

The CHAIRMAN. Excuse me, Senator. I am sorry. I apologize for interrupting. I was told by staff that Senator Brown, in fact, had no questions. I misunderstood. I guess you wish to make a statement. Is that correct, Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. I think I can complete this within—

The CHAIRMAN. Take your time. I am sorry. I just was told you had no questions or nothing to say. Senator Brown. I apologize to my friend from Alabama.

Senator BROWN. I thank the chairman. I simply wanted to make an observation that I think is important to appear in the record.

There is a lot riding on this consideration, and I don't think any of our members have made statements that they intentionally meant to be misleading. But as I review the record, one thing, at least in my mind, is quite clear. Judge Thomas' remarks with regard to how he would use natural law in my view are very clear and very consistent. He stated before this committee that he would not use natural law in the interpretation of the Constitution if he sat as a Justice of the Supreme Court.

In viewing the consistency of that, I have looked back at the 1½ years of his tenure on the circuit court of appeals, and also at a very similar question that was asked of him when he came before this committee for confirmation to the circuit.

The transcript of what he said at that time is virtually identical to what he said before us. And the suggestion by some that there is some sort of a change in his commitment to not use natural law to interpret the Constitution I think simply is not borne out by the facts. I wanted that observation as part of the record.

I will yield back, Mr. Chairman.

The CHAIRMAN. Thank you.

The Senator from Alabama.

Senator HEFLIN. Thank you, Mr. Chairman.

Judge Thomas, your explanation of the apparent inconsistency in your evaluation of Justice Oliver Wendell Holmes, from a speech in 1988 to the explanation that you give today, troubles me. Let me read this again, the speech at the Pacific Research Institute civil rights task force, which I will read shortly. But as I understand your explanation, it is that when you made this speech you were not as familiar with the work and the opinions and the writings of Oliver Wendell Holmes as you are today; and that when you made this speech, you didn't realize as much as you do today about Holmes; and that since making this speech, you have read books on Holmes and you have changed your opinion.

Now, is that a correct statement of your explanation?

Judge THOMAS. No, I don't think so, Senator, and it is probably because I didn't make myself clear. What I was attempting to say was that I did make the statement, and the concerns that I did have were expressed there. But I said that I did not stop there in my development; that he was someone that I continued to look at, and after going on the bench I decided to go back and to read more about him and to look at him as a person. There was a recent biography of him, "The Honorable Justice," which I read. And it didn't necessarily mean that I didn't—that what I said there is what I believed at that time, but rather that I didn't stop with just that