

plight of working women and minorities. During his tenure as Chairman of EEOC, many women and minorities were recruited for and promoted to high level positions. Some were office directors, senior executive service, and high level secretaries.

In one service area alone, four black females were promoted to director at the same time. Only one of those women had a college degree. He took a chance on them because they had demonstrated the ability to do their jobs in an outstanding manner, and he remembers where he came from.

Judge Thomas also had an interest in people such as the handyman and single mothers. He was concerned about families, and he gave encouraging words when there were problems. He encouraged college students to do their best, telling them that B grades were not acceptable, to strive for A's.

Judge Thomas made older workers feel at ease by regularly stopping by and greeting them. One employee in the financial management division followed him out of the office crying when he left. The employees even dedicated the headquarters office building to Judge Thomas in appreciation for his outstanding contribution to EEOC and its mission. He was there for people in need.

In addition to the financial management improvements made under Judge Thomas, EEOC made monumental improvements in the areas of budget execution and formulation, administrative services such as personnel management. We have received thousands of dollars in rebates on our telecommunications area. We have made improvements in space management and automation. Just this past July, EEOC received the prestigious Outstanding Property Managers of the Year Award.

Senator SIMON. If you could conclude your statement now.

Ms. KING. All right. To conclude my statement, Mr. Chairman, I have two letters from employees at the Equal Employment Opportunity Commission expressing their support for Judge Thomas. One is from a group of women and one is from the EEOC employees at headquarters in general. I would like to make these two letters a part of the record.

Senator SIMON. They will be included in the record.

Ms. KING. Thank you very, very much.

[The aforementioned was not available at press time.]

Senator SIMON. Commissioner Clyburn.

STATEMENT OF JAMES CLYBURN

Mr. CLYBURN. Thank you, Mr. Chairman.

It is a pleasure for me to be here today to present testimony in favor of my good friend, Clarence Thomas. I have known Clarence for 10 years, and I consider him to be a personal and professional friend, in spite of the fact that he shares a conservative Republican philosophy and I am considered a more moderate to liberal Democrat. We have argued and debated many topics during our relationship. On some occasions we have agreed and at other times we have disagreed. But through it all, I have always found him to be zealous in his pursuit of the facts and intellectually honest and objective.

Today I will make observations based on my 17 years of experience as commissioner of the South Carolina Human Affairs Commission, and two of those years I spent as president of the International Association of Human Rights Agencies and 1 year as president of our national association. Today I represent over 200 civil and human rights agencies as their congressional and Federal liaison.

In the interest of time, I am going to limit my observations to two areas because you have heard about two or three others already.

As South Carolina Human Affairs commissioner, I can appreciate the difficulty in assessing the performance of an agency which enforces anti-discrimination statutes. There is judgment involved every step along the way, and emotional disagreements are a regular part of the decision-making process.

But if there is one unassailable impediment to fair treatment under the law, it is inefficient and non-professional conduct by the enforcing agency. Judge Thomas brought efficiency and professionalism to this process in many ways, including reduction in processing time of appeals, higher standards of professionalism among staff members, greater accountability in its financial management, and a greater delegation of authority to State and local contracting agencies.

I do not find Judge Thomas, as many seem to feel, to be anti-affirmative action. He does express displeasure with any forms of racial preference and appears to believe that it is a dilution of affirmative action to award benefits those who have not been identified as victims. I am among those who differ with Clarence on this methodology. But it should be noted that this same Clarence Thomas, while at the EEOC, required us at the State and local levels to complete affirmative action plans as a prerequisite to obtaining contracts with EEOC.

In another instance, I think it is important to note that the people who know Clarence Thomas best, aside maybe from the people who are at this table from EEOC, are those of us who run the State and local agencies throughout the country.

We found Clarence to be highly compassionate, sensitive, judicious, and we always found him to be of the intellectual honesty that is required in this field.

Mr. Chairman, I do not present myself as one who has agreed with Clarence on every occasion. Trying to find consensus in enforcing anti-discrimination laws is about like trying to match up the sides of a Rubik's cube. While there have been instances where my philosophy may have differed from his, I have never found anything in his philosophy of a nature to deny him this Supreme Court confirmation.

When I look at the record of Clarence Thomas, I find the record of a man deeply committed to an even-handed system of justice. I would suggest that in Clarence Thomas there is the integrity, the conscientious spirit, and the basic sense of fairness which well describe the requirements for a successful Justice on the Supreme Court.

Thank you.

Senator SIMON. Thank you, Commissioner.

Dr. Shaw, as you may be aware, I have been very much involved in the historically black colleges portion of the Higher Education Act. Much of that was written with the great leadership of Dr. Patterson in my office when I was over on the House side.

As I follow the legal theories of Judge Thomas, he would say we can assist people on the basis of economic need. And in fairness to him, he has not suggested this, but as I follow the theories logically—and the commissioner referred to the racial preference issue that he believes is unconstitutional and unsound—he would rule that we could not have the kind of legislation that we now have for the historically black colleges and universities.

If you knew on the Supreme Court he was going to rule against funding for historically black colleges and universities, would you still be supporting him?

MR. SHAW. If I knew—let me, Senator Simon, say that a certain settlement that he made with General Motors some years ago, a large settlement, he deliberately saw to it that \$10 million of that went to historically black colleges. And I might say to you, sir, that initially I was opposed to Judge Thomas until I heard his posture with reference to historically black colleges. He believes they ought to be retained and strengthened.

If that documented decision of him is to presage his behavior on the Court—

Senator SIMON. If I may interrupt, are you saying—and maybe he has said this. I am not suggesting that he is opposed to the historically black colleges. What I am suggesting is that his legal theory, if it is followed, would suggest that Federal assistance on the basis of race would be unconstitutional. Are you saying that he has said that he follows a legal theory that that can continue?

MR. SHAW. I do not know that he is against opportunity for all Americans. And although I am not conversant to the fact regarding a legal theory of his which if extended would eliminate black colleges, I think I understand him. His position on civil rights would in fact support institutions that would give opportunities to all Americans, Senator. He is for civil rights. He is for opportunity. This has, in fact, made him what he is.

If any person would overturn the instruments that are made to enforce the American dream, I would be against him or her getting on the Supreme Court. But I do not see any necessary implication in his legal theory that would, in fact, eliminate black colleges.

Senator SIMON. All right. Well, we are both arguing theories at this point, and I did not ask Judge Thomas that. Thank you.

Senator Thurmond.

Senator THURMOND. Thank you very much, Mr. Chairman.

I want to take this opportunity to welcome this panel here. Dr. Shaw, you are from Raleigh, NC, I believe. Was Shaw University named after you?

MR. SHAW. No, sir. I don't own the place, sir. It is 126 years old this year. [Laughter.]

It is one of the accidents of history, sir.

Senator THURMOND. Ms. Talkin, I understand you and Ms. King have worked with Clarence Thomas and know him personally well.

MS. TALKIN. Yes, Senator.

Senator THURMOND. You are basing your testimony on your personal knowledge.

Ms. TALKIN. Yes, Senator.

Senator THURMOND. And, Dr. Shaw, you are basing your testimony on personal knowledge or writings of Clarence Thomas or what?

Mr. SHAW. His writings which I have read and from what I have heard. I do not know him personally, but I am basing my—

Senator THURMOND. His writings and reputation; is that it?

Mr. SHAW. Yes, sir.

Senator THURMOND. Mr. Clyburn, are you basing your recommendation on personal acquaintance, aren't you?

Mr. CLYBURN. Yes, sir.

Senator THURMOND. Personal knowledge as well as writings and other things, too?

Mr. CLYBURN. Yes, sir.

Senator THURMOND. Well, I want to thank you all for coming. I am not going to take a lot of time. I think we have taken too much time of some of these witnesses. It boils down to this: The same two questions I have asked these others witnesses I am going to ask you. And, Mr. Clyburn, I want to especially welcome you here.

Mr. CLYBURN. Thank you.

Senator THURMOND. You are the South Carolina Human Affairs commissioner in South Carolina.

Mr. CLYBURN. Right.

Senator THURMOND. We are very proud of your work. You have done a fine job there.

Mr. CLYBURN. Thank you very much.

Senator THURMOND. These are the questions I am going to ask all of you. We will start here with Dr. Shaw.

Is it your opinion that Judge Thomas is highly qualified and possesses the necessary integrity, professional competence, and judicial temperament to be an Associate Justice of the U.S. Supreme Court?

Mr. SHAW. Yes, sir. May I just read a last paragraph of my statement which is four lines in response to you?

Therefore, distinguished members of the Judiciary Committee, on such grounds as academic credentials, experience, symbolic significance, and intellectual honesty, I strongly recommend the confirmation of Judge Clarence Thomas for the U.S. Supreme Court.

So, yes, sir.

Senator THURMOND. So, your answer is yes?

Mr. SHAW. Yes.

Senator THURMOND. Ms. Talkin, I would ask you the same question.

Ms. TALKIN. I don't presume to substitute my judgment for this panel, but I would concur that he is well qualified.

Senator THURMOND. So, your answer is yes?

Ms. TALKIN. It is.

Senator THURMOND. Ms. King?

Ms. KING. Yes.

Senator THURMOND. The answer is yes. Mr. Clyburn?

Mr. CLYBURN. Yes.

Senator THURMOND. The second question: Do you know of any reason why Clarence Thomas should not be made a member of the U.S. Supreme Court, since he has been appointed by the President?

Mr. SHAW. No, sir, I don't.

Senator THURMOND. The answer is no. Ms. Talkin?

Ms. TALKIN. No, Senator.

Senator THURMOND. Ms. King?

Ms. KING. No.

Senator THURMOND. Mr. Clyburn?

Mr. CLYBURN. No, sir.

Senator THURMOND. I think you have answered the questions that the committee wants to know. We have spent days here probing affirmative action, but it all boils down to this, whether you favor him or not, and you said you do support him and you have told us why, so that is all we need to know.

Thank you very much. We are pleased to have you here.

Mr. CLYBURN. Thank you.

Senator THURMOND. Thank you, Mr. Chairman.

Senator SIMON. Senator Grassley?

Senator GRASSLEY. Thank you very much for your testimony, and I won't take a lot of time, just a very general question.

Because you know and have studied Clarence Thomas well, and particularly those who have worked closely with him, and because so often other panels have questioned his commitment to civil rights and equal opportunity, I want to ask each of you in much the same way that Senator Thurmond did, for a short opinion or statement:

Due to your extensive exposure to Clarence Thomas, do you have any question at all of his commitment to equal opportunity and civil rights, and not only in regard to African-American civil rights, but do you have any question that he is committed to the advancement of the civil rights of all minorities, whether it be African-Americans, women, the elderly, Hispanics, Asians, or any other group?

Dr. Shaw first, and then Ms. Talkin.

Mr. SHAW. I did not get the essence of your question, sir.

Senator GRASSLEY. Do you have any doubt in your mind—

Mr. SHAW. I don't.

Senator GRASSLEY [continuing]. About his commitment to civil rights?

Mr. SHAW. I don't.

Senator GRASSLEY. Ms. Talkin?

Ms. TALKIN. In my experience, Judge Thomas has demonstrated an unwavering dedication to civil right.

Senator GRASSLEY. And for all groups?

Ms. TALKIN. For all groups, and I can give you numerous examples, if you want.

Senator GRASSLEY. Ms. King?

Ms. KING. Based on my 30 years of work in the civil rights movement and the work with Judge Thomas, I am positively convinced that he does not have any problems in the area that you just outlined of civil rights.

Senator GRASSLEY. Mr. Clyburn?

Mr. CLYBURN. No, Senator, I do not. I think it is kind of interesting, if I may, that questions raised about the sole issue of affirmative action, every debate I have ever had with Clarence Thomas on this subject has always convinced me that he believes in affirmative action as a concept, very strongly. He has real problems with methodology, and there is difference of opinion as to what the methods ought to be.

Our of fairness to him, I think we ought to take into account, Senator Simon, that what Clarence has said time and time again is that race ought to be but one factor, that's the threshold that ought to be crossed, and after that threshold is crossed, then he thinks other things ought to kick in, in order to determine whether or not affirmative action ought to take place. So, I think that is a little bit different from what people seem to say as being against affirmative action.

Senator GRASSLEY. Senator Simon, I am through.

Senator SIMON. We thank the witnesses very much for being here. We appreciate you taking the time and also your patience in sitting through a lot of the hearings here.

Senator Biden wants to be here for the next panel, but we would ask Mr. Buchanan, Mr. Chambers, Mr. Rauh and Ms. Hernandez, if all four of you could come to the podium. Mr. Lucy is also on this next panel.

Senator Biden is on his way over here, and we will just take a 2-minute recess until he gets here.

[Recess.]

The CHAIRMAN [presiding]. The meeting will come to order.

Our seventh panel this morning, talk about optimism—when the staff wrote this, they said the seventh panel this morning—the seventh panel is one of our most distinguished panels that has come to testify in opposition to Judge Thomas, and includes John Buchanan, a former Congressperson, now the Policy Chair of People for the American Way. John, you have not only been here today, I have observed you have been here I think every day from the outset.

Julius Chambers, on behalf of the NAACP Legal Defense and Education Fund. I read your statement, Mr. Chambers, and you sure did a whole heck of a lot of work on going back and going through all of the former Justices, when they were appointed and how old they were, and I am anxious to hear what you have to say.

A man who is not at all unfamiliar to this committee, one of the distinguished lawyers in the Nation, Joseph L. Rauh, Jr. Joe is known to everyone on this committee and has been here on almost every important issue in the last couple of years.

Antonia Hernandez, on behalf of the Mexican-American Legal Defense and Education Fund and the Alliance for Justice.

And Mr. William Lucy, president of the Coalition of the Black Trade Unionists, and secretary-treasurer for the American Federation of State and County Municipal Employees. It is good to see you, Bill.

Again, I was told by Senator Thurmond that, in my absence, Senator Simon ran a tough ship. He said he got it done, he said he got everybody in in 5 minutes and limited Senators' questions. See even the stenographer smiling over there. So that there is not a re-

bellion on the committee, and I am not suggesting you should value my chairmanship, it would be helpful to me that you not make me look bad, in light of Simon's chairing of this committee.

All kidding aside, your entire statements will be placed in the record. We have a number of questions for you, so to the extent you can come close to keeping the limit, I would appreciate it.

Has the panel determined how they would like to proceed? Congressman, why don't you begin first, and we will work our way across, that is how we will do it.

STATEMENT OF A PANEL CONSISTING OF JOHN H. BUCHANAN, JR., POLICY CHAIR, PEOPLE FOR THE AMERICAN WAY; JULIUS CHAMBERS, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.; JOSEPH L. RAUH, JR., LEADERSHIP CONFERENCE ON CIVIL RIGHTS; ANTONIA HERNANDEZ, ON BEHALF OF THE MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATION FUND AND THE ALLIANCE FOR JUSTICE; AND WILLIAM LUCY, COALITION OF BLACK TRADE UNIONISTS

Mr. BUCHANAN. Thank you, Mr. Chairman.

First, People for the American Way Action Fund has additional material we would like to submit for the record.

The CHAIRMAN. Without objection, it will be placed in the record.

Mr. BUCHANAN. Mr. Chairman and Senator Thurmond, it is neither easy or pleasant to come before this committee to testify against the nomination of Clarence Thomas. We do not take this step lightly. In fact, the People for the American Way Action Fund has only once before opposed a Supreme Court nominee.

Like Judge Thomas, I grew up in the Deep South in the bad old days of segregation, discrimination and white supremacy. My profound empathy and identification with black Americans is the reason I became a civil rights activist, as a Representative of Birmingham, AL, in the U.S. Congress. For 16 years, I served as a Representative to many families like Judge Thomas' and have served and do serve as a pastor to black Americans. I am keenly aware of the experience he shares with generations of African-Americans, and I understand the burden they have carried and the road they have traveled.

But in evaluating this nomination to the Supreme Court, the committee knows it must look beyond background and character, for character alone does not tell us what type of a Justice Clarence Thomas would make. Indeed, Mr. Chairman, I would submit that character is a threshold requirement for such a nomination, something that should be a granted and a given. We agree that it is vital to examine Clarence Thomas' record as a public official. That is what the People for the American Way Action Fund did, after Judge Thomas was nominated—reading every speech he made available and every article he had authored, and examining his service at the Office of Civil Rights and the EEOC.

After that searching and thorough process, we concluded that Judge Thomas' record reveals hostility to numerous Supreme Court precedents involving individual liberties and civil rights. In short, Mr. Chairman, Judge Thomas' troubled tenure in the executive branch, his obvious animosity toward Congress, and his oft-ex-

pressed, strongly held views on the vital constitutional issues that will come before the Court suggest that he would join forces with those Justices who would substitute their own judgments for the written law and who willingly disregard legislative directives.

I wish I could say his testimony before this committee had convinced us we were wrong. But nothing in Judge Thomas' 5 days of testimony led us to believe that we had made a mistake. In fact, the testimony only added to our concerns.

As a former Member of Congress, I know that one who aspires to high public office cannot simply disavow his or her prior actions and prior statements. Yet, that is precisely what Judge Thomas did for 5 days. He offered one excuse and evasion after another:

He had not read the document or he did not agree with statements he explicitly endorsed; or he did not mean what he said, it was only rhetoric designed to appeal to his audience; or he had no opinion on, indeed he had never thought about or discussed it; or he was only acting as an advocate for the administration and he would leave what he said in speech after speech in that capacity at the door of his chambers.

Sometimes, Judge Thomas asked the committee to ignore the plain meaning of his statements and writings, especially in the area of natural law. In other instances, Judge Thomas simply stonewalled on matters of great importance to the committee and the country, most notably a woman's right to choose.

Simply stated, Judge Thomas refused to engage in a dialog about his past record or even his view of the Constitution.

It is the Senate's constitutional responsibility to exercise meaningful advice and consent, a role coequal to that of the President. We agree with Senator Thurmond's statement in 1968 at another Supreme Court nomination hearing, when he said: "To contend that we must merely satisfy ourselves that the nominee is a good lawyer and a man of good character is to hold to a very narrow view of the role of the Senate, a view that neither the Constitution itself nor history and precedent have prescribed."

Judge Thomas' disavowals, equivocations, denials and stonewalling are no doubt part of a strategy to advance the nominee's chances for confirmation.

It is not just the liberals who have been concerned about this. One conservative activist said she wished he would be more specific and not try to ride the fence on these issues. Another said it is irritating that the White House strategists apparently feel he has got to go to such lengths to deny that he has a position comparable to the one that the President openly defended during his campaign.

Mr. Chairman, you mentioned the Souter standard might now become the Thomas standard. I would suggest it is the Bush standard, because the real question here is how far the White House will go in seeking to derail the Senate's constitutional obligation of advice and consent.

Whether the committee votes to put a liberal or a moderate or a conservative on the Court, at the very least you should be able to determine which it is you are getting. You should not have to take it on faith alone.

The question the members of this committee must ask is: Am I confident this nominee will protect American's fundamental liber-

ties. That question could not be answered in the affirmative before Judge Thomas' testimony. I would say we have heard in these hearings nothing that would overcome the worrisome aspects of his public record, and I think those questions remain.

It is our deepest hope, therefore, Mr. Chairman, the Senate will not approve this nomination and the erosion of the Court's historic role in protecting individual rights and liberties that it represents.

Thank you.

[The material referred to follows:]