

Dean Griswold, the committee is honored that you would join us today. I can't help but noting that you had presented arguments on cases before the U.S. Supreme Court some 5 years before William O. Douglas was nominated to that Court, if my mathematics is correct.

I would be interested in your observations about Justice Douglas and his young, relatively young age at being elevated on to the Court. Obviously Judge Thomas is relatively young or quite young compared to other judges when they have been nominated.

Was the youth of Justice Douglas a major impediment to his functioning on the Court? What was your observation about his early service?

Mr. GRISWOLD. Well, Senator, that is a long—a question that involves reviewing a long period of time and is very complicated.

Douglas was a man of great intellectual brilliance, which I don't think the present nominee has shown so far. He had great energy, great imagination, and his first 10, 15 years he was a great Justice.

After that, he in my judgment went steadily downhill. He got bored with the Court's work. He dashed it off. And the final 10 years, at least, of his membership on the Court was not, in my view, distinguished. And I have heard the same reaction expressed by other people.

In the case of Douglas, you are starting out with a really great mind. I don't see any signs of corresponding scholarly intellectual ability in the present nominee. As I have said, if he had 8 or 10 years on the court of appeals he might show it. But to me it is quite clear that he has not shown any qualifications comparable to those of Justice Douglas at the time he was appointed.

Senator BROWN. Mr. Brown, your committee has been kind enough to come and share their views today with us. Was the decision of your committee a unanimous one?

Mr. BROWN. No, Senator. As I have indicated, we have 90 members of the committee who support the position. There were 8 individuals who either filed their own position in dissent or had joined with others. So there were 8 who did not ascribe to the position of the 90 of those who did.

We also had some 20 members who abstained for various reasons, some of which would have presented conflicts of interest for them.

Senator BROWN. If you are comfortable, would you be willing to summarize for us the comments or the concerns or those who dissented?

Mr. BROWN. I think, as best I recall the primary reasons for their dissent, some felt that we should delay taking any position until after the conclusion of the testimony of Judge Thomas. Some felt that he did, in fact, possess the necessary qualifications to be considered and approved for service on the Supreme Court.

Senator BROWN. Well, I am sure we all appreciate both of you coming, and we appreciate your taking the time to counsel the committee. Thank you.

The CHAIRMAN. I have one question. Senator Kennedy wanted very much to be back to ask this question of the panel, and he asked if I would ask it on his behalf.