

The CHAIRMAN. I thank the Senator. I would only ask who would pay for the gold watch.

Senator GRASSLEY. Do you want me to buy it? [Laughter.]

The CHAIRMAN. I thank the Senator. As he indicated, we do have a very different point of view.

Now my colleague from Alabama, Senator Heflin. Judge, do you have any questions?

Senator HEFLIN. I wanted to tell you that I think you have done a good job. I think over the years the ABA has done an outstanding job and has been of great assistance to the committee. We do not always agree. I know that I differed on a couple at one time. Nevertheless, I think that the present policy that you follow is commendable and it certainly supplements. The American people I think are entitled to know that a careful outside body selected three panels of truly experts who reviewed all of his writings and expressed an opinion concerning them.

I am a little interested in just one or two things. I noticed that one of your members is William J. Brennan, III, of New Jersey. Is that the grandson of the Justice who just left the Court?

Mr. LANCASTER. He is the son.

Senator HEFLIN. He is the son. That is sort of unusual.

The methodology that was used with your reading panels, you had an interview in which all members of your committee were present and interviewed, or were they separate? How was the interview or interviews with Judge Souter conducted?

Mr. LANCASTER. First, Senator Heflin, you will recall that we investigated Judge Souter for the first circuit earlier this year. That investigation was conducted, as are all our investigations for district and court of appeals judges, by the circuit member who has the responsibility for that jurisdiction. In this case, that was Alice Richmond.

In the course of that investigation, Ms. Richmond spent a substantial amount of time with Judge Souter in an interview with him and the results of that interview were then, as they always are, shared with the other members of the committee.

In this instance, the investigation for the appointment to the Supreme Court, the three people appearing before you tonight traveled to New Hampshire and visited with Judge Souter for an extended interview, and then there were additional telephonic interviews. Over the course of that entire period, I would estimate that we spent some 10 to 15 hours in discussions with Judge Souter.

Senator HEFLIN. Ms. Richmond, in your investigation for the first circuit and again in regards to this, I assume you followed the methodology of contacting lawyers and judges who had practiced before Judge Souter and got their opinion. Were lay citizens also contacted?

Ms. RICHMOND. No, sir. I spoke with lawyers and judges in New Hampshire and throughout the first circuit, I think probably in excess of 100 or 125.

Mr. LANCASTER. There were, however, Senator, some lay people contacted throughout the rest of the country.

Senator HEFLIN. In your investigation, Ms. Richmond, other than perhaps what we might say derogatory, and that may be too tough of a word, pertaining to judicial philosophy that undoubtedly was

expressed as you interviewed various people, were there complaints from any person pertaining to personal temperament or were there complaints that were made about him in that regard?

Ms. RICHMOND. Well, as you know, Senator, your committee promises confidentiality, and so I would be very hesitant to answer the question in a way that would indicate that anyone made negative comments about Judge Souter, particularly if those comments could be traced.

I think it fair to say that the vast, vast majority of the people with whom I spoke had nothing but praise for Judge Souter's temperament.

Senator HEFLIN. I believe that is all.

The CHAIRMAN. Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

Very briefly, I join in the thanks to the American Bar Association for the work which you have done. You certainly could not be an irrelevancy, to draw Senator Grassley's comment to that extent. I think you have had a very profound effect, as evidenced by my good friend's comments.

When you do not find anything differently from what we have found, that does not suggest an irrelevancy, it buttresses what we have done. But you might well have found something that would be different, and I think on other occasions the American Bar Association has found matters which are different.

When the American Bar Association undertook to look at philosophy, we were well-qualified to ascribe the appropriate weight to your findings. We were not obligated to pay any undue deference to your philosophy, when that was expressed, but we had a very useful hearing and I think the parameters have been established as to what the Judiciary Committee would like to hear, in terms of professional competency and I think you have performed a very valuable service.

I would like to add that it is not only Supreme Court nominees that your committee functions, and in that area, we do a considerable amount of work. But when you report that you have read all 220 opinions, that is something I did not do. I read several dozens of them, but I did not read all 220. My staff did and selected the ones for me to read. But when you have done that, that is a very considerable undertaking and I thank you for it.

But I think it ought to be comment that, on a Supreme Court nominee, which is high profile and widely noted, which is not an irrelevancy in the close attention given by the members of the Judiciary Committee, although some are absent now, that you evaluate all of the Federal judges, the district judges and the court of appeals judges, and if you attend the Judiciary Committee hearings on those judges, two is the maximum customarily, and sometimes only one.

When a fellow named David H. Souter appeared before the Judiciary Committee for the first circuit a few months ago, two members were present and one was present accidentally, because he had a member of his own State there and that was me. Only Senator Kennedy was there presiding and I happened to be there, because there were Pennsylvania nominees there.