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Thomas Affair: A Valuable Civics Lesson

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Conventional wisdom has it that the Thomas confirmation hearings were an unmitigated fiasco, a low point in American politics. I'm not so sure. Any event that so rivets the attention of the American people to the operation of their government should not be dismissed lightly. Painful though they were for many of the participants, the hearings provided the most important civics lesson many of us will ever have.

One very significant fact the public will have learned from the hearings is that it's extremely difficult to piece together exactly what happened at some point in the past. This is a problem in almost every case, civil or criminal. We have no time machines, so we must reconstruct events based on circumstantial evidence and the testimony of witnesses.

But witnesses, generally believed to provide the most reliable evidence, in fact are highly unreliable. They filter events through the lenses of their biases, perceptions and perspectives; they forget; they embroider; they lie. Perhaps most dangerous is the witness who is firmly convinced of something that just didn't happen: Imagination insidiously fills in gaps of memory so the witness is able to tell a vivid, detailed and convincing story, but one bearing little relationship to reality.

This is why we conduct trials according to strict procedural rules. Skillful direct and cross-examination, and such apparently distasteful tactics as impugning the

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character of witnesses, are absolutely essential in helping sort fact from fiction, truth from falsehood. The drama that unfolded in living rooms and offices across the country last week was not unlike what happens in our courtrooms every day. The stakes, at least for the individual accused of a serious crime, are often far greater. Frequently the evidence will be no more clear-cut, and many years in prison or even a death sentence may hang in the balance.

Whether Prof. Anita Hill's charges against Judge Clarence Thomas should have been aired in public, as they were, is questionable. But once we had a public spectacle, many of the participants acquitted themselves well. Indeed, the public was treated to virtuoso performances by a number of skilled trial lawyers.

Sens. Orrin Hatch (R., Utah) and Arlen Specter (R., Pa.) in particular were an awesome duo. Sen. Hatch, with his strategically timed interruptions, helped assure procedural fairness and gave friendly witnesses a respite and a chance to reflect. Sen. Specter methodically whittled away at adverse witnesses with piercing questions delivered in a highly professional, understated tone.

Also very impressive was Chairman Joseph Biden (D., Del.), who had the unenviable task of maintaining order during these emotionally charged and politically sensitive proceedings, while reconciling the triangular tensions between giving everyone a say, avoiding unnecessary character slurs and ending the proceedings before everyone forgot why they were there. Mr. Biden handled a number of close calls with fairness and poise; that just about everyone had a bone to pick with one or another of his rulings is a tribute to his handling of a very difficult situation.

If there is one thing we learned from the Thomas hearings, it's that process does count. In Judge Thomas's case the process worked to his advantage. The American people sat and watched, and when the day was done concluded that whatever they believed may have happened 10 years ago did not merit derailing Judge Thomas's appointment yesterday.

At the same time, many who in earlier hearings had seen Judge Thomas as cautious and reserved got a good look at Justice Thomas -- a man of sharp intellect and powerful determination. In the end, not everyone was pleased with the outcome and we may never know exactly what if anything

happened between Clarence Thomas and Anita Hill. But we learned a great deal about the fabric of the man who will serve for the next two generations on the Supreme Court of the United States. Can that be all bad?