

WisPolitics.com Interview with Tom Basting
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Ross: The first thing we want to talk about is this week the committee announced a couple of additions to the board. Can you tell me how that came about and why those people were added?

Basting: The committee decided that after attending a workshop in Dallas, Texas that was for the Judicial Campaigns Integrity Committees from a number of states, that most states with these committees had a larger committee than Wisconsin did, so we decided we would look to expand the number of members on the Wisconsin committee from 7 on up. We're not sure where we may stop at this point. But that was the principle reason for adding two more people recently.

Ross: Okay. I didn't know there were other committees elsewhere. Did you get the idea for the committee from somewhere else, or was this something that's been going on nationally? Can you explain that to me?

Basting: Uh, yes. There is, there are committees just like this, they have different names but generally they're called the State Campaign Judicial Oversight Committees, and I think there were about 13 or 14 states represented at the national conference with committees just like Wisconsin's.

Ross: I mean, is there a national concern similar to what you guys had raised about the tone of last year's race? Are there other states going through similar things?

Basting: Exactly, uh, it was probably precipitated more by the activities of special interest groups coming in and running advertisements in political campaigns either negatively against candidates or in favor of their particular candidates. And people became concerned with the big and large amounts of money being poured into judicial races around the country.

Ross: Obviously, the committee has received some criticism lately in the last few weeks raising concerns about the make-up, you know, there are too many ties to Governor Doyle, you know Tony Earl donated to Butler's

campaign eight years ago, I think. You know, things like that. Did any of that criticism play a role in the additions of this committee?

Basting: No.

Ross: But I also noticed they have some Republican ties, I mean at least they donated to Republicans. Was that a consideration at all?

Basting: Uh, you're talking about John Torinus and DeETTE Eager.

Ross: Yes.

Basting: Um, well, we're trying to keep a balance on the committee. Uh, of people who may be, or may not be identified with either the moderate or conservative versus liberals. So, we do have a mix in that regard. But, we didn't look at political donations – to us it's not relevant.

Ross: Do you feel like the committee right now is balanced, or was it balanced before the additions of, of ... these two people?

Basting: My opinion is that it was balanced before the addition of uh, the last two, and continues to be balanced.

Ross: I know Judge Deininger is leaving because he was announced as chair of the GAB this week ...

Basting: Yes

Ross: Is that a big loss for you guys, or do you need to fill his spot again, add somebody else to fill his spot?

Basting: We'd like to fill his spot and uh, we are currently reviewing some potential committee members ... I'd like to find a former judge who may be willing to come on the committee. I think it's important to have that viewpoint from a former judge and, so that's where we're looking primarily.

Ross: Now obviously, all of you on the committee have an intense interest in the race for various reasons. I mean, you guys are all in law, so I assume there will be some personal feelings or political allegiances one way or

another. How do you put those aside when you're judging these ads going from here through until April 1.

Basting: Well, uh, first of all, when you say we're all involved in law that's not correct, because there are more laypeople on this committee than there are lawyers. And, if you take a look at the make-up of the committee it is dominated by lawyers at all, and I specifically wanted it that way. I think it would be unwise to have lawyers only on this committee, or to have a majority of lawyers on this committee. Uh, we have asked all the members of the committee to put aside their personal feelings about either candidate, it's none of our business who our committee members will ultimately vote for, that's why we have a secret ballot. Uh, and um, so I don't think personal likes, dislikes, or anything else are going to play any role in the judgment of the committee members if and when we look at, or are asked to look at, political ads.

Ross: I guess what I meant is you all have an interest in the law, you all have been around either judges or lawyers, or have some experience with the law in the past, is what I was getting at, some of the members have ties to Governor Doyle, you know I pointed out Tony Earl donated to Butler, how do you get past those things to judge in an unbiased manner?

Basting: Well, you gotta keep in mind JR, that judicial elections are non-partisan. Whether, uh, you know, a person who may on the political side have donated to a Democrat, or donated to a Republican, that really doesn't play any role whatsoever when you're looking at the qualifications of a person to be a good judge. I mean, I've been criticized because I have made political donations to Governor Doyle. No one bothered to point out that I also made political donations to, uh, Tommy Thompson, as well as, uh, Paul Ryan, and Russ Feingold, and years ago I ran Ross Perot's campaign in Rock County. (Laughs)

Ross: A good history. Uh, I mean, you know, perception is usually building to this race is really a Democrat versus a Republican. I mean, whether that's a ... I know the candidates don't intend that, and they don't want that, and disavow that ... but I mean that is the building perception about this race.

Basting: No, I don't think so. I don't know, uh, what party Judge Gableman belongs to, if any, and I don't know what party, uh, Justice Butler belongs to, if any. I know that these candidates have been, uh, viewed as being, uh,

either more liberal or being more conservative. But, I don't think either one of them carries a party label, and it would be wrong for that to occur.

Ross: I listened to the first debate they had this week, uh, Justice Butler talked he had signed the Clean Campaign Pledge that the committee had offered, and Judge Gableman said he had not, and then he said he has expressed some concerns about the make-up of the committee and has concerns, about the make-up ... he said he's had some talks with you guys about various issues. Can you tell me what those talks have been about?

Basting: I have never spoken to Judge Gableman, and to my knowledge no member of the committee has ever spoken to Judge Gableman. I have had contact from a man by the name of Darrin Schmitz, who I think is running Judge Gableman's campaign.

Ross: Yes.

Basting: And I had a meeting with Mr. Schmitz, along with one of our staff people, and Bill Kraus. And, uh, he expressed some concerns about the committee, uh, and we answered those concerns and that's the last I've heard.

Ross: Okay. Do you know when that meeting was?

Basting: That meeting was a couple of weeks ago.

Ross: Okay. I don't want to misquote the Judge, he may have said "my campaign," and sometimes in my mind "my campaign" becomes him, you know, with these things (laughs). But, he had just said that they'd had a meeting. So did that meeting play anything into the additions? I mean, his campaign expressing those concerns?

Basting: No.

Ross: Okay. I mean, but some people will look at it and assume that there was something to do with the criticism, you know Gableman raising concerns because these guys do have some conservative ties, Republican ties, however you want to put it. So, how, do you think people are going to be cynical and say "come on, there's got to be something going on that they're trying to be sensitive to these concerns."

Basting: Well, um, I guess the answer to that is the committee has been criticized by Charlie Sykes, uh, on the right fringe and has also been criticized by, uh, Ed Garvey from the left which looks to me like if you look at our, if the criticism coming from both sides of the political spectrum, uh, the committee probably sits squarely in the middle. So when you say “are we sensitive to those concerns,” uh, I’m, you know, sure. We’re sensitive to uh, being cast as some sort of a shill for one side or the other, which is simply not the case. And, we decided that after attending the national workshop we ought to add some additional members to the committee and we thought that the addition of Mr. Torinus and Miss Eager would uh, would satisfy that balance.

Ross: When you said that you might add more people – if you do add more members what will you be looking for in members?

Basting: We’re looking for smart people uh, who have uh, not currently donated to either, to any judicial campaign and who have not endorsed any judicial candidate and who can command respect from the media and the public as to their opinions. Because when it really gets down to what this committee does, that’s all we have. We’re just a group of citizens who uh, feel strongly about how judicial elections ought to be run and uh, we’re willing to give up our time and give our opinions if needed, but our respect uh, that we have from the media and the public is all we have going for us.

Ross: Now, uh, there’s only been one, I don’t want to call it incident, but one request made so far, or uh, uh, event, in which you guys have gotten involved in the race so far.

Basting: Right.

Ross: Do you feel that was handled properly? I mean, are you happy with the way that turned out? I’m referring obviously to the Wisconsin Now request to look at the Gableman letter that went out from his campaign talking about these decisions that uh, Justice Butler had been involved in.

Basting: Right. That was the letter I think that came from, um, some district attorneys and assistant district attorneys and from um, law enforcement people. And we took a look at that and we didn’t see that there was anything particularly egregious or wrong about it, and it was fair comment, and we

told them that. But then what happened is that the representatives of the Gableman campaign, not Judge Gableman himself, spun it in a different direction and actually totally mischaracterized what we said. And we called them on that, said it was not right.

Ross: And there was the exchange of a couple of letters, I believe, back and forth. I mean, did you, was there anything distasteful about how that happened or the way it was played out in the media, or that you didn't want the committee to get involved in something like that?

Basting: No, I, I sent a letter to Judge Gableman's campaign when they did what we thought was mischaracterize what we said and I told them that I was disappointed and hoped that we wouldn't hear that kind of rhetoric in the future uh, and we intended that to be publicized.

Ross: Did you get any assurances from Darrin when you met him that that wouldn't happen again?

Basting: Uh, never discussed it.

Ross: You know, one of the questions that's been raised about how the committee in essence, how it operates, you know, will it reign in free speech in any way, or will it, uh, you know, in some way try and discourage the sides from expressing their opinions. I mean, do you have to avoid doing that in judging these ads, or how do you avoid doing that?

Basting: Well, I, you know, we're going to take a look at what is occurring during this campaign and there are some clear rules that are spelled out, uh, in the Supreme Court rules for judicial conduct and what the committee believes and how the committee believes judicial campaigns ought to be run. We're not, uh, you know, we're not making this up as we go along. The state bar has strong public policies about how judicial campaigns should be run and the American Bar Association has encouraged the formation of these committees, these oversight committees, with a strongly stated policy as well. And so, uh, you know this isn't rocket science, it's, if ... if ... if we receive complaints, we'll look at that, we'll notify the candidates, and we'll give them an opportunity to respond, and if these special interest groups come in and run particularly bad, negative type ads that uh, malign the integrity of the process in the judiciary, we're going to call them on it. And let the chips fall where they may, it's got nothing to do with, with, uh, trying

to suppress speech. In fact, the committee is exercising its first amendment rights as citizens to speak out on this kind of activity.

Ross: Now, with the candidate ... with the candidates themselves, I mean, is it, some might argue that the Wisconsin Judicial Commission is the proper form for any kind of a grievance or a complaint because, you know, they're a state body, they're there, they can penalize people. But is that not sufficient in your mind?

Basting: Uh, that's not, uh, what we intend to do. We are not going to encroach on what the Wisconsin Judicial Commission does. In fact, I met with the uh, the executive director and the chair of the Wisconsin Judicial Commission and explained to them exactly what we were doing and that we were not going to make findings uh, of any kind as to whether a candidate had violated any of the rules. The rules pretty clearly state that our, what candidates should and shouldn't do during a campaign, and they're aspirational and we're using those as a basis for our review. Um, but um, we're not going to encroach on what the Judicial Commission does. The problem with if somebody makes a complaint to the Judicial Commission, and when that complaint is made it's, uh, confidential. And this election period is so short that usually those complaints, uh, it's difficult for the Commission to act on them and do anything until long after the election is over, which is something that you've seen in the past.

Ross: With the outside groups, I mean, if some of these groups, knowing how they've operated in the past, I mean, getting a letter of reprimand or having you guys say that was a very unpleasant thing to do, they're not going to bat an eye, I mean that's not their objective. So how do you counter a multi-million dollar ad buy that says "Judge So-in-so is a very unpleasant person," or I mean ...

Basting: Well, if it crosses the line, what our agreement does, it's ... it's people have been calling it a pledge, we call it an agreement. It's really an agreement between the candidate and the citizens of the state of Wisconsin, or the voters of this state. And, one of the uh, provisions in that agreement calls for the candidate to disavow ads by third parties that cross the line into the whole area of judicial integrity. And, uh, we're going to call upon the candidates to disavow those ads. We can't stop the third parties from running them, but if they run them we're going to criticize them, and if they're bad we'll criticize them, and the voters can then decide. And we're

going to caution the voters that when they look at these ads they ought to look at the bottom of the ad and see who sponsored it because these special interest groups have interests that may not necessarily be in accord with what is best for a fair and impartial judiciary in this state.

Ross: Okay. Uh, I think that's all I had for you. So Tom, thank you so much for the time and I wish you luck with the committee and all that good stuff.

Basting: You bet. Thank you, JR.

Ross: Thank you.