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Hill Observation: *Environment & Public Works and Senate Bipartisanship*

I.

On April 11th I observed the Senate Committee on Environment and Public Works (E&PW) for a legislative hearing on S. 2602, the Utilizing Significant Emissions with Innovative Technologies Act (USE IT Act). The hearing consisted of testimony by Sen. Heitkamp, followed by opening statements by a panel of experts including Dr. Mark Northam, Executive Director at the School of Energy Resources at University of Wyoming; Dr. Julio Friedmann, Chief Executive Officer of Carbon Wrangler, LLC; Noah Deich, Executive Director at the Center for Carbon Removal in Oakland, California; and Dr. Feng Jiao, Associate Professor of Chemical & Biomolecular Engineering at University of Delaware.

The testimony explained the current state of carbon capture technology and how the USE IT Act would affect stakeholders in various carbon-related industries. Heitkamp emphasized the bipartisan accomplishment of the FUTURE Act which was passed into law in the 2018 budget, creating tax credits for private investment into carbon capture utilization and storage (CCUS). Northam, Friedmann, and Deich mainly represented the practical use and economic angle of carbon capture technology while Jiao contributed scientific insight into the utilization of carbon dioxide. Including emerging research into how carbon dioxide as a byproduct can be used in the manufacturing of valuable chemicals, or otherwise prevent carbon dioxide from freely entering the atmosphere as a pollutant.

The main purpose of the USE IT Act was to expand on the FUTURE Act's funding for research and development of CCUS technology which also includes infrastructure projects like carbon dioxide pipelines. Dr. Northam in his testimony explained how Title I of the USE IT Act would amend a section of the Clean Air Act to authorize the Environmental Protection Agency (EPA) to support CCUS research. Title II of the USE IT Act would subject CCUS projects and CO₂ pipelines to the Fixing America's Surface

Transportation Act (FAST Act) which streamlines the bureaucratic process of environmental permits for certain infrastructure projects.

In his statement, Dr. Friedmann praised the work of the Senate on the FUTURE Act and USE IT Act for reaffirming US leadership in this area while also raising limitations associated with CCUS deployment, including the cost of technology, difficulty with the use of CO₂ itself, and regulatory issues. Deich continued on the subject of future investments into CCUS technology and emphasized the economic benefits of carbon use systems “which harness CO₂ to produce valuable products like building materials or clean fuels that are supported by this Act. We need these technologies to halt climate change.”

Deich’s perspective also included the strategic benefit of exporting CCUS technology and creating jobs in the emerging global low-carbon economy, as well as why bipartisanship matters when private sector investments rely on “confidence that any legislation will endure through routine political transitions.” Dr. Jiao elaborated that as a result of monetary support from the Department of Energy, scientists at the University of Delaware are now able to convert CO₂ and water into useful chemicals such as ethanol, ethylene, and syngas. He also said that further innovations in CO₂ utilization are necessary because “this is the only way to generate revenue streams for CCUS. Any CCUS operation fully relying on government subsidies is not sustainable.”

While individual senators from both sides of the aisle wandered in and out of the committee room at different times, the senators who were present and interacted with the panelists were Barrasso (Chairman), Carper (Ranking Member), Capito, Inhofe, Whitehouse, Markey, and Van Hollen. Barrasso asked specifically about the economic benefit to Wyoming’s fossil fuel industry and infrastructure. During one of these exchanges I also found it interesting that Sen. Carper made a remark about the definition of “Anthropogenic CO₂” that made the panel and other members laugh. After Dr. Northam briefly explained that “anthropogenic” means created by human activity, Carper responded, “The Chairman and I knew this. We just wanted to make sure our colleagues did,” and Barrasso interjected “That was for the record only. Everybody here knew it,” subtly nodding to the implied lack of scientific expertise in Congress. Another notable exchange involved Sen. Inhofe commenting on the Obama

administration's "commitment to do away with fossil fuels" which are necessary for "80 percent of the energy it takes to run this machine called America." Inhofe was very excited about the USE IT Act's recognition of the continued use of fossil fuels and said that this bill "is one of these rare cases where you have a lot of agreement from people who have disagreed in the past." Sen. Whitehouse, in his following statement, acknowledged Inhofe's comment and continued "we have agreement from people who have disagreed in the past; and indeed disagree in the present; and indeed will continue to disagree in the future, about many things."

Sen. Whitehouse's questioning was very intentional in leading the panel to answers that would support his motivations on this committee. Whitehouse started off by asking the panel why the reduction of carbon emissions is a relevant interest in the first place, something he is already clearly aware of as one of the USE IT Act's authors and the strongest climate change advocate in the Senate. While the Republican E&PW senators avoided the topic altogether, Whitehouse's question put Dr. Northam on the record as saying that the USE IT Act "is important because time is ticking ... if we don't start actually making some progress, the progress we do make could be too late" in addition to other statements by the panelists emphasizing why climate change is a salient policy issue for Congress to address.

Sen. Van Hollen took this idea further by mentioning the direct link between the public funding of CCUS research and therefore "the public good to be had from reducing carbon" and addressing climate change through policy. While this line of thinking seems obvious, up to this point in the hearing the main focus from the majority members was on the economic advantages of developing this technology rather than the underlying environmental necessity. Even in "Environment *and* Public Works" the interactions between those two elements (or less emphasis on the former half) is clear when analyzing the varying priorities and constituencies at work in bipartisanship.

Sen. Markey brought the hearing to a close with an interesting mention of his 2009 Waxman-Markey (ACES) bill on clean energy in the House which proposed \$200 billion in funding for carbon capture yet was turned down by the fossil fuel industry and the Senate. He was somewhat exasperated by this reversal less than a decade later given the ultimate failure of his bill which also included a cap and trade system, in addition to

the overall failure of Congress to take as significant policy action in the years since. Although Markey supports the USE IT Act, he noted that the total funds in the USE IT Act are only a minute fraction of what he proposed in his 2009 bill, dramatically reminding the other senators that “a vision without funding is a hallucination.” Therefore, despite the benefits provided to CCUS research, billions in additional funding are still needed to make necessary changes in the energy sector.

II.

At a deeper level, this obscure legislation and overlooked committee hearing in the midst of dramatic events that week on Capitol Hill illustrates many important political forces beneath the surface of the legislative process. It was nearly unbelievable to witness Democrats and Republicans in agreement on a piece of legislation that would at least implicitly address climate change, however the nature of the USE IT Act as simultaneously pro-industry as well as pro-climate science allows partisans on both sides to claim victory. While the liberal members would rather not provide benefits to the coal industry, federal funding into carbon capture technology does provide an avenue for climate science research and carbon emissions reduction. Effectively legislating and leading on an issue of this type is not easy and requires trade-offs in order to please the diverse interests at work in energy and environmental policies.

The juxtaposition between majority and minority membership of the committee hints at the competing interests which make E&PW a more interesting observational case study than it would seem. Historically, the committee began in the 19th century to oversee the construction of federal buildings in Washington, then regulation of the interstate highway system, and only gained a strong environmental protection role in the 1970s. Republican membership is largely from rural states, notably James Inhofe from Oklahoma (infamous for bringing a snowball to the Senate floor in 2015 to disprove global warming, as chairman of E&PW) and the current chairman Barrasso of Wyoming. On the other hand, Democratic membership has included considerable membership of staunch liberals from coastal states who have much different views on environmental action and public infrastructure. This urban and rural divide contributes to a considerable difference in the policy intentions based on local constituencies. Each

member of the committee essentially has an individualized definition of “Environment and Public Works” and what their responsibilities are in that defined context.

Witnessing individual interactions between senators and testifying panelists provided another lens of analysis into Congressional politics, namely personal motivations of members visible between the lines of dry policy. Chairman Barrasso and Sen. Whitehouse represent radically different constituencies and motivations for sponsoring the USE IT Act yet both understand the benefits to their agendas: Wyoming’s significant energy industry and Rhode Island’s private investment into carbon utilization technology. The two sides of rhetoric surrounding carbon capture have partisan implications, yet ultimately lead to a bipartisan result. Sen. Capito said in her statement that the USE IT Act is “win-win; it is an energy bill, it is a carbon emission reduction bill, and it will benefit all of us economically.” Very few political issues operate in this way, and I am glad I could observe a unique piece of legislation in this context where anti-climate change Republicans can nevertheless support reducing carbon emissions for the benefit of the planet.

In spite of all the challenges in addressing climate change through policy, the USE IT Act and dynamics within E&PW provide a less cynical view of the legislative process in a less polarized environment. Bipartisan respect for members like Heitkamp and between Senators Inhofe and Whitehouse speaks to the cultivation of personal relationships across the aisle which are essential to the movement of important policy, yet perhaps unlikely in more contentious committees with partisan legislative interests at stake. Especially because the USE IT Act is virtually off the Congressional radar, senators have a greater degree of flexibility away from public scrutiny to compromise in a bipartisan manner.

Whether the USE IT Act can make it past E&PW and through the rest of Congress and receive a signature by President Trump is uncertain, and would likely require even more benefits to fossil fuel industries to get the support of the Republican caucus. However, given Sen. Inhofe’s support in particular, Republicans can say that they are working to alleviate unemployment associated with the technological advancement away from fossil fuels and coal, as the USE IT Act still allows for factories to continue operating in addition to technically advanced jobs in the renewable sector and in

scientific research. Contradictions and frustrations inherent in coming to a bipartisan agreement are major hurdles in the political arena where there is very little room for common agreement. Regardless of the future of this single bill, the snapshot of the legislative process as demonstrated by E&PW provides a positive vision of Congress' ability to cooperate on certain nonpartisan issues that contain mutually-beneficial angles for both parties. I also appreciated seeing everyday politics that the public mostly ignores, since the mostly boring work that gets done on a daily basis in committee exemplifies the constitutional responsibility of Congress to work as a deliberative body.

III.

Many of the themes of the course were present in E&PW's hearing on the USE IT Act and the ongoing interactions between competing partisan interests, especially in the history of energy legislation. Specifically in the case studies in Dodd & Oppenheimer regarding ANWR and CAFE standards, Oppenheimer's description of energy policy's structural challenges in handling short-term cost and long-term benefit are relevant when Congress must face climate change without disrupting the status quo or harming senators' own chances of re-election. The failure of the Waxman-Markey bill brought up during the hearing further illustrates the limitations in trying to enact legislation with short-term political costs, especially given the nature of the Senate for an individual to halt a bill.

The types of issues that Congress legislates easily according to Oppenheimer are distributive pork, while it is difficult for Congress to act when there is no clear direction or imminent deadline. In the examples of ANWR and CAFE, both the organized interests of conservationists and fossil fuel production had roughly equal support among the public and lawmakers, thus these two sides were large enough to block anything from passing. The partisan and ideological fight over energy policy from the 70s/80s and into the 2000s also led to increased executive actions and ultimately continues to affect Congress' ability to address climate change. As parties have become stronger and committees have weakened, the continuation of this kind of gridlock is inevitable but can be mitigated by bipartisan solutions where both parties receive elements of their agendas in an ultimately nonpartisan way. Limitations to this kind of compromise

would be in cases when the minority may believe they could become the majority party in the next election.

Peter Hanson's reflections on the nonpartisan norms in the House appropriations process also apply to a certain level on the observed E&PW dynamics and could be applied to other policy areas outside of highly partisan political theater. Hanson writes that the enduring norms of nonpartisanship in budgetary matters is due to the multiplicity of interests, and how lawmakers "benefit from their party's reputation and from their ability to claim credit for accomplishments" which necessitates bipartisanship and compromise (285). This conflict between partisan and nonpartisan arenas in the Senate was clear in the shockingly friendly atmosphere in E&PW, because senators "benefit both from leaders who engage in high-profile partisan clashes that mobilize voters and from committees that help the parties meet shared goals" (306). An observation of a very ordinary committee hearing in a very strange political moment in Congress requires discussion of partisanship, yet the Senate is ultimately made up of individuals who are juggling many different interests on top of tribal partisan identity.

Committees are also a unique space, described by Barbara Sinclair as less of a traditional working group in the modern Senate but arenas where individuals can choose the issues that are most relevant to their public agendas. In contrast to the Zuckerberg hearing on the same day in the House, the lack of political posturing in E&PW can be attributed to the lack of public attention and media coverage, among other factors. Individual senators were not personally going into the ring for their constituents or competing for national media coverage, rather they acted more so as informed trustees advocating on behalf of the general interests of businesses or science as they related to the specific interests of their state.

My observation provides an additional layer of nuance to the institutional workings of committees and their ability to overcome a certain degree of the dysfunction that is attributed to the polarization of Congress today. Also, observing dynamics of individual senators in person given our discussions of the Senate as a uniquely individualist legislative branch added to a more complete view of the theory behind Senate procedures. During the hearing, I appreciated seeing the course themes of local interests (creating jobs) interacting with collective interests (addressing climate change)

— within a bigger picture of legislative compromise and interpretation of the public good. Although the current Senate is an institution saturated in 2018 politics, committee dynamics in E&PW continue to exist within the imperfect framework of an 18th century governing structure legislating 21st century technology and therefore full of the same “tensions and contradictions” that Eric Schickler described in Congress as a whole (Hanson, 306).

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