

ing. I will not characterize the extent of the answers, but there was a genuine attempt to deal with that issue, and I would say it is more likely he was forthcoming on that issue of separation of powers than, I would suggest, he was on other issues. We did discuss with him, as a matter of fact—I may be mistaken, but I think the Senator from Colorado, among others—discussed the principle of federalism and preemption with the Judge, as well. Again, I do not say that to be critical, but just to assure you that there is a good deal of testimony and even a greater deal of questioning on that subject.

Let me ask you, Mr. Brown, if I may, one last question: How do you deal with the Booker T. Washington-DuBois analogy that is always made with regard to the rights of black Americans, Afro-Americans? His views are constantly put in that context, that is, he is committed to civil rights. There is a sort of litany about Booker T. Washington and William DuBois that is brought out. I think an historically accurate litany, that there has been a split for over 200 years, on occasion, among and between black leaders, and that at one point or another throughout the history of the struggle of black Americans to reach equality in this Nation, there have been different tactics offered, with the same fundamental commitment, that is, to see to it that black Americans receive their fair share of what people often refer to as the American birthright, equality under the law.

I do not know whether you heard the eloquent testimony of the president of Lincoln University, which, as I understood her testimony, is basically that Judge Thomas may have a different view than the prevailing view of the establishment of the black leadership today, in particular the NAACP, and white civil rights leaders who come from that genre of leaders, but that does not mean he is not committed, and it does not mean blacks are any likely to be less well off than they would be under the present regime of conceptual approach to the Constitution? How do you respond to that?

MR. BROWN. First let me say, Senator, that the Lawyers Committee has only appeared here once to oppose a nominee to the Supreme Court. And we, like most groups, do not come to the conclusion that we have arrived at lightly.

I think that African-Americans, like all other groups, you will find differences of opinion in terms of the approach and what is the best way of getting to a reasonable and a valid objective. And we are no different in that regard than anyone else.

What we have looked at, though, is not so much the positions that are taken by people who are not considered to be candidates for the Supreme Court of the United States. I think we ought to make that distinction right up front.

What we are talking about here is an individual who, through his writings, through his—

THE CHAIRMAN. Let me just stop you there to make sure this is well—at least is understood by me, and if it is understood by me, then it is well taken here. That is, if DuBois were before this committee with his views, I assume in the general sense you would not be particularly excited about confirming him. Is that correct?

MR. BROWN. Well, I don't know whether we would be excited about confirming him to the Supreme Court, but clearly he would

have a right to articulate those views, his own positions. His positions, I think, are shared by quite a number of people. There may be a number of ways of achieving a certain objective.

But when it comes to the question of looking at someone for the Supreme Court of the United States, you, like ourselves, have a limited amount of things to look at. You look at what he has done before; you look at his prior record, obviously; you look at what he has done in the Federal branches of Government; and you look at what he has done since he has been a judge on the appellate court.

It seems to me when you look at these particular areas, Judge Thomas has not exhibited, in my opinion and in the opinion of the 90 members of the board of trustees of the Lawyers Committee, the kind of concern that would justify the Senate committee approving him to be on the Supreme Court. When we look at the different positions he has taken—and I am not here to criticize anyone changing their positions, because it seems to me all of us, given the nature of the human being, can, and at appropriate times, make changes in our own positions.

But the changes which have come about on the part of Judge Thomas have been fairly recent changes, and I think in that context we have to look at what are the reasons for those changes. To whom were those changes communicated? And don't we have a reasonable expectation that in the event that someone does articulate what his positions are on these very critical issues, that those positions will continue to be his positions at the point in time when he goes on the bench. So—

The CHAIRMAN. I just want to make it—I am sorry. I didn't mean to cut you off.

Mr. BROWN. Go ahead.

The CHAIRMAN. I just want to make it clear that the reason for my questions to you as the spokesperson for the Lawyers Committee is that this is a Lawyers Committee on Civil Rights.

Mr. BROWN. That is right.

The CHAIRMAN. This is not a Lawyers Committee on all subjects, although you are all completely competent to speak on a broad range of subjects. I can't think of any that Dean Griswold was not competent to speak on, and I expect you are in the same situation.

But I want to make it clear the reason for the questions relate to the essence of the view that you are attempting to communicate to us from the Lawyers Committee, which is that an overwhelming majority of the Lawyers Committee on Civil Rights believe that Judge Thomas is not qualified to be on the Court. I assume it stems from at least his view on civil rights, among other things. Is that correct?

Mr. BROWN. That is correct.

The CHAIRMAN. I yield to the Senator from South Carolina.

Senator THURMOND. Thank you, Mr. Chairman.

I want to thank all of the witnesses on this panel for coming and appearing here today and testifying. Dean, I am glad to see you again.

I have no questions.

The CHAIRMAN. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.