round of written follow-up questions this year. It is time to report this nomination, again, and time for the Senate to act.

In a letter sent last December to Senate Leaders, former Deputy Attorneys General of the United States who served in both Republican and Democratic administrations urged the Senate to consider Mr. Cole's nomination without further delay. These former officials who served with distinction in that post wrote that the Deputy is "the chief operating officer of the Department of Justice, supervising its day-to-day operations" and that "the Deputy is also a key member of the president's national security team, a function that has grown in importance and complexity in the years since the terror attacks of September 11." As the former Deputies, three of whom served under President George W. Bush, noted in their letter: "Because of the responsibilities of the position of Deputy Attorney General, votes on nomination for this position usually proceed quickly." They were right. I wish the Senate had heeded their advice and voted to confirm Mr. Cole last year.

Mr. Cole's critics have been wrong to try to blame him for the actions of AIG. His limited role was as an outside monitor of other corporate functions and there is no showing he did not perform his assignment well. Let us hold those responsible at AIG accountable. Not a single person at AIG has been. There is no basis for making Mr. Cole the scapegoat for the action of AIG. Blame the AIG agents and employees, blame its officers, blame its board, even criticize the lack of oversight by state and Federal regulators and law enforcement officials if you like. But scapegoating this good man is wrong. As The Washington Post observed in an editorial last year when Mr. Cole's nomination was being blocked on the Senate floor: "There is no suggestion that Mr. Cole suffers from the kind of ethical or legal problems that would disqualify a nominee." Senator Danforth's endorsement was unequivocal, as well.

This nomination has received strong endorsements from Republican and Democratic public officials and from high-ranking veterans of the Justice Department, including the letter from the eight former Deputy Attorneys General who served in the administrations of President Reagan, President George H.W. Bush, and President George W. Bush.

I hope other Members of this Committee, Democratic and Republican, will join me in supporting the nomination of Jim Cole.

I thank Senator Grassley for working with me to schedule the Committee's consideration of the Cole nomination without an additional, unnecessary hearing.

#####