how he comes down as regards solving the problem. He does a good job, a commendable job of defining the problem.

He can do a great job of stating the antithesis of the ugly, nasty situations. He could talk about what the ideal ought to be in this Nation. But when it comes to raising the relevant questions and saying how do you do it, that is where he falls down. It is not an either/or matter, it is both/and, and that has been the position of the NAACP and the black church ever since we have been in this Nation, and he has misrepresented that or permitted his friends to misrepresent him on that point.

The CHAIRMAN. Thank you very much, Reverend.

Reverend LE MONE. Mr. Chairman, might I have a word, please?

The CHAIRMAN. No. I will tell you how you can do it, so we are under the rules and I do not get nailed here. I am going to yield to the Senator from Illinois, and I am sure he will give you a word and you can talk then, otherwise I will not be playing by the rules here.

The Senator from Illinois.

Senator SIMON. Thank you very much.

First of all, I thank all three of you. Judge Hooks, this is a good time to say, as a member of the NAACP, that we are very proud of your courageous and effective leadership.

Mr. HOOKS. Thank you, Senator.

Senator SIMON. I don't know that I have said that in a public forum before, but you have been the kind of a leader in the tradition going back to when I first joined as a student. Walter White was the leader, and you go through that tier of leadership and you bring honor to that position that you hold.

Mr. HOOKS. Thank you.

Senator SIMON. Reverend Brown, one of my colleagues said you sound more like a politician than a preacher. I am sure they said the same thing to the Prophet Amos.

Reverend BROWN. Yes, sir.

Senator SIMON. I remember they said the same thing to Martin Luther King. The church has to be the servant church.

The CHAIRMAN. He has put you in fast company, Reverend Brown. [Laughter.]

Senator SIMON. I might add, I would like to hear you preach sometime on the basis of this little preview we got this morning. But the church was audibly silent in Germany when Hitler rose, when they should have been standing up, and it would be the easiest thing in the world for you to sit back and not say anything. Just as one person—and I am not a member of your organization—I appreciate it.

Reverend Le Mone, in your thoughtful statement, you said something about how you were taking a stand in opposition until or unless you heard statements from the nominee that would convince you to the contrary.

If I could ask all three of you this, have you heard anything in Judge Thomas' testimony that makes you wonder whether you took the right stand or not or has caused you to in any way feel that you might have made a mistake?

Reverend LE MONE. I would like to go first, if you don't mind, Senator Simon.

Senator SIMON. Reverend Le Mone, we will start with you, yes.

Reverend LE MONE. I am sorry Senator Specter has left the room and cannot hear this remark I want to make in response to his question to Reverend Brown. Senator Specter gave a very clear outline of not only affirmative action, but a quota system, by saying he must have an African-American on the Court. That was clearly stated. It is not limitation of language, even though he didn't give the title of affirmative action, that is exactly what the substance of that comment should mean, in terms of its interpretation.

Our position is not to have a minority on the Court, but to have the best possible human being on the Court, male or female, Hispanic, Chicano, Native American, white or black, who understands that justice must serve the interests of all of the people, particularly those who are least in society, that justice indeed must open its eyes and look at what is happening not only to this country, but to the world.

We, as ministers of the gospel, make no apology to the fact that we articulate our ministries from the pulpit and also in the streets, because we are on the side of God and we speak the politics of God. All one has to do is read the 61st chapter of Isaiah or the 4th chapter of Luke, and you understand why we are doing what we are doing.

In direct response to your question, it is really hard to say, but I don't think that we can take the chance in terms of this confirmation going through. It is too risky. Therefore, we are even more resolved, based on the testimony of previous days, that Judge Clarence Thomas should not at this time be a Supreme Court Associate Justice.

Senator SIMON. Reverend Brown.

Reverend BROWN. I say amen.

Senator SIMON. That sounds like a preacher there.

Mr. HOOKS. I would say, Senator Simon, after hearing Judge Thomas in these hearings, we are more convinced than ever that we took the right position, because the only thing that has happened, which is even more disturbing, I think Senator Heflin referred to it as confirmation conversion, that he has in some ways denied that he said what he said or that he meant what he said or that he is starting over again.

We are very convinced that his total record as a public official is of such nature that we cannot support him, and nothing in these hearings has changed our opinion. We believe more firmly now than ever that we were correct.

Senator SIMON. I thank all three of you.

Thank you, Mr. Chairman.

Senator KENNEDY [presiding]. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

I want to thank our witnesses for coming today. I appreciate how trying and difficult this process has been for you and your willingness to state forthrightly your position. I think it is helpful to this committee.

In trying to get a handle on the differences between your organization and Judge Thomas, I was hoping you could help me with regard to the question of affirmative action. The judge has indicated that he believes in affirmative action, but does not believe in

racial quotas. How would you describe your view of what is appropriate under affirmative action and what would not be?

Mr. HOOKS. Senator Brown, let me say we have always been opposed at the NAACP to quotas because quotas is defined as an artificial goal above which you cannot rise. The courts, however, adopted goals and timetables because where blacks had been excluded wholesale, could not be in the police department, could not be in the State highway patrol, could not be clerks in stores, all the law really was saying is you must take aggressive action to include in those whom you have excluded. This business of preference and reverse discrimination is nothing but lies that have been forced upon the American public. How do you include in those who have been excluded unless you are aggressive about it?

In the *Alabama Highway Patrol* case, the commissioner over a period of months refused to hire any, even though he was under court order. It was the judge who then decided that you are not only dealing with blacks but you are dealing with the dignity of the Federal courts. Therefore, by a certain date, you must have a certain number of black patrolmen.

Goals and timetables came into the equation in order to make the law effective. And, by the way, Judge Thomas, in his first term at EEOC early on, sort of went along with goals and timetables, and then he was opposed to them. That is why we opposed his reconfirmation.

Affirmative action is aggressive action to include in those who are excluded out. It is not and should not be viewed as reverse discrimination. And it has to be class-based. As someone has said here, the difference between wholesale and retail, we could not possibly take care of all of the millions of blacks and women and minorities who have been excluded by taking one case at a time. As I have said earlier, it would have meant that everybody would have had to have been a Rosa Parks, and only those who could sit on the front of the streetcar would be those who had been arrested; or only those could go to school who had gone there with a Federal marshal to take them in.

Affirmative action is necessary, and Judge Thomas' record indicates that he did not favor that remedy, and we are opposed to him, among other reasons, for that.

Senator BROWN. Well, that is helpful to me. I think it clearly defines the differences. And you might want to correct me. Let me see if I am stating it correctly.

The difference isn't that you are advocating racial quotas and that he is not. That is not advocated by either one of you. The difference is a question over the timetables that have been put together. Would that be a fair statement?

Mr. HOOKS. Goals and timetables were mandated by law. The *Griggs* v. *Duke Power* case was perhaps the finest refinement of it. Because if you have a workplace that employed a thousand people in a city where the workforce was 80-percent black, 20-percent white, there were no blacks employed. They then employ one black or two blacks out of a thousand. The question has to be answered at some point: When have you really affirmatively tried to give employment? This necessitates—and we do not back up from it one iota—goals and timetables which are reasonably calculated to show

that affirmative action not only has resulted in some rules and regulations but in some results.

President Johnson stated eloquently that at some point affirmative action must result in equality of results as well as equality of opportunity. This may be a hard pill to swallow, but from the viewpoint of those who have been historically denied—and I don't think we have to define that years of slavery, 244 years, years of second-class citizenship, *Dred Scott, Plessy* v. *Ferguson.* Now we stand on the brink of a breakthrough, and we simply do not need an African-American on the Supreme Court who does not subscribe to the concept that affirmative action must work. The Supreme Court is already bad enough. We do not need an African-American adding sanction to what is being done.

Senator BROWN. So the goals and timetables would be the difference, and I assume that is in an area where you had a showing that they have discriminated in the past or you have a clear impact of discrimination in the past.

Mr. HOOKS. Well, there are cases that indicate that there must be a showing of discrimination, but there are other cases which simply deal with the fact that the statistical results of—let's use that absolute term of no blacks employed in a city where a factory has a work force available to it of 50 or 60 percent or whatever number of blacks, that the mere showing of that can be enough to change the burden of proof, which was the *Griggs* case. It did not mean that the black applicants or plaintiffs won. It simply meant that the company which then had the knowledge of why they were doing what they did had the burden of proof. And it is this type of thing that is very important if we are to continue our progress.

I mentioned earlier that the present Secretary of Labor has indicated in a study that there is a glass ceiling above which women and blacks cannot seemingly advance. And she has said that something must be done.

At West Point, President Bush marveled over the fact that we have now had 1,000 black graduates of West Point, when you and I know when General Davis went there he was given the silent treatment for 4 years.

The man in charge of West Point said it is because of aggressive affirmative action that we have now had 1,000 graduates of West Point. It is necessary to have affirmative action, and to make it work there must be goals and timetables and systematic class-based remedies in order that we will not spend forever all the money in the Treasury trying to do it one case at a time. And that is one of the weaknesses of Judge Thomas' position. He only talks about affirmative action for someone who has proven somehow that they have been the victim of discrimination. But we know that when they did not have blacks in the police department, it was not based on an individual. It was based on the fact that no blacks were going to be employed as a group. And why should an individual have to go there and almost be lynched?

And I want to say very quickly that the time has not passed—the fact that affirmative action has been in existence for some time does not mean that we do not still need it, that we do not still need class-based remedies, and that we still need goals and timetables.

Senator BROWN. If I may, Mr. Chairman—I see the red light—I would like to ask one followup question.

Senator KENNEDY. It is fine with me if Senator Thurmond agrees.

Senator THURMOND. We have to move on, but go ahead this time.

Senator BROWN. Just briefly, putting aside goals and timetables, obviously that is an area of disagreement. My impression of the judge is that he has a heartfelt commitment to civil rights, acknowledging that there is a significant disagreement in your mind over goals and timetables. But aside from that, at least my impression was he had a heartfelt commitment to civil rights.

Would you share that view or do you disagree in that area as well?

Mr. HOOKS. I disagree, sir. Respectfully, I maintain the experiences are neutral. He talks about his experiences, his grandfather being called a boy. He talks about prejudice and discrimination. But those experiences did not leave him with the lessons of how to overcome that. We have yet to hear from the judge in his official actions basically—with one or two exceptions, of course—how he would overcome that.

He went to the right school, the university of hard knocks, the school of discrimination and prejudice, but he learned the wrong lesson. He seemed to be saying that we do not need Government help, we only need self-help.

We maintain, the NAACP and the Baptist Conventions and the great mass of black people, that we need both self-help and Government help. And Judge Thomas seems to always emphasize only self-help, and that bothers us as to a sincere commitment to the eradication of the problems. He understands and enunciates very well the problem, but the question is: How do we get by the problem? That requires some affirmative action, which he seems to disavow.

Senator BROWN. I appreciate that.

Mr. Chairman, thank you for your indulgence.

Senator KENNEDY. Thank you very much.

Senator Kohl.

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

Gentlemen, in a 1959 article for the Harvard Law Review, William Rehnquist wrote that the Senate has the obligation to "thoroughly inform itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

Do you feel that we are thoroughly informed on the philosophy judicially of Clarence Thomas?

Mr. HOOKS. I do not think that his testimony has informed you as to his judicial philosophy, and I would have hoped that in his testimony he would have informed you. But I do not think he has.

I hope I have answered your question.

Reverend LE MONE. Following these hearings, Senator, we have seen or read or heard no indication of understanding the judicial philosophy of Clarence Thomas. We have, at best, had vague, elusive, flexible answers to many key issues. And permit me to add that this issue, this nomination, is not about affirmative action only. It is more complicated and complex and comprehensive than that. That is certainly a key issue, but not the sole issue. We do not