

And I know that you have done mammoth work on many, many judges with long files and interviewed a great many people, so that the American Bar Association has performed a great public service, and if you do exceed the bounds of relevancy, we will be able to figure that out and give it appropriate weight.

I thank you for that, and I thank you especially for staying so late.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Simon.

Senator SIMON. Thank you, Mr. Chairman.

I just want to join in commending you, and I am pleased that one of the members of the reading committees was from Northwestern University School of Law in the State of Illinois. My wife is an alumna of that school.

Let me just ask one very, very minor question. As I look at the reading committees, two of the three are entirely made up of law school professors. The third has a majority of law school professors. Not that having practicing attorneys as, say, a fourth reading committee would make a difference, but was that considered at all, or is it just not practical because of the enormous volume of reading there?

Mr. LANCASTER. Historically, the practice had been to have reading committees from law schools and then to have a reading committee usually of associates from the office of the chair of the committee.

We followed the practice of having two reading committees in this instance from two respected law schools. It was a suggestion of some of the members of our committee, particularly one from the ninth circuit, that instead of using associates from the law firm of the chair of the committee, that we ought to go outside that arena and obtain someone who had national prominence and national respect, and enlist that individual in the selection of others who had particular expertise with the Supreme Court, either as professors or as practitioners.

I called Rex Lee, in whom I have great confidence. I think he has a national reputation, not only for great expertise as a lawyer, but also as an individual, great respect from the community, and I told him exactly what our function is, that our role is solely to investigate professional competence, judicial temperament and integrity, and I asked him to put together this list, to select the members on his committee, and I left the selection to him, so that there could not be any suggestion that somehow I had influenced that selection, and that is how it came about, Senator.

Senator SIMON. OK. And generally you have found this worked satisfactorily?

Mr. LANCASTER. This is the first time that we have used it, but we have been very pleased with it. As our report reflects, there was remarkable consistency in the reports that we received from these three committees working independently to investigate through the reading of Judge Souter's opinions.

Senator SIMON. I did not remember this from the previous nominations, and the reason I did not remember it is we had not done it before.

Mr. LANCASTER. Exactly.

Senator SIMON. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

You all are very good to be here. I assume you did not think this was going to be a referendum on the ABA. I hope we are beyond this, because I do think it is relevant, that if someone is out of the mainstream of interpretation of the Constitution and application of constitutional law, that is different than the last 70 years of precedent and the last 70 years of members on the bench, that I hope you would say, hey, wait a minute, at least point that out to us, if we did not already know it.

I agree with Senator Specter, the job that you do for this committee—I might briefly, with you sitting here, and I mean briefly, explain the process.

I have just proposed and introduced legislation calling for the establishment of another 70 judges, 77, if I am not mistaken. Over the period of this year, I will probably have this committee decide on somewhere in excess of 100 judges. There are as many as 175 in 1 year, counting vacancies in one Congress and new appointees, and your input is extremely valuable.

No one Senator could sit and do all of those hearings. We have a five-person investigative staff that is augmented, not directly but indirectly, by the work that your committee does, and it is always first rate and you have always been involved, and as long as I am chairman and I have anything to do with it, you will continue to be, because you are of great assistance to the committee.

As I indicated, Mr. Lancaster, and as the Senator from Pennsylvania indicated, we know enough to know whether or not we want to accept your recommendation. All it is is a recommendation. It is not chiseled in stone. It is a recommendation, but one that I value greatly and I value your time and your effort that you put into this a great deal.

Is there anything any one of you would like to make as a closing comment?

Mr. LANCASTER. I think, Senator, on behalf of the committee, I will thank those members who spoke so glowingly of our work. I will tell you, from my own personal experience in now my seventh year on this committee, that I have never served on a committee which has given me greater satisfaction. I think it makes an enormous contribution to the judicial system of this country and I am very proud of the way it works.

I can only say, finally—and I regret that Senator Grassley is not here to hear this—that there was an extended discussion this afternoon of what is meant by congressional silence, and I would not want the record to reflect that, by my silence and my refusal or inability to respond to Senator Grassley, that I in any way agreed or disagreed with his comments. I think everyone here knows how I would have responded, had I responded.

Finally, my term eventually, and perhaps sooner than later, will come to an end, and if Senator Grassley wants to give me a gold watch, I would be happy to take it. [Laughter.]

The CHAIRMAN. Well said.